
Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
750 Front St NE, Suite 120
Salem, OR 97301
Attention: Nancy Sawka

Grantor

Kalwant Singh
2955 Commercial St SE
Salem, OR 97302

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on October 20, 2014 between Kalwant Singh ("***Grantor***") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("DEQ" or "***Grantee***").

RECITALS

A. Grantor is the owner of certain real property located at 2955 Commercial Street SE, Salem, Oregon 97302 in Marion County Tax Map 073W34CD, Tax Lot 8000 (the "***Property***") the location of which is more particularly described in Exhibit A to this EES. The Property is referenced under the name Arco Commercial, USTC File No. 24-82-4002, and ARCO 918, USTC File No. 24-91-4128, in the files of DEQ's Environmental Cleanup Program at the Western Region office located at 750 Front Street NE, Suite 120, Salem, Oregon, and telephone 503-378-8240. Interested parties may contact the Western Region office to review a detailed description of the risks from contamination remaining at the Property.

B. Environmental investigations completed on the property between 1992 and 2013 revealed petroleum contamination in groundwater that exceeds DEQ's acceptable risk level for tapwater ingestion and in soil that exceeds DEQ's acceptable risk level for soil ingestion, contact and inhalation for construction workers working at subsurface depths greater than 3 feet below ground surface. The contamination originated from past releases of petroleum product from former underground storage tanks, piping, and dispensers. The remaining area of soil and groundwater contamination is shown in Exhibits B and C.

C. On October 20, 2014 DEQ entered into this agreement under which Grantor agreed to implement the institutional controls set forth in this EES.

D. This EES is intended to further the implementation of actions required by DEQ to insure the protection of human health and the environment from the contaminated groundwater and soil beneath the property.

E. Nothing in this EES constitutes an admission by Grantor of any liability for the contamination described in the EES.

1. DEFINITIONS

1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.

1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.

1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.

1.4 "Hazardous substance" has the meaning set forth in ORS 465.200

1.5 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.

2. GENERAL DECLARATION

2.1 Grantor, in consideration of Grantee's issuance of a conditional No Further Action letter, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Groundwater Use Restriction.** Owner may not extract through wells or by other means use the groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to the extraction of groundwater associated with temporary dewatering activities related to construction, development or the installation of sewer or utilities at the Property. Owner must conduct a waste determination on any groundwater that is extracted during such events and handle, store and manage the waste water according to applicable laws.

3.2 **Contaminated Media Management Plan.** Owner will keep at least one copy of the September 2014 Contaminated Media Management Plan (CMMP) prepared by ARCADIS onsite at all times and available for review and use by site workers, occupational workers, construction and excavation workers, utility and field workers, and site employees. The CMMP provides protocols for worker safety and management and disposal of petroleum contaminated soil or groundwater that could be encountered during subsurface work at the Property. The CMMP must be reviewed and followed by workers prior to conducting subsurface work in the areas of contamination shown in Exhibits B and C.

3.3 **Use of Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1. Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the City of Salem, Oregon zoning code or any successor code. As of the date of this EES, the base zone of the Property is Retail Commercial.

6.3. **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4. **Notification.** Owner will immediately notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES.

6.5. **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.6. **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7. **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitudes as of the date and year first set forth above.

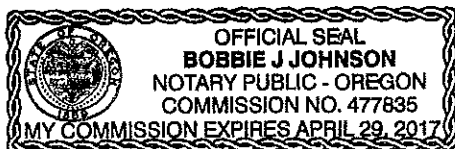
BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: Kalwant Singh

By: Kalwant Singh Date: 10-22-14
Kalwant Singh, Owner of Property

STATE OF OREGON)
) ss.
County of Marion)

The foregoing instrument is acknowledged before me this 22nd day of October, 2014, by Kalwant Singh, Owner of Property.



Bobbie J. Johnson
NOTARY PUBLIC FOR OREGON
My commission expires: April 29, 2017

GRANTEE: State of Oregon, Department of Environmental Quality

By: Michael E. Kucinski Date: 10/29/2014
Michael E. Kucinski, Environmental Cleanup Manager, Western Region

STATE OF OREGON)
) ss.
County of Lane)

The foregoing instrument is acknowledged before me this 29th day of October, 2014, by Michael E. Kucinski of the Oregon Department of Environmental Quality, on its behalf.



Kathy R. Jacobsen
NOTARY PUBLIC FOR OREGON
My commission expires: July 02, 2017

EXHIBIT A

Legal Description of the Property

Beginning at the Northwest corner of Lot Seventy-six (76), Smith's Fruit Farms Number Two (2), Marion County, Oregon, (See Volume 2, Page 83, Record of Town Plats for said County and State); thence South 89° 28' East along the Northerly line of said Lot, a distance of 105.3 feet to a point; thence South 1° 08' West a distance of 172.14 feet, more or less, to the Southerly line of said Lot; thence North 89° 42' West along the Southerly boundary line of said Lot a distance of 160.27 feet, more or less, to the Westerly line of said lot; thence Northerly along the Westerly line of said lot a distance of 179.5 feet, more or less, to the place of beginning.

SAVE AND EXCEPT: A parcel of land off the Easterly portion of said property, conveyed to the State of Oregon, October 17, 1939, Recorded in Volume 242, Page 308, and 310, Marion County Dead Records, which parcel was acquired in fee by the State of Oregon for incorporation into the Highway surveyed to include the said excepted parcel.

ALSO SAVE AND EXCEPT: That portion of the above described property which was conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by instrument recorded March 13, 1986, in Reel 449, Page 10, and by instrument recorded March 24, 1986, in Reel 450, Page 479, Microfilm Records for Marion County, Oregon.

Subject to:

1. The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.
2. Agreement, including the terms and provisions thereof,
Recorded: June 10, 1964
Book: 587 Page: 38
Records of Marion County, Oregon.
3. An Easement created by instrument, including the terms and provisions thereof,
In favor of: The State of Oregon, by and through its Department of
Transportation, Highway Division
For: Slope
Recorded: March 13, 1986
Reel: 449 Page: 10
in Marion County, Oregon.
And also recorded March 24, 1986 in Reel 450, Page 479, Microfilm Records, Marion
County, Oregon.
4. Revocable License for Monitoring Wells, including the terms and provisions thereof,
Recorded: October 24, 2002
Reel: 2015 Page: 140
Records of Marion County, Oregon.

EXHIBIT B

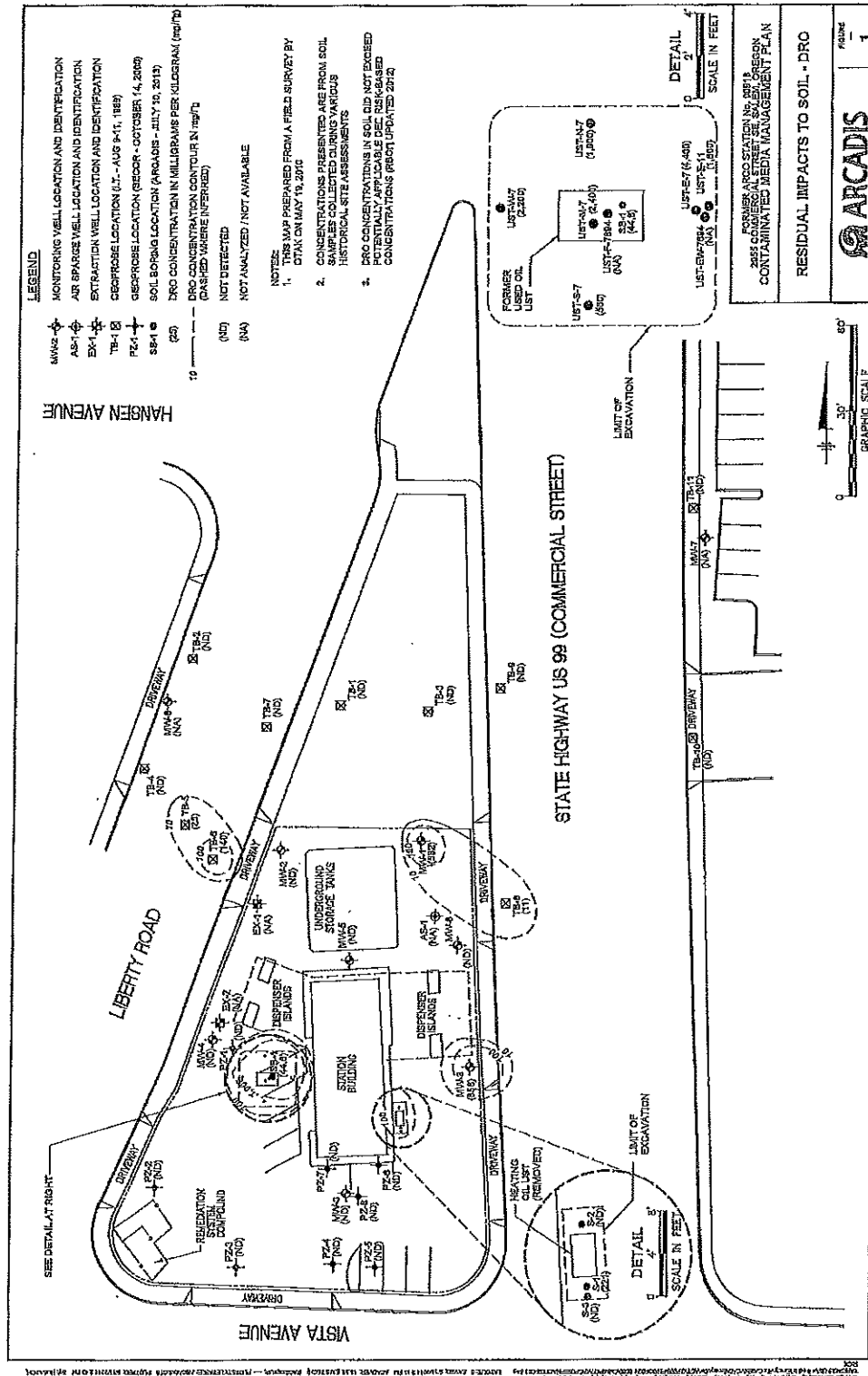


EXHIBIT C

