

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Acquiring from Cessna and
Jane Smith a Storm Drainage Utility
Easement near Gable Road and Columbia
Boulevard

ORDER NO. 31-2019
[*Renumbered* from Order No. 86-2019]

WHEREAS, a severe winter storm in February 2019 caused major damage to the culvert at the intersection of Gable Road and Columbia Boulevard, necessitating the closure of Gable Road and the immediate replacement of the culvert; and

WHEREAS, to replace the damaged culvert and provide for its future maintenance, the County must acquire property from Cessna and Jane Smith under the authority of ORS 35.605 for a storm drainage utility easement; and

WHEREAS, pursuant to ORS 35.610, before the right to acquire such property under ORS 35.605 is exercised, the Board of County Commissioners shall describe the land to be purchased, acquired, entered upon or appropriated, and shall determine that the appropriation of such land is reasonably necessary to protect the full use and enjoyment by the public of the road, street or highway; and

WHEREAS, the easement is described in the Storm Drainage Utility Easement Agreement, attached hereto as Exhibit 1; and

WHEREAS, the easement is necessary to replace the damaged culvert and ensure that the culvert is maintained in order to protect the full use and enjoyment by the public of Gable Road, which is a major arterial; and

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY
ORDERS:


1. The above recitals are adopted as findings in support of this order.
2. Columbia County accepts the Storm Drainage Utility Easement from Cessna and Jane Smith as described in Exhibit 1, which is attached hereto and incorporated herein by this reference, and authorizes the Chair to sign.
3. The Board finds that the acquisition of the above easement is necessary to protect the public's full use and enjoyment of the road and shall increase the public's safety when using the road.


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4. The easement described in Exhibit 1 shall be recorded in the deed records of the Columbia County Clerk without costs.

DATED this 27 day of November, 2019.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Henry Heimuller, Chair

By: 
Margaret Magruder, Commissioner

By: 
Alex Tardif, Commissioner

Approved as to form
By: 
Office of County Counsel

GRANTOR:

MICHAEL D. AND NICOLE N. FEAKIN
38985 Firlok Park Blvd.
St. Helens OR 97051

AFTER RECORDING RETURN TO:

GRANTEE:

COLUMBIA COUNTY
230 STRAND
ST. HELENS, OR 97051

STORM DRAINAGE UTILITY EASEMENT AGREEMENT

THIS STORM DRAINAGE EASEMENT AGREEMENT (this "Agreement") is made and entered into by and between MICHAEL D. AND NICOLE N. FEAKIN, hereinafter referred to as "Grantor," and COLUMBIA COUNTY, a Political Subdivision of the State of Oregon, referred to "Grantee".

1. AFFECTED PARTY:

Grantor is currently the owner of the following described real property ("Grantor's Property") located in Columbia County, Oregon:

Beginning at a point which is South 0°49' West a distance of 1607.80 feet and North 88°50' East a distance of 1435.00 feet from the Northwest corner of the John McNulty Donation Land Claim in Sections 7 and 8, Township 4 North, Range 1 West, Willamette Meridian, Columbia County, Oregon; thence North 88°50' East a distance of 217.90 feet; thence South 0°33' West a distance of 120.23 feet; thence North 89°27' West a distance of 217.80 feet; thence North 0°33' East a distance of 113.70 feet to the point of beginning. EXCEPTING therefrom any portion included within the boundaries of the Gable County Road. ALSO EXCEPT the East 5 feet as conveyed to Columbia County by deed recorded January 24, 1962, in Book 148, page 32, Deed Records of Columbia County, Oregon.

2. GRANT OF EASEMENT:

Grantor does hereby grant unto the Grantee, its successors and assigns, and Grantee hereby accepts, a Storm Drainage Utility Easement ("Easement") for a portion of Grantor's Property as described on EXHIBIT A and depicted on EXHIBIT B, both of which are incorporated herein.

3. STATEMENT OF PURPOSE:

The Easement shall be for storm drainage utilities and for unrestricted ingress and egress to Grantor's Property for the purpose of installing, repairing, testing, maintaining, and replacing the utilities.

4. TYPE OF EASEMENT:

The Easement shall be non-exclusive except that Grantee shall have the exclusive right to construct, install, maintain, operate and access the storm drain lines, drainage utilities, and all

related facilities within the Easement. Easement shall remain unobstructed and shall be free of permanent structures. Prohibited uses shall consist of, but are not limited to, buildings, structures, or excavation. Grantor shall not permit any other utilities to be located in the Easement without the written consent of Grantee. The Easement shall perpetually encumber Grantor's Property.

5. **MAINTENANCE:**

Grantee shall be responsible for the maintenance of storm drainage equipment and facilities located within the Easement. Grantor shall be responsible for landscape and surface maintenance within the Easement. Grantee's use of the Easement shall not unreasonably interfere with Grantor's use of its property.

6. **INDEMNIFICATION:**

The Grantee does hereby agree to defend, hold harmless, and indemnify Grantor, its successors and assigns, from any claim of liability or any other claim involving the storm drainage utilities, or arising out of the Grantee's use of the Easement, unless caused by Grantor's negligent or willful conductor or Grantor's failure to fulfill its maintenance obligations as set forth in Paragraph 5 above.

7. **REMEDIES:**

In addition to all other remedies allowed by law, the parties, their successors and assigns, shall have the right to seek injunctive relief for the enforcement of the terms and conditions of this agreement.

8. **BINDING EFFECT ON SUCCESSOR INTERESTS:**

The terms, conditions and provisions of this Agreement shall extend to, be binding upon and inure to the benefit of the heirs, personal representatives and assigns of the parties.

9. **ATTORNEYS' FEES:**

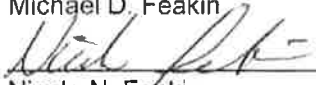
In case suit or action is instituted in connection with this Agreement, each party shall be responsible for its own attorneys' fees.

DATED this 14 day of March, 2019.

GRANTOR:



Michael D. Feakin



Nicole N. Feakin

Approved as to form

By: _____
Office of County Counsel

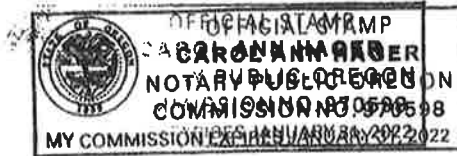
GRANTEE:

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Henry Heimuller, Chair

STATE OF Oregon)
) ss.
County of Columbia)

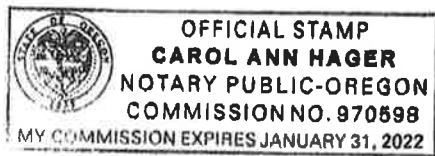
This instrument was acknowledged before me this 4 day of March 20 19, by Michael D. Feakin and Nicole N. Feakin, Grantor, on behalf of which the instrument was executed.



Carol Ann Hager
Notary Public for the State of Oregon
My Commission Expires: 1/31/22

STATE OF Oregon)
) ss.
County of Columbia)

This instrument was acknowledged before me this 4 day of March 20 19, by Henry Heimuller, Chair, Board of County Commissioners of Columbia County, Oregon, Grantor, on behalf of which the instrument was executed.



Carol Hager
Notary Public for the State of Oregon
My Commission Expires: 1/31/22



EXHIBIT A

Columbia County
March 1, 2019

File No. 2
Tax Map 040108BB
Tax Lot 800

PARCEL 1 (PERMANENT DRAINAGE EASEMENT)

A parcel of land situate in the northwest one-quarter of Section 8 and in the John McNulty DLC No. 50 in Township 4 North, Range 1 West of the Willamette Meridian, City of St. Helens, Columbia County, Oregon and being a portion of that property conveyed to Michael D. Feakin and Nicole N. Feakin, as tenants by the entirety in that Warranty Deed, recorded August 6, 2008 as Document Number 2008-007854, Columbia County Clerk's Office; said parcel being that portion of said property described as follows:

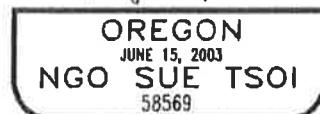
Beginning at a point on the west line of said property, which bears South 00° 33' 34" West 3.02 feet from the intersection of the south right-of-way line of Gable Road (County Road No. 40) and said west property line; thence along the arc of a 24,005.35 foot radius curve to the left, the radial center of which bears North 02° 48' 41" West, through a central angle of 00° 06' 59", an arc distance of 48.72 feet (the long chord of which bears North 87° 07' 49" East 48.72 feet); thence South 02° 55' 36" East 37.58 feet; thence South 87° 13' 34" West 51.00 feet to said west property line; thence along said west property line North 00° 33' 34" East 37.56 feet to the point of beginning.

The parcel of land to which this description applies contains 1,871 square feet, more or less.

The bearings of this description are based on Oregon Coordinate Reference System, Columbia River West zone.

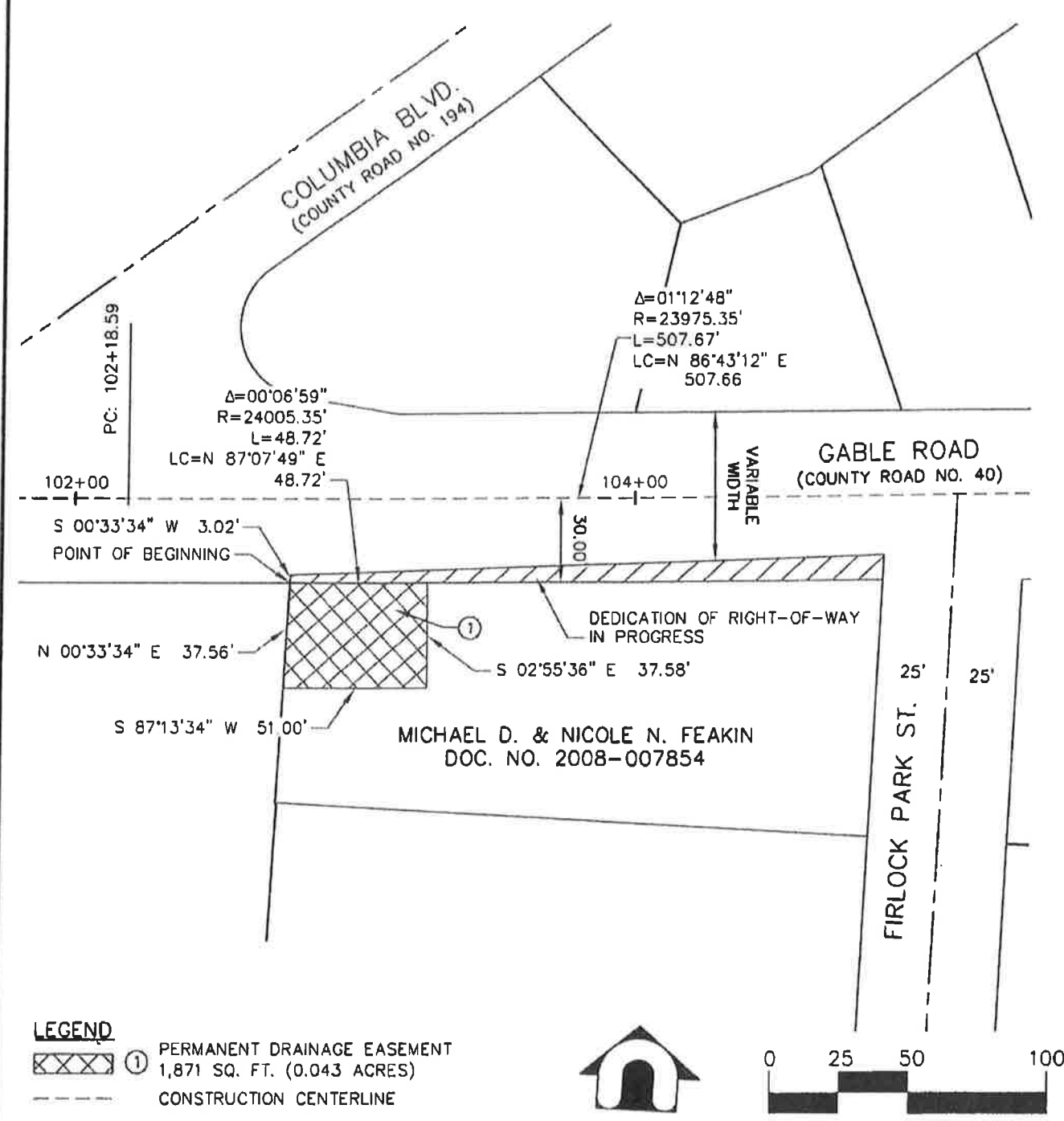


NGO S. TSOI



RENEWS: 6/30/20

NW 1/4 OF SECTION 8
T.4N. R.1W. W.M.



**DAVID EVANS
AND ASSOCIATES INC.**
2100 SW River Parkway
Portland Oregon 97201
Phone: 503.223.6663

PROJECT	EXHIBIT B			SHEET
TITLE	GABLE ROAD			1
	FILE 2			OF
				1
DWG. REF.	PROJECT	SCALE	AMENDMENT NO.	
SV-EM-02-CMCD0004	_2CMCD0000-0004	1" = 50'	0	
DRAWN BY	DESIGN BY	APPROVED BY	DATE	
TAS	TXI	NST	03/01/2019	