



00120784201600054820160166

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



After Recording Return to:

City Recorder
City of Newport
169 SW Coast Highway
Newport, OR 97365

CONSERVATION EASEMENT

**GRANT OF IRREVOCABLE (PERPETUAL) CONSERVATION EASEMENT
BY THE CENTRAL LINCOLN PEOPLES UTILITY DISTRICT
TO CITY OF NEWPORT, OREGON**

ARTICLE 1: CONVEYANCE AND PURPOSE OF CONSERVATION EASEMENT

1.1 The Property. Central Lincoln People’s Utility District, an Oregon Domestic Nonprofit Corporation (“Central Lincoln”), is the owner of real property in the City of Newport, Lincoln County, Oregon which consists of approximately 11.36 acres of land more particularly described in **Exhibit A** attached hereto and by this reference made a part hereof (the “Property”).

1.2 Purpose; Project. The purpose of the Conservation Easement is to preserve the native trees, vegetation, natural beauty and scenic values of the Easement Area in perpetuity (the “Purpose”). This Conservation Easement will replace a similar easement granted to the City of Newport in 1998 as part of a Declaration of Covenants recorded by the owner of the property at the time (ref: Book 383, Page 1867 of the Lincoln County Deed Records). Central Lincoln and the City of Newport agree that this course of action is necessary so that Central Lincoln can reconfigure the easement into a uniform 50-feet in width to better accommodate planned development and to clarify its terms.

1.3 Easement Grant. Central Lincoln does hereby grant to City a permanent, irrevocable, non-exclusive easement (the “Conservation Easement”) of the nature and character described herein over that portion of the Property generally described on the attached **Exhibit B** and depicted on **Exhibit C**, each attached hereto and by this reference made a part hereof (the “Easement Area”). The Conservation Easement shall continue in effect in perpetuity and shall run with the land, subject to the terms and conditions hereof.

1.4 Release of Prior Easement. The City of Newport intends to release its interest in the Conservation Easement contained in the Book 383, Page 1867 of the Lincoln County Deed Records. This will be accomplished by separate instrument that is to be recorded concurrent with the execution of this easement agreement.

ARTICLE 2: CONDITIONS OF CONSERVATION EASEMENT

.1 The following covenants shall apply to the Easement Area:

- a. No cutting of native trees or removal of natural vegetation, except as allowed by law and as may be agreed for restoration and enhancement activities.
- b. No development or construction of any structures, buildings, fencing, roads or other non-natural features.
- c. No mining such as aggregate, sand, rock, gases, or minerals and no petroleum drilling.
- d. No cell, radio or other communication towers.
- e. No application of herbicides or pesticides is permitted if alternative methods of control, including removal by hand are available and not cost prohibitive. If alternative applications are not available or are cost prohibitive, hand application or injection of herbicides or pesticides may be used after notice has been posted in prominent locations in the Easement Area for at least ten days prior to application. The notice, at a minimum, shall identify the time and location of the areas of application, and the chemicals being used.
- f. No grading, cuts or fills or other alteration of topography is permitted except as may be agreed for restoration and enhancement activities.
- g. No dumping of garbage, yard debris, and other waste, nor permanent storage of trash anywhere on the Easement Area.
- h. No dumping or storage of hazardous materials.
- i. No use of motorized vehicles anywhere on the Easement Area except as may be agreed for restoration and enhancement activities.
- j. No subdivision of the Easement Area for any additional development except as allowed by law.

2. Central Lincoln may (shall have the right to) engage in the following activities in the Easement Area:

- a. If catastrophic events impact the Easement Area such as a mudslide, blow down, tsunami, earthquake or fire (collectively "Events") occur, Central Lincoln shall in good faith and in a timely manner use reasonable efforts to restore and stabilize the damaged areas according to best practices that are consistent with and support the purposes of this Conservation Easement and as long as such shall not further compromise the stability of the Easement Area. In restoring the Easement Area, Central Lincoln may remove and sell any salvageable timber resulting from the Event. If the catastrophic event is an earthquake or tsunami and if it devastates the Easement Area and surrounding areas, Central Lincoln shall have no obligation to

restore and stabilize the Easement Area.

- b. Improve the Property including the Easement Area as allowed by the law.
- c. Remove noxious weeds, bushes, and other invasive species.
- d. Remove any falling or fallen trees that threaten the safety of Central Lincoln personnel, members of the public, structures, or ingress and egress to the property.
- e. Plant or transplant trees, bushes, perennials, annuals and other flora anywhere on the Easement Area.
- f. Place signs on the Easement Area that reinforce the Conservation Easement such signage related to educational information, personal safety and prohibited activities.
- g. Sell, rent, mortgage, gift or devise the Property including the Easement Area.
- h. Possess all other rights to control and manage the Easement Area normally accorded property owners.
- i. Central Lincoln shall have the right to enter into additional easements and legal agreements concerning the Property and the Easement Area without approval of City as long as the additional easements or agreements do not materially violate or conflict with this Conservation Easement. The City shall be promptly informed in writing as to any additional easements/ agreements.
- j. All costs and liabilities to maintain the Property, including the Easement Area shall be the sole responsibility of Central Lincoln.

ARTICLE 3: ENFORCEMENT OF THE CONSERVATION EASEMENT

3.1 This Conservation Easement may be enforced by Central Lincoln or the City or their respective successors in interest.

3.2 Any alleged violation of the Conservation Easement will be brought to the attention of both Central Lincoln and the City. If the violation includes acts contrary to state statutes, additional enforcement may include Newport Police Department, Lincoln County District Attorney's Office, and all other Lincoln County or State of Oregon Authorities.

3.3 Remedial measures for violations by third parties shall be instituted by Central Lincoln at the City's reasonable request.

3.4 Central Lincoln shall inspect the Easement Area at least annually to ensure that the covenants in this Conservation Easement are being adhered to, or sooner if a violation of the Conservation Easement is suspected or reported.

3.5 Central Lincoln shall maintain a written and photographic record of any inspections, reports of violations, and all remedial actions taken to assure the enforcement of the Conservation Easement.

3.6 Specific actions to be taken if a violation is suspected.

a. Notice of Intention to Undertake Certain Action; Clarification of Conservation Easement Terms. The reason for requiring Central Lincoln to notify and obtain approval from the City prior to undertaking certain activities, which might impair the conservation values or otherwise defeat or frustrate the purpose of this Conservation Easement, is to afford the City an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the covenants, other terms, conditions and/or purpose of the Conservation Easement. Whenever notice is required, or if Central Lincoln has a question as to whether an activity is consistent with the terms of this Conservation Easement or might negatively impact the conservation values of the Easement Area, Central Lincoln shall notify the City in writing not less than fourteen (14) days prior to the date Central Lincoln intends to undertake the activity in question; except that in an emergency forty-eight (48) hour oral notification to the City shall suffice. The notice shall describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to permit the City to make an informed judgment of the activity as to its consistency with the purpose of this Conservation Easement.

This term is in addition to any other notice or public forum actions required under this Conservation Easement.

b. City's Response. City shall give Central Lincoln a written response of its determination within ten (10) days after the receipt of Central Lincoln's written request. In the event the City fails to respond to Central Lincoln's written request within the ten (10) day period, such request shall be deemed approved. The City's approval shall be based upon the City's reasonable determination (a) that the proposed use or activity would be consistent with the provisions of the Conservation Easement, (b) that the proposed action will preserve and enhance the conservation values protected by this Conservation Easement, and (c) that the likely effect of the proposed action upon the conservation values of the Easement Area will be positive. Approval or disapproval shall be within the reasonable discretion of the City and may be granted upon conditions, provided they tend to further the purpose of this Conservation Easement. The consent of the City obtained in one circumstance shall not be deemed or construed to be a waiver by the City for any subsequent activities by Central Lincoln under this Article.

c. Mediation. If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the purpose or terms of this Conservation Easement that they cannot resolve through unassisted consultation between themselves, and Central Lincoln agrees not to proceed with, or shall discontinue, the use or activity pending resolution of the dispute, either party may refer the dispute to mediation by request made in writing upon the other. Within ten (10) days of the receipt of such a request, the Parties shall mutually select a single experienced and impartial mediator. If the parties are unable to agree on the selection of a single mediator, then the parties shall, within fifteen (15) days of receipt of the

initial request, jointly apply to the presiding judge of the Lincoln County Circuit Court for the appointment of an experienced and impartial mediator. Mediation shall then proceed in accordance with the following guidelines:

(1) Purpose. The purpose of the mediation is to: (i) promote discussion between the parties; (ii) assist the parties to develop and exchange pertinent information concerning the issues in dispute; and (iii) assist the parties to develop proposals which enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or de facto modification or amendment of the terms, conditions or restrictions of this Conservation Easement.

(2) Participation. The mediator may meet with the parties and their counsel jointly or ex parte. The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of both parties with settlement authority will attend mediation sessions as requested by the mediator. The Parties may invite additional persons, such as residents in and around the subject property, to participate in the mediation.

(3) Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator to third parties only with the consent of the parties or their respective counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a party.

(4) Time Period. Neither party shall be obligated to continue if the mediation process exceeds a period of forty-five (45) days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

(5) Costs. The costs of the mediator shall be borne equally by Central Lincoln and the City; the parties shall bear their own expenses, including attorney's fees, individually.

d. City's Remedies. It is the City's preference and intent to work on a voluntary basis with the Central Lincoln to solve any problems that arise through unassisted and assisted discussions. However, despite good efforts there may be situations that require corrective action to be taken and the following procedures shall be followed and the following time frames provided to allow correction of problems before further action.

(1) Notice of Violation; Corrective Action. If the City determines that Central Lincoln or any occupant of the Property is conducting or allowing a use, activity, or condition on the Easement Area which is prohibited by the terms of this Conservation Easement or that a violation of the terms of this Conservation Easement is threatened, City shall give written notice to Central Lincoln of such violation or threatened violation and demand corrective action sufficient to cure the violation or terminate the threat, and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Easement Area so injured.

(2) Injunctive Relief. If Central Lincoln fails to cure the violation within thirty (30) days after receipt of notice thereof from the City, or under circumstances where the violation cannot reasonably be cured within this period, fails to begin curing such violation within this period, and/or fails to continue diligently to cure such violation until finally cured. The City may enter upon the Easement Area and cure the violation, or bring an action at law or in equity in court of competent jurisdiction to enforce the terms of this Conservation Easement to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Easement Area to the condition that existed prior to injury.

(3) Damages. The City will be entitled to recover compensatory, but not punitive or consequential, damages for Central Lincoln's violation of the terms of this Conservation Easement, or injury to any conservation values protected by this Conservation Easement. Without limiting Central Lincoln's liability therefore, the City shall apply any damages recovered to the cost of undertaking any corrective action on the Easement Area.

(4) Emergency Enforcement. If the City, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Easement Area, the City may (i) pursue its remedies under 4.6(b) without prior notice to Central Lincoln or without waiting for the period provided for cure to expire; and (ii) enter upon the Easement Area for the purpose of assessing damage or threat to the conservation values thereon and determining the nature of curative or mitigation actions that should be taken. Notwithstanding the foregoing, the City shall use its best efforts to give forty-eight (48) hours' notice to Central Lincoln of such actions taken under this subparagraph.

(5) Scope of Relief. The City's rights under this paragraph apply equally in the event of either actual or threatened violations of the covenants, other terms, conditions and purpose of this Conservation Easement. Central Lincoln and City expressly agree that the Easement Area, by virtue of its protected features, is unique and that a violation of this Conservation Easement, and any ensuing harm or alteration of the Easement Area, will result in damages that are irremediable and not subject to quantification. Accordingly, Central Lincoln agrees that City's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that City shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the City may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The City's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereinafter existing at law or in equity.

(6) Liquidated Damages. Inasmuch as the actual damages to the conservation values of the Easement Area which could result from a breach of this Conservation Easement by Central Lincoln would be impractical or extremely difficult to measure, the Parties agree that the money damages City is entitled to recover under ORS 105.810 shall be the following:

(i) With respect of the construction of any improvement prohibited by the Conservation Easement, that is not subsequently removed and the Easement Area restored to its previous condition within a reasonable amount of time specified by the City, the damages shall be an amount equal to the actual cost of removal of such improvement;

(ii) With respect to any use or activity prohibited by this Conservation Easement and not involving the construction or maintenance of an improvement, an amount equal to \$10,000 in 2014 Dollars; provided, however, that if timber is harvested in violation of the terms of this Conservation Easement, the amount determined under this subparagraph (ii) will be equal to the actual sales price or value realized upon disposition of such harvested timber; and

(iii) any other damages allowable under ORS 105.810 specifically including, without limitation, restoration of lost or damaged conservation values. Provided, however that in no circumstances shall the City be entitled to treble damages.

e. Costs of Enforcement. In any suit or action brought by the City to enforce or interpret the provisions of this Conservation Easement, the prevailing party shall be entitled to a judgment against the non-prevailing party for the prevailing party's costs and reasonable attorney's fees, including the costs of attorney's fees on appeal and in enforcing any judgment or decree, including in a bankruptcy proceeding.

f. City's Discretion. Enforcement of the terms of this Conservation Easement shall be at the reasonable discretion of the City, and any forbearance by the City to exercise its rights under this Conservation Easement in the event of any breach of any covenant or term of this Conservation Easement by Central Lincoln shall not be deemed or construed to be a waiver by the City of such covenant or term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of the City's rights under this Conservation Easement. No delay or omission by the City in the exercise of any right or remedy upon any breach by Central Lincoln shall impair such right or remedy or be construed as a waiver.

g. Waiver of Certain Defenses. Central Lincoln hereby waives the defenses of laches, and prescription. Laches constitutes the neglect or omission to assert a right as, taken in conjunction with lapse of time and other circumstances, causes prejudice to the adverse party. Prescription is defined as a manner of acquiring rights in a property of another by the passage of time and usage.

h. Acts Beyond Central Lincoln's Control. Nothing contained in this Conservation Easement shall be construed to entitle the City to bring any action against Central Lincoln for any injury to or change in the Easement Area resulting from causes beyond Central Lincoln's control, including without limitation, other government's action, fire, flood, storm, tsunami, earthquake and other naturally occurring earth movement and other similar natural events, or from any prudent action taken by Central Lincoln under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area resulting from such causes.

Additionally, damage caused by trespassers shall not be subject to action against Central Lincoln.

ARTICLE 4: LIABILITIES, TAXES, AND INDEMNIFICATION

4.1 Legal Requirements. Central Lincoln shall conduct its activities and uses in accordance with all applicable federal, state and local laws, regulations and requirements.

4.2 Taxes. For so long as the Easement Area is entitled to exemption from ad valorem property tax under Oregon law, the remainder of this Section 4.2 shall not be applicable. Subject to the foregoing and except as agreed by the parties in providing for the grant of this Conservation Agreement, Central Lincoln shall pay or cause to be paid before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively “taxes”), including any such taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish the City with satisfactory evidence of payment upon request. The City is authorized, but in no event obligated, to make or advance any payment of taxes, upon fifteen (15) days prior written notice to Central Lincoln in accordance with any bill, statement or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement or estimate, and the obligation, caused by such payment shall bear interest until paid by Central Lincoln the lesser of nine percent (9%) per annum or at the maximum rate allowed by law. It is intended that this Conservation Easement constitutes an enforceable restriction within the meaning of ORS 271.715 through 271.795.

4.3 Hold Harmless.

a. In accordance with Oregon law including but not limited to the Oregon Tort Claims Act (ORS 30.260 to 30.300), Central Lincoln shall hold harmless, indemnify, and defend the City and its officers, employees, agents, attorneys, and contractors and the successors and assigns of each of them (collectively the “City’s Indemnified Parties”) from and against all liabilities, penalties, losses, expenses, claims, damages, demands, causes of action, judgments or costs, including, without limitation, reasonable attorney’s fees, arising from or in any way connected with or incident to injury to or the death of any person, or physical damage to any property, resulting from any of Central Lincoln’s negligent, reckless or intentionally wrongful acts, omissions, conditions, or other matter related to or occurring on or about the Easement Area.

b. In accordance with Oregon law, including but not limited to the Oregon Tort Claims Act (ORS 30.260 to 30.300), the City shall hold harmless, indemnify, and defend Central Lincoln and its officers, executives, employees, agents, attorneys, and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively “Central Lincoln’s Indemnified Parties”) from and against all liabilities, penalties, losses, expenses, claims, damages, demands, causes of action, judgments or costs, including, without limitation, reasonable attorney’s fees, arising from or in any way connected with or incident to injury to or the death of any person, or physical damage to any property, resulting from any negligent, reckless or intentionally wrongful acts, omissions, or conditions related to or occurring on or about the Easement Area by the City, its officers, officials, employees, agents, attorneys, contractors, heirs, successors and assigns.

ARTICLE 5: EXTINGUISHMENT, CONDEMNATION, INABILITY TO PERFORM AND
SUBSEQUENT TRANSFER

5.1. Extinguishment. If circumstances arise in the future that render the Purpose of this Conservation Easement impossible to accomplish (such circumstances to include global climate change, unstable soils, etc.), then this Conservation Easement can be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court having jurisdiction. The amount of the proceeds to which Central Lincoln or the City shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Oregon law at the time, in accordance with Section 5.2 of this Conservation Easement.

5.2 Condemnation. If all or any of the Easement Area is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Conservation Easement, in whole or in part, Central Lincoln and the City shall act jointly to recover the full value of the interest in the Easement Area subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Central Lincoln and the City in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as provided by applicable law, the entire balance of the amount recovered shall be paid to Central Lincoln, and the City agree that the City's share of the balance of the amount recovered shall be zero.

5.3 The City's Inability To Fulfill Its Obligations. If the City for any reason cannot fulfill its obligations under this Conservation Easement, then after notice to Central Lincoln and notice to the public given thirty (30) days before the effective date of any action, the City shall assign it rights and obligations to another public entity, including but not limited to the State of Oregon, that is willing and able to receive the benefits and assume the obligations of the Conservation Easement; provided, however, that that the assignee public entity's obligations shall be subject to the limitations of the Oregon Constitution, local charters, state and local laws, and the Oregon Tort Claims Act (ORS 30.260 to 30.300).

Such other entity, with purposes similar to Grantee's, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable).

5.4 Application of Proceeds. The City shall use any proceeds received under the circumstances described in this Article 6 for the purposes of this Conservation Easement grant.

5.5 Subsequent Transfers. Central Lincoln agrees to:

a. Incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Easement Area, including, without limitation, a leasehold interest;

b. Describe this Conservation Easement in and append it to any executory contract for the transfer of any interest in the Easement Area;

c. Give written notice to the City of the transfer of any interest in all or a portion of the Easement Area no later than thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, email and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of Central Lincoln to perform any act required by this subsection shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

ARTICLE 6: AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Central Lincoln and the City are free to jointly amend this Conservation Easement; provided that no amendment shall be allowed that will affect the qualification of this Conservation Easement or the status of the City under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable). Any proposed change that affects the provisions and integrity of this Conservation Easement shall be directed to Central Lincoln and the City for their review and input, and shall require their written agreement to such changes if such changes alter any conditions set forth in the Conservation Easement. Changes shall not materially alter the conservation purposes of this Conservation Easement. Any such amendment shall be consistent with the Purpose of this Conservation Easement, shall not affect its perpetual duration, and shall be recorded in the official records of Lincoln County, Oregon, and any other jurisdiction in which such recording is required.

ARTICLE 7. ASSIGNMENT

This Conservation Easement is transferable, but the City may assign its rights and obligations under this Conservation Easement only to an organization that is a governmental entity or that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under applicable Oregon law (or any successor provision(s) then applicable), provided that if such vesting in any of the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Conservation Easement shall vest in such organization as a court having jurisdiction shall direct, pursuant to the applicable Oregon law and the Internal Revenue Code and with regard to the Purpose of this Conservation Easement. As a condition of such transfer, the City shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Conservation Easement. The City shall notify Central Lincoln in writing, at Central Lincoln's last known address, in advance of such assignment. The failure of the City to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Conservation Easement or limit its enforceability in any way.

ARTICLE 8. RECORDATION

The City shall record this instrument in a timely fashion in the official records of Lincoln County, Oregon, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Conservation Easement.

ARTICLE 9. GENERAL PROVISIONS

11.1 Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Oregon.

11.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the Purpose of this Conservation Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

11.3 Severability. If any provision of this Conservation Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

11.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Area, all of which are merged into this Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Article 6 hereof.

11.5 No Forfeiture. Nothing contained in this Conservation Easement will result in a forfeiture or reversion of Central Lincoln's title in any respect.

11.6 Successors and Assigns. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties to this Conservation Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Easement Area.

11.7 Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

11.8 Counterparts. The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

ARTICLE 10. SCHEDULE OF EXHIBITS

- A. Legal Description of the Property
- B. Legal Description of Easement Area
- C. Drawing of Easement Area

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor (Central Lincoln) and Grantee (City of Newport) have executed this instrument this ___ day of _____, 2016.

Grantor:
CENTRAL LINCOLN PEOPLES UTILITY DISTRICT,
an Oregon Domestic Nonprofit Corporation

Debra J. Smith
Signature
Debra J. Smith
Name (print or type)
General Manager
Title

[Acknowledgment follows]

STATE OF OREGON)
) ss.
County of Lincoln)

On the 10th day of June, 2016, Deborah Smith, as General Manager of Oregon Museum of Science and Industry, an Oregon nonprofit corporation appeared before me and declared the foregoing instrument to be his voluntary act and deed.

Central Lincoln Peoples Utility District

Stacy Marie Downey
NOTARY PUBLIC FOR OREGON



Grantee:
City of Newport, a municipal corporation

[Handwritten Signature]

Signature

Spencer R. Nebel

Name (print or type)

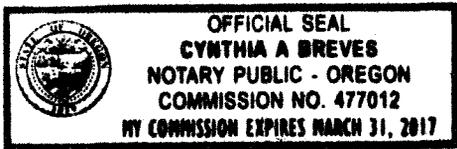
City Manager

Title

STATE OF OREGON)
) ss.
County of Lincoln)

On the 10 day of June, 2016, Spencer R. Nebel as City Manager of City of Newport, an Oregon municipal corporation appeared before me and declared the foregoing instrument to be its voluntary act and deed.

[Handwritten Signature]
NOTARY PUBLIC FOR OREGON



THE NATIONAL ARCHIVES
COLLEGE PARK, MARYLAND
SERIALS ACQUISITION
SECTION
100 COLLEGE PARK DRIVE
COLLEGE PARK, MD 20740



EXHIBIT A

Legal Description of the Property

Lots 1 through 11, Northgate Industrial Park and that part of Lot 3 in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, lying South of the South line of the Siletz Indian Reservation, described as follows:

Beginning at a point at the intersection of the South line of Government Lot 3 (being South of the South line of the Siletz Indian Reservation) in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, and the East right-of-way line of the relocated Oregon Coast Highway No. 101; thence North 7°57' East 22.9 feet along said highway East line to the true point of beginning; thence North 7°57' East 100 feet along said right-of-way; thence South 81°48' East 100 feet; thence South 7°57' West 100 feet; and thence North 81°48' West 100 feet to the true point of beginning.

EXHIBIT B

Legal Description of the Easement Area



EXHIBIT "B" CONSERVATION EASEMENT

A strip of land 50 feet in width, parallel and contiguous to the east right-of-way line of US Highway 101, said strip being a portion of those properties conveyed to Central Lincoln People's Utility District in Document Number 2015-09853, 2015-09859, 2015-09852 and 2015-09854, Lincoln County Deeds and Records, said strip being more particularly described as follows:

Beginning at the southwest corner of Lot 2 of "Northgate Industrial Park", a subdivision recorded in Book 16, Page 50A, Lincoln County Book of Plats, said corner being coincident with the east right-of-way line of US Highway 101; thence in a northeasterly direction, on said east right-of-way line of US Highway 101, to the northwest corner of Lot 11, in said subdivision, to the point of terminus, sidelines of said strip shall be shortened or lengthened to terminate at property boundaries.

END OF DESCRIPTION

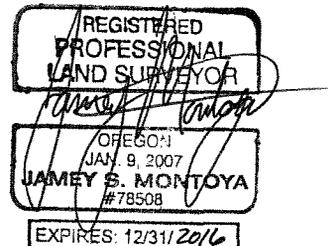


EXHIBIT C

Drawing of Easement Area

