

RESOLUTION NO. 1853

A RESOLUTION ACCEPTING A PUBLIC UTILITY EASEMENT FROM EZ STORAGE, INC. ADJACENT TO THE NE HARLOW ROAD RIGHT-OF-WAY

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. EZ Storage, Inc. is the owner of real property adjacent to NE Harlow Road that is being developed as the EZ Storage mini-storage facility.
2. Section 7.180(J) of the Troutdale Development Code requires a minimum five foot wide public utility easement along the frontage of developed property.
3. EZ Storage, Inc. has agreed to dedicate a six foot wide public utility easement and has provided a signed easement document of a form and content that is in accordance with the requirements of the City (attached).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City of Troutdale accepts the public utility easement, included herewith as Exhibit 1, for the construction, installation, operation, maintenance, repair, replacement and/or modification of components of the public utility systems.

Section 2. This resolution is effective upon adoption

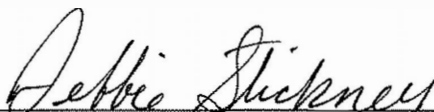
YEAS: 7

NAYS: 0

ABSTAINED: 0


Paul Thalhofer, Mayor

January 11, 2007
Date


Debbie Stickney, City Recorder

Adopted: January 9, 2007

Recorded in MULTNOMAH COUNTY, OREGON

C. Swick, Deputy Clerk

After recording, return to:

City Recorder

City of Troutdale

104 SE Kibling Avenue

Troutdale, OR 97060

A49 7

ATVLM

Total : 51.00

2007-010877

01/19/2007 12:00:08pm

PUBLIC UTILITY EASEMENT AGREEMENT

This Public Utility Easement Agreement ("AGREEMENT") is entered into by EZ Storage, Inc., a corporation authorized to do business in Oregon ("GRANTOR"), and the CITY OF TROUTDALE, an Oregon municipal corporation ("GRANTEE"), as of the date the GRANTOR signs the Certificate of Grantor.

RECITALS

A. GRANTOR owns the property described in this Agreement under paragraph 10 (the "Easement Area"). GRANTOR also owns other real property adjacent to and in the vicinity of the Easement Area.

B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities.

C. The purpose of this Agreement is to grant a utility easement to GRANTEE for access and use of the Easement Area.

EASEMENT GRANTED

1. **Grant.** For valuable consideration that is acknowledged and received, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a perpetual exclusive easement for the Easement Area so that GRANTEE may construct, install, operate, maintain, repair, replace, and/or modify components of public utility systems including, but not solely limited to, water, sanitary sewer, transportation, and storm water systems.

2. **Limitations.** GRANTOR shall not construct, install, nor place any structure, pavement, or vegetation within the Easement Area except for shallow-root grasses and low-growing shrubs (but not trees), fences as permitted by applicable City regulations, and sidewalks or driveways. Any damages to GRANTEE's utilities caused by GRANTOR's construction, installation, or placement of shallow-root grasses, low-growing shrubs, fences, sidewalks, driveways, or any unauthorized structures, pavement or vegetation, within the Easement Area shall be repaired or replaced by GRANTOR, or by the GRANTEE at the GRANTOR's expense, as determined by the GRANTEE.

3. **Use and Access.** GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly construct, install, operate, maintain, repair, replace, and/or modify its utilities. Any loss, damage, or destruction caused by GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions, whether or not such loss, damage or destruction was to GRANTOR's shallow-root grasses, low-growing

7

shrubs, fences, sidewalks or driveways that are allowed in accordance with paragraph 2, shall be the responsibility of GRANTOR.

4. **Binding Effect, Run with the Land.** This Agreement shall run with the land as to all real property burdened and benefited, and shall inure to the benefit of GRANTOR, GRANTEE and their respective successors and assigns.

5. **Attorney Fees.** In the event legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term "action" shall be deemed to include action commenced in the Bankruptcy Court of the United States and any other court of general or limited jurisdiction. The reference to "costs" includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

6. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

7. **Integration.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this utility easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein.

8. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon. The parties agree to venue in Multnomah County, state of Oregon.

9. **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

10. **Easement Area.**

See attached Exhibit A and Exhibit B.

CERTIFICATE OF GRANTOR

I, Mohsen Nouri, president of EZ Storage, Inc., owner of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

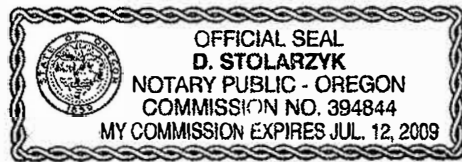
Dated this 15 day of Dec., 2006.

Z. Z. Nouri
Grantor's Signature
Mohsen Nouri
Grantor's Typed or Printed Name
President
Title
1079 Country Camman
Address
Lake Oswego, OR 97034
City, State, Zip Code
503 635 8311
Telephone Number

STATE OF OREGON)
) ss.
COUNTY OF CLACKAMAS)

Personally appeared the above named MOHSEN NOURI and acknowledged the foregoing instrument to be his/her/their voluntary act and deed.

BEFORE ME [Signature]
Notary Public for Oregon
Commission Expires: July 12, 2009



CERTIFICATE OF GRANTEE

I, Debbie Stickney Recorder of the City of Troutdale, hereby certify that the foregoing easement was accepted by the City Council of the City of Troutdale on the 9th day of January, 2006 by Resolution No. 1853.

Dated this 12th day of January, 2006

Debbie Stickney
City Recorder

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

Personally appeared the above named City Recorder and acknowledged the foregoing instrument to be the voluntary act and deed of the CITY OF TROUTDALE.

BEFORE ME: Sarah Skroch
Notary Public for Oregon
Commission Expires: 8/7/07



Reppeto & Associates, Inc.
Land Surveyors

12730 SE Stark St.
 Plaza 125, Building G
 Portland, OR 97220

Phone: 503-408-1507
 Fax: 503-408-2370

December 7, 2006

Sisul Engineering
 375 Portland Avenue
 Gladstone, OR 97207

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Joshua W. Evey
 OREGON
 JULY 11, 2006
 JOSHUA W. EVEY
 58967

RENEWABLE: 12/31/07

EXHIBIT "A"
LEGAL DESCRIPTION
6.00 FOOT WIDE PUBLIC UTILITY EASEMENT

A PORTION OF THAT TRACT OF LAND CONVEYED TO EZ STORAGE, INC. IN DOCUMENT NO. 2002-095701, MULTNOMAH COUNTY DEED RECORDS, SITUATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON, THE LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A 4-1/4" BRASS CAP STAMPED "T.IN. R.3E. LS 954 1957 2002 N.E. COR. BUXTON D.L.C." FOUND AT THE NORTHEAST CORNER OF THE D.F. BUXTON DONATION LAND CLAIM NO. 59; THENCE, ALONG THE EAST LINE OF SAID BUXTON DONATION LAND CLAIM, SOUTH 0°04'04" EAST, 5.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SE HARLOW ROAD; THENCE, CONTINUING ALONG SAID EAST LINE SOUTH 0°04'04" EAST, 5.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE, CONTINUING ALONG SAID EAST LINE, SOUTH 0°04'04" EAST, 10.90 FEET TO A POINT ON THE MOST EASTERLY NORTH LINE OF SAID EZ STORAGE, INC. TRACT; THENCE, ALONG SAID MOST EASTERLY NORTH LINE, NORTH 89°09'02" EAST, 101.12 FEET; THENCE, PARALLEL WITH AND 30.00 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF SAID SE HARLOW ROAD THE FOLLOWING FOUR COURSES, ALONG THE ARC OF A 65.50 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 48°53'22" (CHORD BEARS SOUTH 29°36'45" EAST, 54.21 FEET) AN ARC DISTANCE OF 55.89 FEET; THENCE, SOUTH 5°10'04" EAST, 84.51 FEET; THENCE, ALONG THE ARC OF A 746.30 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 9°19'30" (CHORD BEARS SOUTH 9°49'49" EAST, 121.33 FEET) AN ARC DISTANCE OF 121.46 FEET; THENCE, SOUTH 14°29'34" EAST, 32.11 FEET TO THE SOUTH LINE OF SAID EZ STORAGE, INC. TRACT; THENCE, ALONG SAID SOUTH LINE, NORTH 89°59'57" WEST, 6.20 FEET; THENCE, PARALLEL WITH AND 36.00 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF SAID SE HARLOW ROAD THE FOLLOWING FOUR COURSES, NORTH 14°29'34" WEST, 30.56 FEET; THENCE, ALONG THE ARC OF A 752.30 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 9°19'30" (CHORD BEARS NORTH 9°49'49" WEST, 122.30 FEET) AN ARC DISTANCE OF 122.44 FEET; THENCE, NORTH 5°10'04" WEST, 84.51 FEET; THENCE ALONG THE ARC OF A 59.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 47°06'07" (CHORD BEARS NORTH 28°43'07" WEST, 47.55 FEET) AN ARC DISTANCE OF

Reppeto & Associates, Inc. Land Surveyors

12730 SE Stark St.
Plaza 125, Building G
Portland, OR 97220

Phone: 503-408-1507
Fax: 503-408-2370

EXHIBIT "A" LEGAL DESCRIPTION 6.00 FOOT WIDE PUBLIC UTILITY EASEMENT

48.91 FEET; THENCE, PARALLEL WITH AND 6.00 FEET SOUTH, WHEN MEASURED AT RIGHT ANGLES, OF THE MOST EASTERLY NORTH LINE OF SAID EZ STORAGE, INC. TRACT, NORTH 89°09'02" WEST, 105.08 FEET; THENCE, PARALLEL WITH AND 6.00 FEET WEST, WHEN MEASURED AT RIGHT ANGLES, OF THE EAST LINE OF SAID BUXTON DONATION LAND CLAIM, NORTH 0°04'04" WEST, 10.80 FEET; THENCE, PARALLEL WITH AND 36.00 FEET SOUTH, WHEN MEASURED AT RIGHT ANGLES, OF THE CENTERLINE OF S.E. HARLOW ROAD THE FOLLOWING TWO COURSES, SOUTH 89°55'56" WEST, 83.24 FEET; THENCE ALONG THE ARC OF A 296.50 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 18°56'33" (CHORD BEARS NORTH 80°35'47" WEST, 97.58 FEET) AN ARC DISTANCE OF 98.03 FEET TO A POINT ON THE MOST WESTERLY NORTH LINE OF SAID EZ STORAGE, INC. TRACT; THENCE, ALONG SAID MOST WESTERLY NORTH LINE, NORTH 89°57'00" EAST, 20.50 FEET; THENCE, PARALLEL WITH AND 30.00 FEET SOUTH, WHEN MEASURED AT RIGHT ANGLES, OF THE CENTERLINE OF S.E. HARLOW ROAD THE FOLLOWING TWO COURSES, ALONG THE ARC OF A 290.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 15°06'56" (CHORD BEARS SOUTH 82°30'36" EAST, 76.42 FEET) AN ARC DISTANCE OF 76.64 FEET; THENCE, NORTH 89°55'56" EAST, 83.24 FEET TO THE TRUE POINT OF BEGINNING.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Joshua W. Evey

OREGON
JULY 11, 2006
JOSHUA W. EVEY
58967

RENEWABLE: 12/31/07

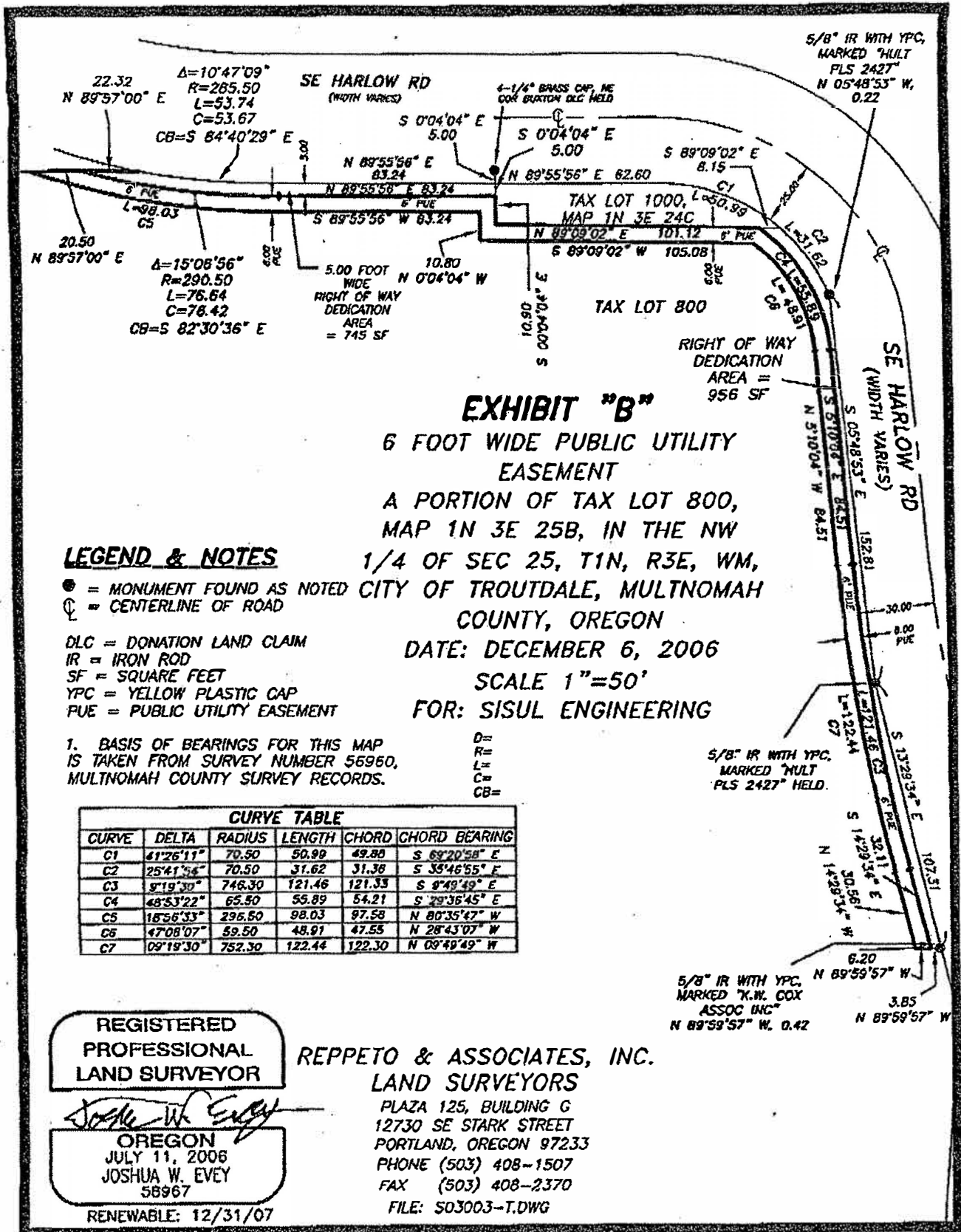


EXHIBIT "B"

6 FOOT WIDE PUBLIC UTILITY EASEMENT

A PORTION OF TAX LOT 800, MAP 1N 3E 25B, IN THE NW

1/4 OF SEC 25, T1N, R3E, WM, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON

DATE: DECEMBER 6, 2006

SCALE 1"=50'

FOR: SISUL ENGINEERING

LEGEND & NOTES

- = MONUMENT FOUND AS NOTED
- ⊙ = CENTERLINE OF ROAD
- DLC = DONATION LAND CLAIM
- IR = IRON ROD
- SF = SQUARE FEET
- YPC = YELLOW PLASTIC CAP
- PUE = PUBLIC UTILITY EASEMENT

1. BASIS OF BEARINGS FOR THIS MAP IS TAKEN FROM SURVEY NUMBER 56960, MULTNOMAH COUNTY SURVEY RECORDS.

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	41°26'11"	70.50	50.99	49.89	S 69°20'58" E
C2	25°41'54"	70.50	31.62	31.36	S 35°46'55" E
C3	9°19'30"	746.30	121.46	121.33	S 9°49'49" E
C4	48°53'22"	65.50	55.89	54.21	S 29°35'45" E
C5	18°56'33"	296.50	98.03	97.58	N 80°35'47" W
C6	47°08'07"	59.50	48.91	47.55	N 28°43'07" W
C7	09°19'30"	752.30	122.44	122.30	N 09°49'49" W

REGISTERED PROFESSIONAL LAND SURVEYOR

Joshua W. Evey

OREGON
JULY 11, 2006
JOSHUA W. EVEY
56967

RENEWABLE: 12/31/07

REPPETO & ASSOCIATES, INC.
LAND SURVEYORS
PLAZA 125, BUILDING G
12730 SE STARK STREET
PORTLAND, OREGON 97233
PHONE (503) 408-1507
FAX (503) 408-2370
FILE: S03003-T.DWG