

PORT OF NEWPORT COMMISSION WORK SESSION AGENDA

Friday, December 15, 2017, 12:00 noon
South Beach Activities Room
2120 SE Marine Science Drive, Newport, OR 97365

- I. Call to Order
- II. Public Comment
- III. Rondys, Inc. – Evan Hall
 - A. Cost Sharing or Cost Recovery Options for Infrastructure
 - B. Wetlands Mitigation
 - C. Dredge Spoils
 - D. Roadway Easement
- IV. Public Comment
- V. Adjournment

Regular meetings are scheduled for the fourth Tuesday of every month at 6:00 p.m.

The Port of Newport South Beach Marina and RV Park Activity Room is accessible to people with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours in advance of the meeting to Port of Newport Administration Office at 541-265-7758.

Link for directions to the RV Park Activity Room: <http://portofnewport.com/rv-parks/map.php>

-###-

RONDY'S DEVELOPMENT PLAN

DATE: December 12, 2017
RE: Rondys Development at McClean Point
TO: Port of Newport Board of Commissioners
ISSUED BY: Aaron Bretz - Director of Operations

BACKGROUND

Rondys has planned to develop their land at McLean Point, part of which the Port currently leases. The development plans have generally revolved around supporting and partnering in the operations at the International Terminal. There were previous agreements in principle between the Port and Rondys regarding the development of a mitigation site, and the Port's plans to build a logyard. The Port's plans have changed, and with the introduction of new commissioners, it would be helpful in charting the way ahead to understand what currently exists, and what plans Rondys currently has to develop. I asked Evan Hall to come to the Port Commission to present Rondy's current plans.

No decisions are necessary today, but some discussion on the agenda topics would help as Evan makes decisions in the coming year. I have provided the material in the meeting packet to inform all the commissioners as best I can about several of the previous agreements and how they affect the Port.

It is recognized that many of the questions Evan presents in his September 19th email may not necessarily be able to be answered at the current moment. Many of these issues are tied to the strategic direction the Port will take after hiring on a permanent GM.

ALL DOCUMENTS CONTAINED IN THIS PACKET ARE FOR INFORMATIONAL PURPOSES, I AM NOT SUBMITTING THEM FOR APPROVAL AT THE CURRENT TIME.

Meeting Packet Index
PON Commission Work Session 12/15/17

Emails/Correspondence

p 5 E. Hall/A. Bretz re PON/Rondys Inc. 9/19/17
p 7 E. Hall/PON Commission 6/26/17
p 9 A. Bretz/PON Commission re CON permits 10/3/17
p 13 J. VanStavern/A. Bretz 11/15/17 re permits
p 15 E. Hall/A. Bretz re Roadway Easement 11/9/17

Draft Agreements

p 17 Roadway Use Easement
p 25 Easements Agreements – Utilities
p 47 Wetlands Mitigation Agreement
p 57 Dredge Spoils Agreement
p 63 Drainage Easement (Ditch)
p 77 Drainage Easement
(Underground)

From: Evan Hall [<mailto:evanehall@hotmail.com>]
Sent: Tuesday, September 19, 2017 2:02 PM
To: Aaron Bretz <abretz@portofnewport.com>
Subject: PON/ Rondys Inc

Hello Aaron-

I wanted to outline a few issues that I would like to start looking at with the Port in order to move Rondys' development opportunities forward. Much of it centers around the use of the Ports property at the potential shipping facility location. Im not sure how the discussion for that site has progressed among the Commission. I also see in the minutes for the next meeting that there is no discussion on the shipping facility or simply shipping at the NIT. Ive had more conversations with John May and it appears that another opportunity is on the doorstep, but has there been any progress on the underlying use issues at the NIT?

We do want to help facilitate the Ports future use at that site, so Im trying to incorporate those considerations into our plans. For example, if Rondys improves the access and installs utilities across Bay Blvd, down to the center of McLean Point, would the Port be interested in cost sharing or cost recovery options in order to install pull boxes, water main Ts, and other franchise access that may be needed at the Ports property (at the proposed shipping facility site).

What is the Ports intent for the wetlands on the Ports property? We have an unsigned agreement for a shared mitigation site in which Rondys provided onsite mitigation and the Port covered the construction costs. Rondys is prepared to move ahead filling and mitigating wetlands on our property, doing this without the Port changes the deal. While we do want to help the Port prepare their site, we will not hold the identified mitigation area indefinitely.

Related to the wetland issue, if the Port does not fill their wetlands, Rondys would like to work with the Port to make sure there are no negative affects to our planned storm water drainage system. This would entail creating some sort of ditch or swall to treat and direct water from the Port property into our system.

We would also like address the dredge spoils. Previously, the Port and Rondys were going to split the use of that fill. The Port was going to prepare the Rondys property prior to the spoils being dispersed and graded in order to satisfy the terms of our Lease Agreement. Im still not certain the best way to handle this, but at a minimum I could see Rondys moving and grading of the spoils on our property if the Port could supply the spoils at cost.

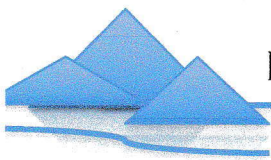
The final issue/question is for one of the roadway easements we developed with the Port. This is for the NW Natural access road. What is the status of that three-way agreement? I had not heard if it had been forwarded on to NW Natural for their review or not. I believe this agreement could be executed regardless of activity on the Ports site, it only benefits future

access/uses. However, if the Port does not want to continue this easement agreement, Rondys will seek to clarify terms with NW Natural on our own.

I might add that we are still open to the floating dock idea and expanding/ reorganizing the fishermans gear yard, but at this point, the ball is in your court to move forward. The basic idea being that Rondys could build the infrastructure if the Port took on some sort of lease agreement to operate the dock and yard (unsure of best solution for dredging needs). Again, this is in an effort to ease pressure on the commercial fishing fleets need for layup space.

My goal is to break ground at the beginning of the construction window, next spring. I would like to work towards resolving these issues and anything else that may come up over this next month. These are the initial concerns to get the conversation started. Let me know when we can get into it.

Thanks-
-Evan



Board of Commissioners
Port of Newport
600 SE Bay Blvd
Newport, OR 97365

June 26, 2017

Dear Commissioners,

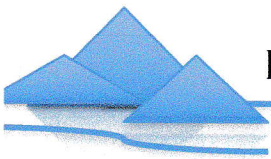
Thank you for your diligent work on the International Terminals Shipping Facility. There are many rewards for the return of shipping to the Port of Newport with the construction of the ITSF being the most direct way to achieve them. Rondys Inc. and the Hall Family are proud to be one of many stakeholders and we support the Port's efforts in this important endeavor. With respect to Rondys' involvement, we view this opportunity as a true Public-Private Partnership and look to continue a long history of investing in the Newport and Central Oregon Coast community.

We expect the Commission will make the best informed decision based on the long term viability of the Port and the Community it serves. However, with every opportunity, there is a risk. In this case, the risk of delay is critical: will this opportunity to construct a Shipping Facility still be here next year or thereafter? It is the Port's number one strategic priority and the final element needed to capitalize on the multi-use International Terminal. Rondys has been a part of this goal and effort for over 5 years. We believe the community at-large recognizes how the diversification of the Port's revenues will benefit all users of Port facilities. The bottom line: is the plan financially feasible?

Among the concerns, we hope there is a berth for compromise. As a commercial fishing family, we understand the stress that the lack of dock space will put on the local fleet and that it could possibly send boats to look for other harbors. We also know how resourceful and adaptive fishermen can be and it is our aim to be a part of the solution. For sure, the commercial fishing fleet is the lifeblood of Newport.

The Rondys Inc. property will receive substantial improvements due to the proposed construction of the ITSF. This opportunity reduces the risk involved in developing our 40-acre property on McLean Point. Our vision was clear: to support the maritime community through the creation of Yaquina Industrial Park. Being adjacent to the International Terminal is the property's biggest asset. Anchored by an active Shipping Facility, we see a nexus for the marine trades and services, commercial fishing storage and maintenance areas, and the growing marine research sector. This would be a multiphase project with our initial investment in the \$3 Million range for infrastructure improvements and the construction of flexible-use warehousing. It is hard to quantify how these modern facilities, in a maritime focused, multi-use, industrial park will benefit the community, but we believe in the opportunity. The Yaquina Industrial Park stands to support the growth of the regional commercial fishing industry, OSU's HMSC, NOAA's MOC-P, the

FV ALSEA - FV ARGOSY - IDAHO LIME - YAQUINA INDUSTRIAL PARK
1301 W OREGON ST, BELLINGHAM, WA 98225



Dept. of Energy's NNMREC and, certainly, the Port of Newport's shipping efforts. It's a clear relationship that as Rondys benefits from this growth, so will the Port and the Community. But, without support from the Ports project, our plans will undoubtedly be delayed and this vision will become more difficult to attain.

We acknowledge that the deal may not yet be perfect for the Port. If so, we request the Board and incoming Commissioners to act diligently and expediently, as the opportunity to bring shipping to the Port may be lost. In an effort to help with the local fleet's needs, Rondys looks forward to working with the Port and stakeholders to address those concerns.

Most Sincerely-

Evan Hall
Vice President, Rondys, Inc.

-----Original Message-----

From: Aaron Bretz

Sent: Tuesday, October 03, 2017 4:41 PM

To: Aaron Bretz <abretz@portofnewport.com>

Cc: Pete Gintner (gintner@mggdlaw.com) <gintner@mggdlaw.com>

Subject: RE: Joint Port and City Council Work Session Aug. 25

Commissioners, I talked with Derrick Tokos this afternoon and got a better understanding of the relationship between our building permit and the SDC. Here is the situation as I understand it to be:

So long as we want to keep the building permit open, we will need to make payments on the SDC financing. Those payments are refundable minus a 4.8% administrative fee.

The building permit is good for a shipping transfer facility that has a strong logging and lumber component. The degree to which we want to push the boundaries of that permit would be limited by the City's judgment on whether or not we have materially affected the type of shipping transfer facility we would want to develop. For example, we may be able to use the permit to build a combination log yard/intermodal laydown facility on that permit, but we may not be able to build a fish processing facility even if both were for the purpose of shipping the product. That determination would be up to the city.

The traffic impact analysis (TIA) is required for any development that results in 10 or more truckloads of traffic per day. Ours was conducted for 50 trucks, and would be good up to 59 trucks per day.

We could choose to allow the permit to expire or to cancel the permit, but if we do so, we open the conversation again over whether or not any substantial amount of trucking traffic is acceptable to the residents on the slope above the property. The last go-round was very contentious and resulted in a fair amount of legal fees although I can't say how much it actually cost.

If we lose the permit or allow it to expire, we will have to do another traffic impact analysis and undergo the permitting process all over again to undertake any development.

I suppose the question that we need to answer is whether or not the Port is interested sometime in developing a shipping transfer facility, and if so, what type of product might we want to facilitate the shipment of?

If we want at some point to develop a transfer facility, keeping the permit (and the associated TIA) open may be worth the \$16,000 a year, depending on what we believe the cost would be to redo such an analysis (which will likely be difficult given strong opposition).

If we decide that we do not want to develop a transfer facility in the future, cancelling that permit might be the most cost effective choice.

In either case, there is a lien on that property and my interpretation of the contract and of city ordinance is that we will need to pay on the financing so long as we want to keep the permit open. I copied Pete here in the event that I've gotten that situation wrong and he could correct me.

-----Original Message-----

From: Aaron Bretz
Sent: Tuesday, October 03, 2017 2:39 PM
To: Aaron Bretz <abretz@portofnewport.com>
Subject: FW: Joint Port and City Council Work Session Aug. 25

Commissioners, I'm sending this info along just for context.. I've not yet closed the loop with the City regarding payments, but it appears to me that given the lien on the property and the amortization schedule that we would need to stay current.

Attached you will find an email between Kevin Greenwood and Derrick Tokos, a copy of the contract, certificate of lien, the building permit itself, and a copy of the minutes from the December 2015 meeting where the commission approved the financing.

Please also read Derrick's explanation two emails below regarding future development. Apparently the magic number is any development that results in daily truck traffic of 10 or more into the facility would require the traffic impact analysis. I don't have hard and fast numbers on what is currently going in and out, but there is regular trucking traffic going to the meal plant already (not sure that impacts development, but certainly it's significant).

More to follow... I'll see what more I can learn.

Aaron Bretz
General Manager ProTem / Director of Operations Port of Newport
600 SE Bay Blvd.
Newport, OR 97365
(541) 265-7758
(541) 541-961-3904 cell

-----Original Message-----

From: Derrick Tokos [<mailto:D.Tokos@NewportOregon.gov>]
Sent: Thursday, September 07, 2017 9:32 AM
To: Aaron Bretz <abretz@portofnewport.com>

Cc: Spencer Nebel <S.Nebel@NewportOregon.gov>; Peggy Hawker <P.Hawker@NewportOregon.gov>; David Allen <D.Allen@NewportOregon.gov>
Subject: RE: Joint Port and City Council Work Session Aug. 25

Good morning Aaron,

There is another item related to the shipping facility building permit that you need to be aware of. It is the System Development Charges (SDCs). Those fees, which totaled \$117,668.73, are payable when a building permit is issued. The City of Newport allows them to be financed over a 10 year period and that is the approach the Port chose to take in December of 2015. Payments are secured with a lien, and there is a city lien in force on the property. It is my understanding that the SDC payment plan was approved by the Port Commission and I have attached communications that I had with Kevin from that timeframe in case they are helpful.

Also enclosed is a copy of the System Development Charge agreement, the payment schedule, the lien, and building permit.

The first payment of \$8,153 was to be made on 12/5/16 and they were to occur on a semi-annual basis from that point forward. I consulted with our Finance Department and no payments have been made to date. If the Port of Newport intends to keep the building permit active then it needs to address the two past due SDC payments.

Thanks,

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

-----Original Message-----

From: David Allen

Sent: Saturday, August 26, 2017 1:24 PM

To: abretz@portofnewport.com

Cc: Derrick Tokos <D.Tokos@NewportOregon.gov>; Spencer Nebel <S.Nebel@NewportOregon.gov>; Peggy Hawker <P.Hawker@NewportOregon.gov>

Subject: FW: Joint Port and City Council Work Session Aug. 25

Aaron - this is the info on the building permit I was referring to at the joint meeting yesterday. --David

From: Derrick Tokos

Sent: Thursday, August 24, 2017 2:06 PM

To: Spencer Nebel

Cc: David Allen; Joseph Lease

Subject: RE: Joint Port and City Council Work Session Aug. 25

Hi Spencer,

As we discussed, attached is an email from our building official indicating that the building permit for the intermodal shipping facility was issued on December 31, 2015. Since that time, the Port has requested inspections on intermittent grading work every 6 months in order to keep the permit active. The last time this occurred was June 15, 2017.

If no further work is performed the building permit will expire on or about December 15, 2017. It can be expired earlier if the Port Authority indicates that it no longer intends to pursue the project. It is our preference that the Port of Newport indicate its intent to proceed, or not, in writing.

In the event the building permit expires, the land use approval will as well. Such approval was in the form of a traffic impact analysis. This would mean that if the project or some other form of development at this location were to be picked up again, and it generates 10 or more truck trips were day (exceeding 26,000 pound gross vehicle weight), then a new traffic impact analysis would be needed. There is a good chance that an application of this type would be controversial given the level of residential development on the slope overlooking this industrial site.

Derrick I. Tokos, AICP

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

-----Original Message-----

From: David Allen

Sent: Wednesday, August 23, 2017 9:43 AM

To: Spencer Nebel <S.Nebel@NewportOregon.gov>

Cc: Derrick Tokos <D.Tokos@NewportOregon.gov>

Subject: Re: Joint Port and City Council Work Session Aug. 25

Spencer - I spoke with Derrick this morning about a couple of items for the joint meeting on Friday. He said he would let you know what we talked about. --David

From: John van Staveren [<mailto:JVS@PacificHabitat.com>]
Sent: Wednesday, November 15, 2017 5:30 PM
To: Aaron Bretz <abretz@portofnewport.com>
Subject: RE: Email on Mitigation Site

I was away all day Aaron and just getting to this now – we can be fairly general in what we say will be the future use of the property. We will have to have a real looking development plan and describe what that could be used for, but the application that I will be submitting for the Rondys development will not have specifics.

John

From: Aaron Bretz [<mailto:abretz@portofnewport.com>]
Sent: Wednesday, November 15, 2017 8:12 AM
To: John van Staveren
Subject: RE: Email on Mitigation Site

John, I think this pretty much covers most of it.

The only thing I can still figure they may ask about is if we're not going to name a "log yard" as the purpose, how general can we be with the purpose for the property? Could we list it as something as general as "future industrial site" or "industrial park", or do we need to be more specific?

Aaron

From: John van Staveren [<mailto:JVS@PacificHabitat.com>]
Sent: Tuesday, November 14, 2017 5:46 PM
To: Aaron Bretz <abretz@portofnewport.com>
Subject: RE: Email on Mitigation Site

I started writing the email last night and did wonder about covering all of it and whether you needed additional information. Here's what I wrote.

The Corps of Engineers have issued 3 permits authorizing the filling of wetlands on the Port property on McLean Point. The purpose of the fill was for log storage. The permit required the restoration of about a quarter of an acre of estuary at the southern tip of McLean Point. The third permit was issued on August 9, 2016 and expired on August 9, 2017.

To develop the property in the future, the Port will have to resubmit an application to the Corps. Mitigation will occur in the same location. I don't think the Port will have any issues with the Corps issuing a new permit, because they have already issued three at the same location. However, we may be bumped from a Nationwide Permit to an Individual Permit, which means a public notice period. We

have an application already prepared, but unless the Port wants to keep with log storage the use of the property will have to change.

We have an application almost ready for Rondys, but am waiting on their engineer to send me graphics. That application will likely be filed in December. Mitigation for the fill at Rondys will have to happen in the 2018 in-water work period starting in November. The Corps should be ok with the delay in mitigation, though sometimes they increase the mitigation ratio to account for that.

It would be good for the Port to file an application in 2018, so that the wetlands can be filled and the mitigation for both projects can happen at the same time.

You should be aware that in order to construct the mitigation area, we will have to apply for a permit from the Department of State Lands. The one that we have has expired. It's a simple permit to obtain and should only take about 45 days.

In reading that do you have specific questions I can answer?

Thanks

John

John van Staveren, PWS
Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070
Office: (503) 570-0800
Cell: (503) 708-8320
jvs@pacifichabitat.com
www.PacificHabitat.com

From: Aaron Bretz [<mailto:abretz@portofnewport.com>]
Sent: Tuesday, November 14, 2017 4:29 PM
To: John Van Stavern - Pacific Habitat Services (jvs@pacifichabitat.com)
Subject: Email on Mitigation Site

John, last week you were going to begin working up an email that I could share with the Port Commission regarding the potential mitigation site at McLean Point (in conjunction with Rondy's). Do you need more information from me, or would you like to ask me any questions about what situations we might need to explain to the commissioners?

Aaron Bretz
General Manager ProTem / Director of Operations
Port of Newport

From: Evan Hall [<mailto:evanehall@hotmail.com>]
Sent: Thursday, November 09, 2017 11:21 AM
To: Aaron Bretz <abretz@portofnewport.com>
Subject: Rondys/PON/NW Natural Roadway Use Easement

Aaron-

Attached is what I believe is the final roadway use easement for the NW Natural access road. The description exhibit was the last thing we worked on with the inclusion of identified access points. Again, this version was supplied by Rondys and we never received comments or edits, so we assumed it was acceptable. I do not know what happened with it since the easement descriptions were completed.

I'll follow up with two forwards, one from Kevin about the easement and the other, a correspondence with NW Natural.

-Evan

AFTER RECORDING RETURN TO:

Pete Gintner
Macpherson, Gintner & Diaz
423 North Coast Hwy.
P.O. Box 1270
Newport, OR 97365

ROADWAY USE EASEMENT

This ROADWAY USE EASEMENT is entered into this ____ day of _____, 2017, by and between the Grantor, Northwest Natural Gas Company, an Oregon corporation (the “Roadway Owner”) and the Grantees, Port of Newport, an ORS 777 municipal corporation, and Rondys Inc., a Washington corporation (the “Easement Holders”).

RECITALS

A. The Roadway Owner is the sole owner of a certain roadway and surface street in the City of Newport, Lincoln County, Oregon; which is referred to herein as the “Northwest Natural Access Road”, which is described in Exhibit “A” and by this reference incorporated herein.

B. The Easement Holders intend to utilize their property that fronts the Northwest Natural Access Road for commercial and industrial activities. The property owned by the Easement Holders is described in Exhibit “B” attached hereto and may be referred to herein as the “McLean Point Property”.

C. An easement was previously retained by the predecessor to Rondys to benefit property owned by Rondys. However, the parties agree that this agreement is entered into to clarify the terms of the easement. The previous retention of easement by Rondys’ predecessor was recorded in book 48, page 148, Deed Records of Lincoln County, Oregon on March 29, 1974.

D. The Port of Newport is entering into this agreement to obtain an easement for vehicular access over the Northwest Natural Access Road for normal business operations, on a not-to-impede access basis with the Roadway Owner.

GRANT OF ACCESS EASEMENT

In consideration of the facts recited above, the Roadway Owner and the Easement Holders agree as follows:

1. **Grant of Easement.** The Roadway Owner hereby grants to the Easement

Holders an appurtenant, non-exclusive, rent-free surface easement (the “Access Easement”) for ingress to and egress from the McLean Point Property (as it may be expanded), to which it shall be appurtenant, over the Northwest Natural Access Road, as indicated on the “Access Easement Map” attached hereto as Exhibit “C” and by this reference incorporated herein. The Roadway Owner represents that it has the authority to Grant this Access Easement and that it will be enforceable in accordance with its terms.

2. **Use of Easement.** The purpose of the Access Easement is to provide year-round vehicular access to and from the McLean Point Property (as it may be expanded) by the Easement Holders, its agents, licensees, personnel, customers and guests; with a duty not to impede the day-to-day operations of Northwest Natural plant and its agents, licensees, personnel, customers and guests.

3. **Obstructions to Use.** Neither the Roadway Owner nor the Easement Holders nor any person permitted to use the easement under the terms of this Access Easement may utilize the Access Easement in a way that interferes with the unfettered use of the Northwest Natural Access Road. However mutually agreed upon temporary obstructions may occur as planned. Any obstructions or impediments to use of the Northwest Natural Access Road may be removed, without notice, by the Roadway Owner or Easement Holder, as the case may be, and the cost of such removal shall be borne by the party causing or responsible for such obstruction or impediment.

4. **No Queuing.** The use of the Northwest Natural Access Road by the Roadway Owner shall not be constricted by vehicles entering the Easement Holders’ operations on the McLean Point Property queuing along the Northwest Natural Access Road.

5. **Improvements.** The Easement Holders shall coordinate any approved improvements to the Northwest Natural Access Road for the purpose of making it more suitable for vehicular use with the Roadway Owner. The Easement Holders shall have the right to post signs, which meet City of Newport Sign Code Ordinances, along the Northwest Natural Access Road, to delineate ingress and egress points, and any other traffic-management issues, as mutually agreed upon between the Roadway Owner and Easement Holders. The Roadway Owner shall not be obligated to install any of these improvements. Any improvements made by the Easement Holders shall be subject to the prior written approval of the Roadway Owner, which shall not be unreasonably withheld.

6. **Maintenance.** The Easement Holders shall be responsible for maintaining ingress and egress and related junction points between the Northwest Natural Access Road and Yaquina Bay Road to their current “as is” condition when the need for maintenance is directly attributable to its use of the roadway. There may be maintenance that is mutually beneficial to both the Roadway Owner and the Easements Holder; such maintenance shall be mutually negotiated and agreed upon by both parties in writing.

7. **Damage.** Any damage to the Northwest Natural Access Road caused by Easement Holders operations must be repaired immediately by the party causing the damage. Repairs must restore the roadway to the same functionality as before the damage. If delay in

repair is required, site managers shall coordinate repair and keep each other informed daily. Any damage caused by the Roadway Owner shall be repaired by the Roadway Owner.

8. **Amendments.** This Roadway Use Easement contains the complete agreement of the parties regarding the subject hereof and may not be modified except by execution of a written instrument signed by both the Roadway Owner and the Easement Holder.

9. **Successors.** All the terms, covenants, conditions and obligations set forth in this Roadway Use Easement shall inure to the benefit of and bind the Roadway Owner, Easement Holders and their successors and assigns.

10. **Term of Agreement.** The easement granted herein is perpetual and is appurtenant to the real property described in Exhibit "B".

11. **Good Neighbor Cooperation.** The Roadway Owner and Easement Holders shall, as a matter of normal business, meet on a regular basis to discuss the operation, maintenance and function of the Northwest Natural Access Road. At all times communications among on-site representatives of the Roadway Owner, Easement Holders are encouraged to resolve problems or improve roadway fluidity.

12. **Governing Law.** This Roadway Use Easement shall be governed by the laws of the State of Oregon.

13. **Insurance.** Throughout the term of this Roadway Use Easement, Easement Holders shall, at its expense, maintain the insurance policies which are described in Exhibit "D" hereto and by this reference incorporated herein.

14. **Indemnification.** Notwithstanding Section 13, Grantee, to the fullest extent permitted by applicable law, shall indemnify and save harmless Grantor and its directors, officers, shareholders, employees, agents, successors, and assigns from and against any and all loss, cost, expense, damage and liability, and from any and all claims for damages, and from any and all costs and expenses, including attorney and expert witness fees, in any suit, action, appeal, or proceeding, which may be brought against Grantor, caused by or arising out of (i) any negligent act or omission of Grantee or (ii) willful misconduct of Grantee or its agents or employees, including under (i) and (ii) above Grantee's non-compliance with legal and governmental requirements. Grantee shall, at its own expense, defend any such claims, suits, actions, appeals, or proceedings which may be made or commenced against Grantor by reason thereof or in connection therewith, and shall pay all costs and expenses, including attorney and expert witness fees, incurred by reason thereof, and all judgments, which may be recovered therein. If Grantor elects to retain independent counsel, Grantee agrees to reimburse Grantor for costs and attorney and expert witness fees reasonably incurred by Grantor to defend itself through attorneys of its choice.

15. **Notice and Cure.** Neither party shall be in default hereunder until it has received written notice from the other specifying the nature of its failure to comply with the terms hereof and such failure shall have continued for a period of thirty (30) days after receipt of notice;

provided that such party shall not be in default if the failure to comply is not reasonably curable within the thirty (30) day period and the party proceeds with diligence to cure the failure to comply. If the party responsible to repair the easement does not timely repair the road as set forth herein, that party's use and any user claiming under that party shall be suspended until the party responsible for repairs makes the repairs or pays for the repairs if such repairs were made at the expense of another party. Payment for repairs shall include interest at 9% per annum and reasonable costs and attorney fees incurred by the repairing party. All notices to be given hereunder shall be sent to the addresses set forth on Exhibit "F" hereto, which is by this reference incorporated herein.

IN WITNESS WHEREOF, Northwest Natural Inc. has agreed to and executed this Roadway Use Agreement this _____ day of _____, 2017.

By: _____

Its: _____

ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Roadway Use Easement is hereby accepted by the Port of Newport, this _____ day of _____, 2017.

By: _____

Its: _____

ACCEPTANCE OF EASEMENT HOLDER'S INTEREST

The foregoing Roadway Use Easement is hereby accepted by Rondys Inc., this _____ day of _____, 2017.

By: _____

Its: _____

[Acknowledgements appear on the following page]

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of Northwest Natural Gas Company, an Oregon corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

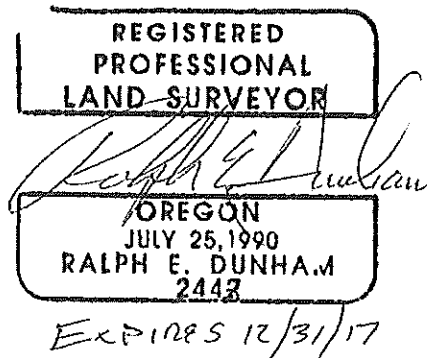
EXHIBIT A
DESCRIPTION OF NORTHWEST NATURAL ACCESS ROAD EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Beginning at a 5/8" iron rod with plastic cap that bears South 84°17'15" West 627.20 feet from the North Meander Corner on the east line of said Section 9, thence South 06°36'00" West 198.09 feet; thence South 03°34'30" East 1344.02 feet; thence South 79°05'40" West 50.41 feet to a 5/8" iron rod; thence North 03°34'30" West 1350.45 feet; thence North 13°44'51" West 198.22 feet to a 5/8" iron rod; thence North 86°29'15" East 120.0 feet to the original point of beginning.

Said easement containing 1.93 acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north.



NEED EXHIBIT B

“MCLEAN POINT PROPERTY” DESCRIPTION

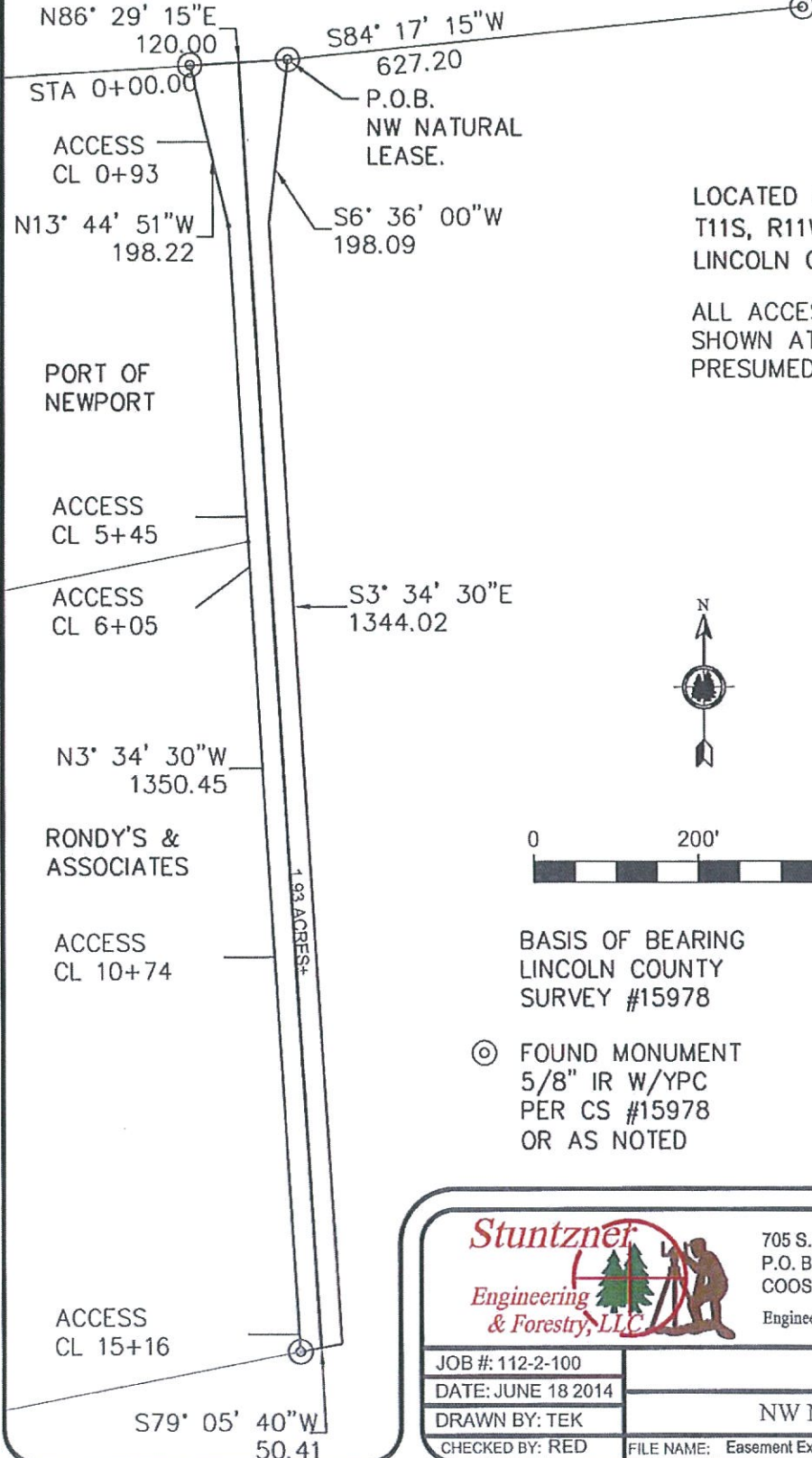
(Combined Rondys and Port property description)

PORT OF NEWPORT
ACCESS ROAD LEASE EXHIBIT A

PROPERTY OWNER
NORTHWEST NATURAL GAS CO.

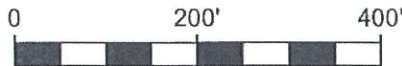
SE BAY BLVD.

NORTH MEANDER
CORNER, EAST
LINE SECT. 9.
PER CS #5618



LOCATED SE 1/4 OF SEC 9,
T11S, R11W, W.M.
LINCOLN CO. OREGON

ALL ACCESS POINTS
SHOWN AT CL OF ACCESS
PRESUMED WIDTH 60'±



**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Ralph E. Dunham

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443
EXPIRES 12/31/17

BASIS OF BEARING
LINCOLN COUNTY
SURVEY #15978

⊙ FOUND MONUMENT
5/8" IR W/YPC
PER CS #15978
OR AS NOTED



705 S. 4TH ST. PHONE: (541) 267-2872
P.O. BOX 118 FAX: (541) 267-0588
COOS BAY, OREGON 97420 www.stuntzner.com
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

JOB #: 112-2-100

PORT OF NEWPORT

DATE: JUNE 18 2014

NW NATURAL LEASE EXHIBIT

DRAWN BY: TEK

CHECKED BY: RED

FILE NAME: Easement Exhibits.dwg

SHEET 1 OF 1

AFTER RECORDING RETURN TO:
Dennis L. Bartoldus
Attorney at Law
P.O. Box 1510
Newport, OR 97365

EASEMENT

This EASEMENT AGREEMENT is entered into this ____ day of _____, 2017, by and between Rondys Inc., a Washington corporation, licensed to do business in Oregon, as the Grantor, and the Port of Newport, an ORS 777 municipal corporation of the State of Oregon as the Grantee.

RECITALS

A. The Grantor and Grantee own adjacent properties located in Lincoln County, Oregon. The property owned by the Grantor is described in Exhibit "A". The property owned by the Grantee is described in Exhibit "B". A map depicting the relationship of the properties to one another is attached as Exhibit "C".

B. The Grantee has requested certain easements from Grantor. Grantor is willing to grant the easements subject to the terms and conditions of this Easement Agreement.

C. Grantor previously granted an easement for roadway purposes to the Grantee by document recorded at Volume 241, page 149 on March 4, 1992. The terms and provisions of this Easement Agreement supersede any prior easements granted by Grantor or any predecessor of Grantor to the Grantee or any predecessor of the Grantee.

D. It is the intent of this document to grant to the Grantee three easements, a roadway easement, a waterline easement and a communication utilities easement. A description and diagram of the roadway easement is attached as Exhibit "D". A description and diagram of the waterline easement is attached as Exhibit "E". A description and diagram of the communication utilities easements is attached as Exhibit "F".

GRANT OF AND TERMS OF EASEMENT

1. **Grant of Easement.** The Grantor hereby grants to Grantee an easement for the roadway, the waterline and the communication utilities as set forth in the respective exhibits hereto. The easements granted herein are perpetual and appurtenant to the real property owned by the Grantee described in Exhibit "B", provided, however, the easements are subject to the provisions of Section 5 herein concerning "Dedication as Public Road". The easements are non-

exclusive and may be used in conjunction with others to whom easements may be granted by the Grantor and also used by the Grantor.

TERMS OF EASEMENT APPLICABLE TO ROAD EASEMENT

2. Maintenance and Repair.

a. The parties each acknowledge that the roadway herein will be utilized by themselves, their tenants, guests, contractors, invitees and others utilizing the road under permission from the Grantor and Grantee. The Grantor's and Grantee's property being served by this roadway is commercial and industrial in nature and the road serves as access to the shipping terminal operated by the Grantee. The parties also acknowledge that certain portions of the road may be used more by one party than the other because the Port's terminal is at the end of the road and Rondys may not be using the road to the extent it is used by the Port and those operating under the Port. The parties also recognize that there will be a variety of vehicles using the roadway from passenger vehicles to trucks carrying heavy shipments to be delivered.

b. The Grantor and the Grantee shall, as a matter of normal business, meet on a regular basis to discuss the operation, maintenance and function of the road. At all times, communications among onsite representatives of the Grantor and the Grantee are encouraged to resolve problems or improve roadway fluidity.

c. The Grantor and Grantee shall coordinate any improvements for the purpose of making the road suitable for vehicular use. The parties may agree upon appropriate signage and other traffic management control devices that facilitate the use of the road.

d. The costs of maintaining and repairing the easement shall be as set forth in ORS 105.170 through 105.185. In applying the criteria found in the statute, the number of vehicle trips and the types of vehicles, including size and weight in addition to any other relevant factors shall be considered. The owner of the Grantor's property will coordinate maintenance and repairs on the road. It will give the Grantee 30 days' notice of repairs to be done and the proposed breakdown of each party's percentage of repair cost. The Grantee shall respond in writing within 30 days if it disagrees with the proposal. If the Grantee does not respond in writing within the 30 day period, it is deemed to have accepted the breakdown and to be responsible for payment of its share of the costs of maintenance and repairs. If the parties cannot agree on the repairs or maintenance to be done and the division of costs, the matter shall be submitted to binding arbitration. If the parties cannot agree on an arbitrator, then arbitration shall be done by the Arbitration Association of Portland or by the American Arbitration Association or by such other method by which the parties may agree. The amount due from each party shall be promptly paid so as to not allow any account to become past due. If either party has a concern that the work was not done in a good and worker like standard, the party shall promptly provide in writing a list of how the work was not properly done in order to facilitate a resolution to the issue.

e. The condition to which the road will be maintained is a good and passable paved road approximately 40 feet in width with an adequate sub-base for heavy trucks, equipment and machinery.

f. The parties shall prepare a baseline report of the road within 90 days of the date of this agreement detailing the condition of the road and shall list any improvements to the road which are needed. In the absence of an agreement to the contrary, Grantee shall prepare the baseline report and submit it to the Grantor. The Grantor shall have 45 days to comment on the report.

3. **Indemnification.** Each party will indemnify and hold harmless the other party for each other's use of the road and those using the road under the auspices of one party or the other. Indemnification includes payment of attorney fees and other costs reasonably incurred in defending any claim brought against the party being indemnified including any attorney's fees and costs on any appeal. It is understood that this indemnification is a contractual obligation of each party and the Grantee's obligation to indemnify Grantor is not limited by any tort claim limitations imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

4. **Insurance.** Each party will maintain adequate insurance which is defined as a general liability policy of at least \$10,000,000.00 per occurrence and \$10,000,000.00 in the aggregate. The Grantee's insurance policy shall name the Grantor as an additional insured. The Grantee shall furnish a copy of the policy to Grantor upon the request of Grantor.

5. **Dedication as Public Road.** The easement road shall remain a private road. However, the Grantor may elect at any time to either deed or dedicate the described road to the public or any governing body with jurisdiction for a public right of way. In the event the easement road is dedicated as a public right of way, the rights under this agreement as they pertain to the roadway shall terminate and the laws and regulations pertaining to public road or way, city streets or county roads, whichever is appropriate shall apply.

WATERLINE EASEMENT

6. The location of the waterline easement granted by Grantor to the Grantee shall be as set forth in Exhibit "E".

7. **Placement.** The waterline shall be placed underground at a depth that will not interfere with reasonable operations on the Grantor's property.

8. **Maintenance and Repairs.** The Grantee shall be solely responsible for the installation, maintenance, repair and reinstallation of the waterline. In entering onto the Grantor's property to install, maintain or repair the waterline, the Grantee and anyone acting under or through the Grantee shall take care not to damage the Grantor's property and shall complete all installation, maintenance and repair as promptly as reasonably possible with minimal disruption to the Grantor's property and the activities thereon.

9. **Indemnification.** The Grantee agrees to indemnify and defend Grantor from any loss, claim or liability arising out of Grantee's use of the easement and for any damage caused to the Grantor's property by any malfunction of the waterline or damages caused by installation, maintenance or repairs on the waterline. Indemnification includes payment of attorney fees and costs reasonably incurred by the Grantor including any attorney's fees and costs on any appeal in defending any claim brought against the Grantor. It is understood that this indemnification is a contractual obligation of the Grantee and the obligation to indemnify is not limited by any provision of any tort claim limitations imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

COMMUNICATION UTILITIES EASEMENT

10. The Grantor hereby grants to Grantee an easement to install communication utilities in the locations set forth in Exhibit "F".

11. **Placement.** Any communication utilities installed pursuant to the terms of this easement shall be located underground at an adequate depth so as not to interfere with any reasonable surface use on the property. It shall be the responsibility of the Grantee to place the utilities at an adequate depth to avoid damage from other activities on the Grantor's property.

12. **Maintenance and Repairs.** The Grantee shall be solely responsible for the installation, maintenance, repair and reinstallation of the utility communications lines. In entering onto the Grantor's property to install, maintain or repair the utility communications lines, the Grantee and anyone acting under or through the Grantee shall take care not to damage the Grantor's property and shall complete all installation, maintenance and repair as promptly as reasonably possible with minimal disruption to the Grantor's property and the activities thereon.

13. **Indemnification.** The Grantee agrees to indemnify and defend Grantor from any loss, claim or liability arising out of Grantee's use of the easement and to any damage caused to the Grantor's property by any malfunction of the utility communications lines or damages caused by installation, maintenance or repairs of the utility communications lines. Indemnification shall include payment of any attorney fees and costs reasonably incurred by the Grantor including any attorney's fees and costs on any appeal in defending any claim by the Grantor. It is understood that this indemnification is a contractual obligation of the Grantee and the obligation to indemnify is not limited by any provision of any tort claim limitation imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

PROVISIONS APPLICABLE TO ALL EASEMENTS

14. **Binding Effect.** This agreement will be binding on the heirs, successors and assigns of each party.

15. **Notice and Cure.** Neither party shall be in default hereunder until it has received written notice from the other specifying the nature of its failure to comply with the terms hereof and such failure shall have continued for a period of 30 days after receipt of notice. Provided, however, that such party shall not be in default if the failure to comply is not reasonably curable

within the 30 day period and the party proceeds with diligence to cure the failure to comply. In the event an emergency exists or when damage would occur as a result of delay, the 30 day notice provided herein is not necessary. Provided, however, that the right to cure shall not relieve a party from paying damages or equitable remedies if the other party has suffered damage as a result of a breach of this agreement.

16. **Notices.** All notices to be given hereunder shall be sent as follows:

To Grantor: Rondys, Inc.
1301 West Oregon Street
Bellingham, WA 98225

To Grantee: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

All notices required or permitted to be given will be in writing and will be deemed given and received on personal service or two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested to the addresses listed in this section. The addresses may be changed by written notice, given in the same manner. Notice given in any other manner other than the manner set forth herein will be effective when received by the party for whom it is intended.

17. **Attorney Fees.** In the event any suit or action is filed to enforce any term, condition or omission under this agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs and attorney fees, including any attorney fees and costs incurred on any appeal.

18. **Governing Law.** This agreement shall be governed by the laws of the state of Oregon.

19. **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and merges and replaces all prior and contemporaneous negotiations, discussion, representations, warranties, promises and agreements of the parties with respect to the subject matter hereof.

20. **No Waiver.** No waiver of any action or default by any party will be implied from a failure or delay by the other party to take any action in respect to such action or default.

21. **Right of Approval.** Grantor has the right to approve all plans and improvements placed within the easement.

22. **Non-Exclusive.** The easements granted herein are non-exclusive and the Grantor reserves the right to grant other easements to other parties and to utilize the easement area for improvements to the Grantor's property.

23. **Insurance.** The Grantee shall at all times maintain adequate insurance to repair any damage to the Grantor's property caused by the Grantee or anyone using under the Grantee. The Grantor shall be named as an additional insured on any policy and Grantee shall provide a copy of the policy to Grantor upon the request of Grantor.

24. **Easement over Grantee's Property.** In consideration of the grant of this easement, the Port of Newport hereby agrees to grant to Rondys and its heirs, successors and assigns, an easement over the Port property for utilities, including but not limited to, power, water, sewer, communication cables, to serve the Rondys property described in Exhibit A. The location of said easement shall be in a location reasonable in scope and nature so as to not unreasonably interfere with the Port's property.

25. **Compliance with All Laws.** In installing, maintaining, repairing and utilizing the easements granted herein the Grantee shall comply with all applicable governmental laws, rules and regulations.

IN WITNESS WHEREOF, the parties have entered into this agreement this _____ day of _____, 2017.

PORT OF NEWPORT

RONDYS, INC.

By: _____

By: _____

Its: _____

Its: _____

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[Acknowledgements continued on the following page]

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

PARCEL I: (TL 600)

That portion of land lying above the "Ordinary Low Water" line (Mean Low Water; +1.3 M.L.L.W. Datum) and within the herein described parcel;
Beginning at the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence South 0 deg. 37' 45" East, 1,489.38 feet, along said Section line; thence leaving said Section line South 79 deg 05' 40" West, 561.95 feet to a point on the "Ordinary High Water " line (Mean High Water; + 7.5 M.L.L.W. Datum); thence along said "Ordinary High Water" line as follows; Thence North 04 deg. 30' 06" West 898.42 feet; thence North 01 deg. 18' 14" West, 445.57 feet; thence North 11 deg. 03' 28" East 192.23 feet; thence North 74 deg. 58" 49" East 129.12 feet; thence North 86 deg. 45' 06" East 230.53 feet; thence South 89 deg. 56' 29" East 141.93 feet; thence North 45 deg. 52' 08" East 112.70 feet to a point on the East line of Section 9, T 11 S, R 11 W, W.M.; thence along said Section line South 01 deg. 30' 00" East, 59.03 feet to the Meander Corner and the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

PARCEL II: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11, S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "Ordinary High Water line(Mean High Water, + 7.5 M.L.L.W. Datum) the following bearings and distances: thence South 01 deg. 18' 14" East 182.28 feet; thence South 04 deg. 30' 06" East 898.42 feet; thence South 07 deg. 35' 00" East 346.12 feet; thence South 05 deg. 44' 50" East 176.97 feet; thence South 00 deg. 41' 31" West 170.71 feet; thence South 29 deg. 29' 42" West 105.01 feet; thence South 64 deg. 29' 57" West 302.14 feet; thence South 74 deg. 09' 48" West 91.76 feet; thence South 74 deg. 36' 04" West 106.43 feet; thence South 82 deg. 25' 07" West 67.60 feet; thence North 53 deg. 46' 58" West 213.35 feet; thence North 45 deg. 24' 33" West 442.89 feet; thence North 48 deg. 30' 25" West 473.05 feet; thence South 79 deg. 14' 06" West 102.30 feet; thence leaving said High Water line the following bearings and distances; thence North 59 deg. 00' 00" West 218.00 feet; thence North 14 deg. 59' 11" East 607.90 feet; thence North 66 deg. 37' 09" East 35.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 160.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 270.00 feet returning to said Ordinary High Water Line; thence along said High Water Line the following bearings and distances; thence South 66 deg. 37' 09" West 442.42 feet; thence North 79 deg 18' 23" West 363.57 feet; thence North 75 deg. 47' 46" West 50.47 feet; thence North 69 deg. 39' 06" West 16.82 feet; thence North 40 deg. 28' 56" West 15.90 feet; thence North 03 deg. 54' 48" East 15.23 feet; thence North 57 deg. 15' 49" East 16.20 feet; thence North 84 deg. 09' 41" East 9.71 feet; thence South 85 deg. 27' 31" East 29.11 feet; thence North 05 deg. 37' 46" West 132.99 feet; thence North 06 deg. 23' 52" West 132.55 feet; thence North 48 deg. 16' 05" West 156.69 feet; thence North 53 deg. 06' 28" West 231.05 feet; thence North 21 deg. 00' 00" East 22.80 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 42 deg. 17' 57" East 19.97 feet; thence South 57 deg. 44' 00" East 175.80 feet; thence South 54 deg. 39' 31" East 134.93 feet; thence South 72 deg. 55' 33" East 193.87 feet; thence South 69 deg. 30' 32" East 161.53 feet; thence South 77 deg. 14' 36" East 168.78 feet; thence South 85 deg. 55' 21" East 119.45 feet; thence North 88 deg. 26' 06" East 180.76 feet; thence North 74 deg. 58' 04" East 299.55 feet; thence North 14 deg. 26' 08" West 242.29 feet to a point on the "1953 Mean Low Tide, National Ocean Survey (Hydrographic Sheet No. 8041)" line; thence along said Low Tide line the following bearings and distances; thence North 83 deg. 11' 10" East 417.96 feet; thence South 73 deg. 48' 38" East 63.52 feet; thence South 59 deg. 47' 58" East 250.66 feet; thence North 58 deg. 18' 10" East 96.59 feet; thence North 32 deg. 07' 55" East 192.28 feet; thence North 40 deg. 55' 25" East 111.41 feet; thence South 87 deg. 05' 06" East 164.38 feet; thence North 65 deg. 41' 34" East 124.87 feet; thence North 70 deg. 07' 01" East 140.90 feet; thence North 60 deg. 34' 58" East 109.29 feet; thence South 65 deg. 41' 15" East 79.08 feet; thence South 57 deg. 43' 35" East 105.25 feet; thence South 84 deg. 31' 08" East 0.10 feet to the point of beginning on said "Ordinary High Water" line.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

PARCEL III: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "1953 Mean Low Tide National Ocean Survey" (Hydrographic Sheet No. 8041) line the following bearings and distances; thence North 84 deg. 31' 08" West 0.10 feet; thence North 57 deg. 43' 35" West 105.25 feet; thence North 65 deg. 41' 15" West 79.08 feet; thence South 60 deg. 34' 58" West 109.29 feet; thence South 70 deg. 07' 01" West 140.90 feet; thence South 65 deg. 41' 34" West 124.87 feet; thence North 87 deg. 05' 06" West 164.38 feet; thence South 40 deg. 55' 25" West 111.41 feet; thence South 32 deg. 07' 55" West 192.28 feet; thence South 58 deg. 18' 10" West 96.59 feet; thence North 59 deg. 47' 58" West 250.66 feet; thence North 73 deg. 48' 38" West 63.52 feet; thence South 83 deg. 11' 10" West 417.96 feet; thence South 14 deg. 26' 08" East 242.29 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 74 deg. 58' 04" West 299.55 feet; thence South 88 deg. 26' 06" West 180.76 feet; thence North 85 deg. 55' 21" West 119.45 feet; thence North 77 deg. 14' 36" West 168.78 feet; thence North 69 deg. 30' 32" West 161.53 feet; thence North 72 deg. 55' 33" West 193.87 feet; thence North 54 deg. 39' 31" West 134.93 feet; thence North 57 deg. 44' 00" West 175.80 feet; thence North 42 deg. 17' 57" West 19.97 feet; thence South 21 deg. 00' 00" West 22.80 feet; thence North 37 deg. 22' 27" West 66.69 feet; thence North 51 deg. 36' 30" West, 117.06 feet; thence North 49 deg. 20' 47" West 4.16 feet; thence North 39 deg. 56' 57" East 171.84 feet to the Southerly line of that parcel recorded in Volume 98, page 1415, Lincoln County Records; thence along the Southerly line South 62 deg. 54' 03" East 177.42 feet to the Southeast corner; thence along the East line North 38 deg. 24' 37" East 108.97 feet to the Northeast corner of said parcel; said point also being on the Southerly boundary of County Road No. 515; thence along the Southerly right of way South 50 deg. 51' 58" East, 66.57 feet; thence an arc length of 329.99 feet along a curve to the left having a radius of 622.96 feet; thence South 81 deg. 05' 08" East 328.37 feet; thence an arc length of 165.17 feet along a curve to the left having a radius of 1768.87 feet; thence an arc length of 325.46 feet along a curve to the left having a radius of 622.96 feet; thence North 63 deg. 37' 52" East 422.68 feet to the Northwest corner of that parcel conveyed to Dean Warren and recorded in Book 276, page 39, Lincoln County Records on 16th, March 1967; thence South along the West line of said parcel a distance of 86.2 feet, more or less, to the Mean High Water of 1912 line of Yaquina Bay; thence along said Mean High Water line as established by C. S. 5618, the following bearings and distances; thence North 64 deg. 39' 15" East 95.72 feet; thence North 47 deg. 48' 52" East 241.88 feet; thence North 68 deg. 44' 27" East 263.16 feet; thence North 59 deg. 08' 15" East 353.30 feet; thence North 77 deg. 30' 00" East 113.80 feet; thence North 86 deg. 29' 15" East 327.80 feet to a point along the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence South 74 deg. 58' 49" West, 28.54 feet; thence South 11 deg. 03' 28" West 192.23 feet; thence South 01 deg. 18' 14" East 263.29 feet along said High Water Line to the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

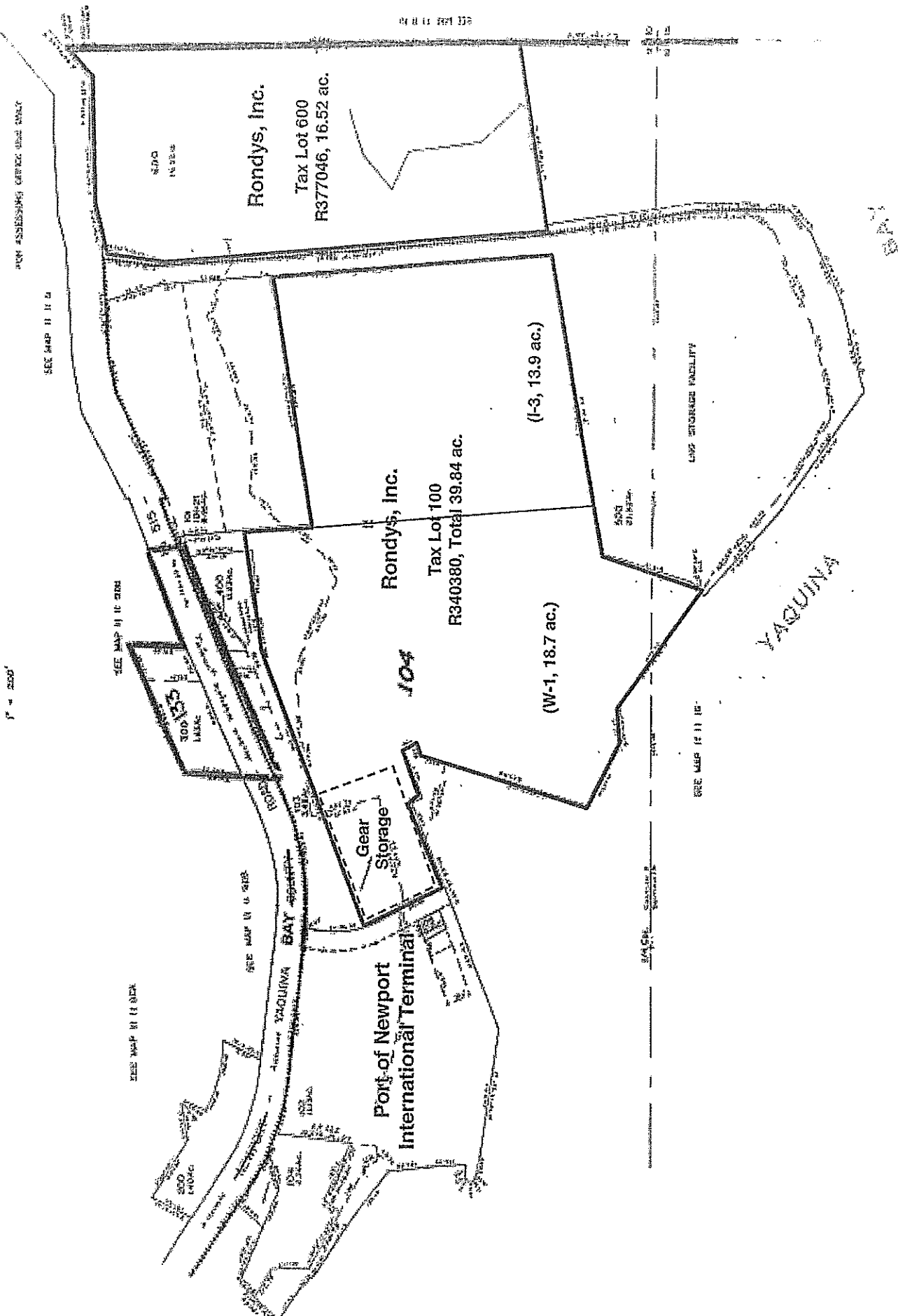
AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

EXHIBIT B
DESCRIPTION OF PORT PROPERTY

EXHIBIT C

SE 1/4 SECTION 9 T11S R11W WM
LINCOLN COUNTY

1" = 200'



11 11 9D

11 11 9D



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF A NON-EXCLUSIVE ACCESS ROAD EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Commencing at a point 323.35 feet south and 1,442.85 feet west of the Meander Corner on the East line of Section 9, Township 11 South, Range 11 West, W.M. in Lincoln County, Oregon, said point lying North 65°25'43" East 32.14 feet from a 5/8" iron rod with a "MSS Engineering" yellow plastic cap marking the northwest corner of that easement described in Book 148, Page 2163 Lincoln County Book of Records . Said point being the centerline of an existing 60 foot wide access road at the intersection of the southern boundary of County Road No. 515 right of way;

Thence South 03°34'34" East, 284.95 feet more or less to the true Point of Beginning, said point of beginning being the end of the 60 foot wide easement described in Book 148, Page 2163 Lincoln County Book of Records;

Thence South 03°34'30" East 173.05 feet along the west line of an existing access easement describe in said Book 148, Page 2163 to a point 30 feet west and perpendicular to a 5/8" iron rod set in Lincoln County Survey # 20555;

Thence South 86°25'30" West 30.00 feet;

Thence North 03°34'30" West 143.05 feet;

Thence South 86°25'30" West 191.82 feet;

Thence Westerly along a 270 foot radius curve to the left, an arc length of 93.34 feet;

Thence South 66°37'00" West 847.81 feet more or less to the easterly boundary of the Port of Newport property line;

Thence North 23°23'00" West 30.00 feet to the south line of said access easement described in Book 148, Page 2163;

EXHIBIT D

Page 1 of 3
Page 36 of 87

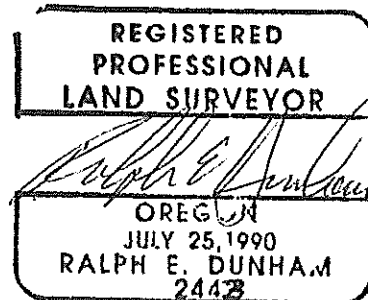
Thence North 66°37'00" East 847.81 feet more or less along the south line of said easement to a point of curvature;

Thence Easterly along a 300 foot radius curve to the right, along the south of said easement, an arc length of 103.72 feet;

Thence North 86°25'30" East 221.82 feet, along the south line of said easement, to the Point of Beginning;

Said easement containing 0.90 acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north, lines extended to property lines established in Lincoln County Survey No. 20555.

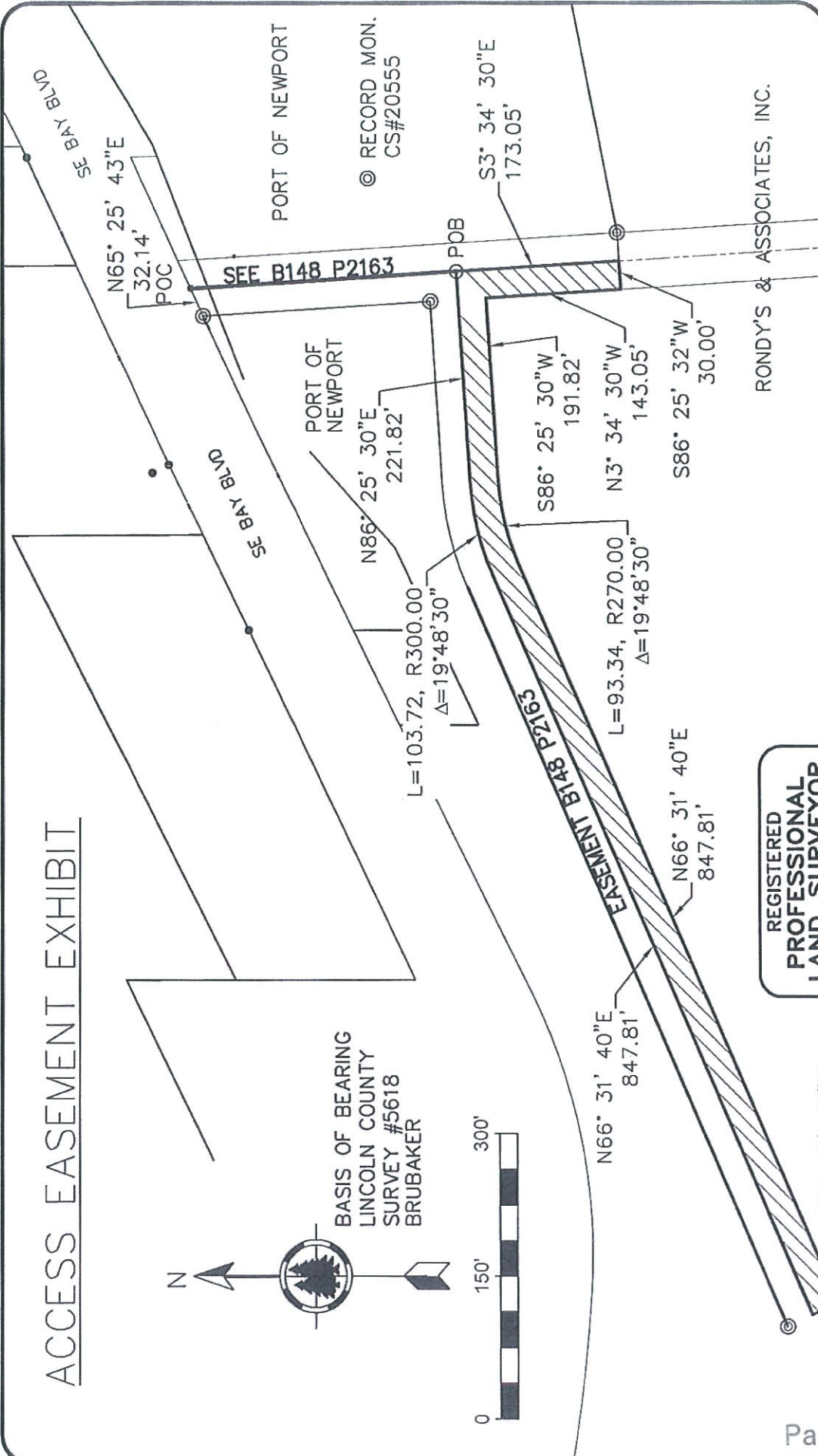


Expires 12/31/17

ACCESS EASEMENT EXHIBIT



BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443
EXPIRES 12/31/17



705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
Engineering - Land Surveying - Forestry - Land Planning - Water Rights
PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

JOB #:	112-2-100
DATE:	APR. 2017
DRAWN BY:	AER
CHECKED BY:	RED
FILE NAME:	Port Site 2016 Easements.dwg
SHEET	1 OF 1

EXHIBIT D

Page 3 of 3



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF 20 FOOT WIDE NON-EXCLUSIVE WATERLINE UTILITIES
EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Commencing at a point 337.42 feet south and 1,471.95 feet west of the Meander Corner on the East line of Section 9, Township 11 South, Range 11 West, W.M. in Lincoln County, Oregon, said point marked by a 5/8" iron rod with a "MSS Engineering" plastic cap at the intersection of the western edge of an existing 60 foot wide access road easement and the southern boundary of County Road No. 515 right of way;

Thence North 65°25'43" East, 30.77 feet to the true Point of Beginning, said point of beginning being on the south right of way line of said County Road No. 515;

Thence South 24°02'50" East 8.46 feet;

Thence South 03°34'30" East 104.71 feet;

Thence South 86°25'30" West 31.76 feet to that property owned by the Port of Newport;

Thence South 03°34'30" East 20.00 feet along the Port of Newport property boundary;

Thence North 86°25'30" East 31.76 feet;

Thence South 03°34'30" East 128.52 feet;

Thence South 86°25'30" West 285.91 feet to the north line of that easement described in Lincoln County Book of Records, Book 148, Page 2163 to a point on a 330 foot radius curve to the left;

Thence Westerly along a 330 foot radius curve to the left, an arc length of 51.31 feet, long chord of which bears South 71°04'15" West, 51.26 feet;

EXHIBIT E

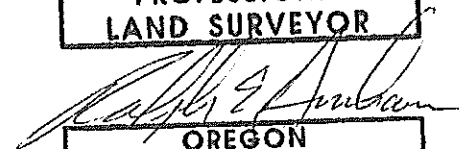
Page 1 of 3
Page 39 of 87

Thence South 66°37'00" West 18.97 feet;
Thence North 86°25' 30" East 353.18 feet;
Thence South 03°34'30" East 177.38 feet;
Thence North 86°25'30" East 20.00 feet;
Thence North 03°34'30" West 14.11 feet;
Thence North 86°25'30" East 8.28 feet to that property owned by the Port of Newport;
Thence North 03°34'30" West 20.00 feet along the Port of Newport property boundary;
Thence South 86°25'30" West 8.28 feet;
Thence North 03°34'30" West 336.43 feet;
Thence North 86°25'30" East 8.24 feet to that property owned by the Port of Newport;
Thence North 03°34'30" West 20.00 feet along the Port of Newport property boundary;
Thence South 86°25'30" West 8.24 feet;
Thence North 03°34'30" West 63.68 feet;
Thence North 24°02'56" West 12.26 feet to the south right of way line of said County Road No. 515;
Thence South 65°25'43" West 20.00 feet along said south right of way line of said County Road No. 515 to the Point of Beginning.

Said easement containing 0.38 acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Point of Commencement monument as per Lincoln County Survey No. 20555 by Peter Seaders.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1990
RALPH E. DUNHAM
2442

EXPIRES 12/31/17

EXHIBIT E
Page 40 of 87

WATERLINE EASEMENT EXHIBIT

© MONUMENT FROM CS #20555

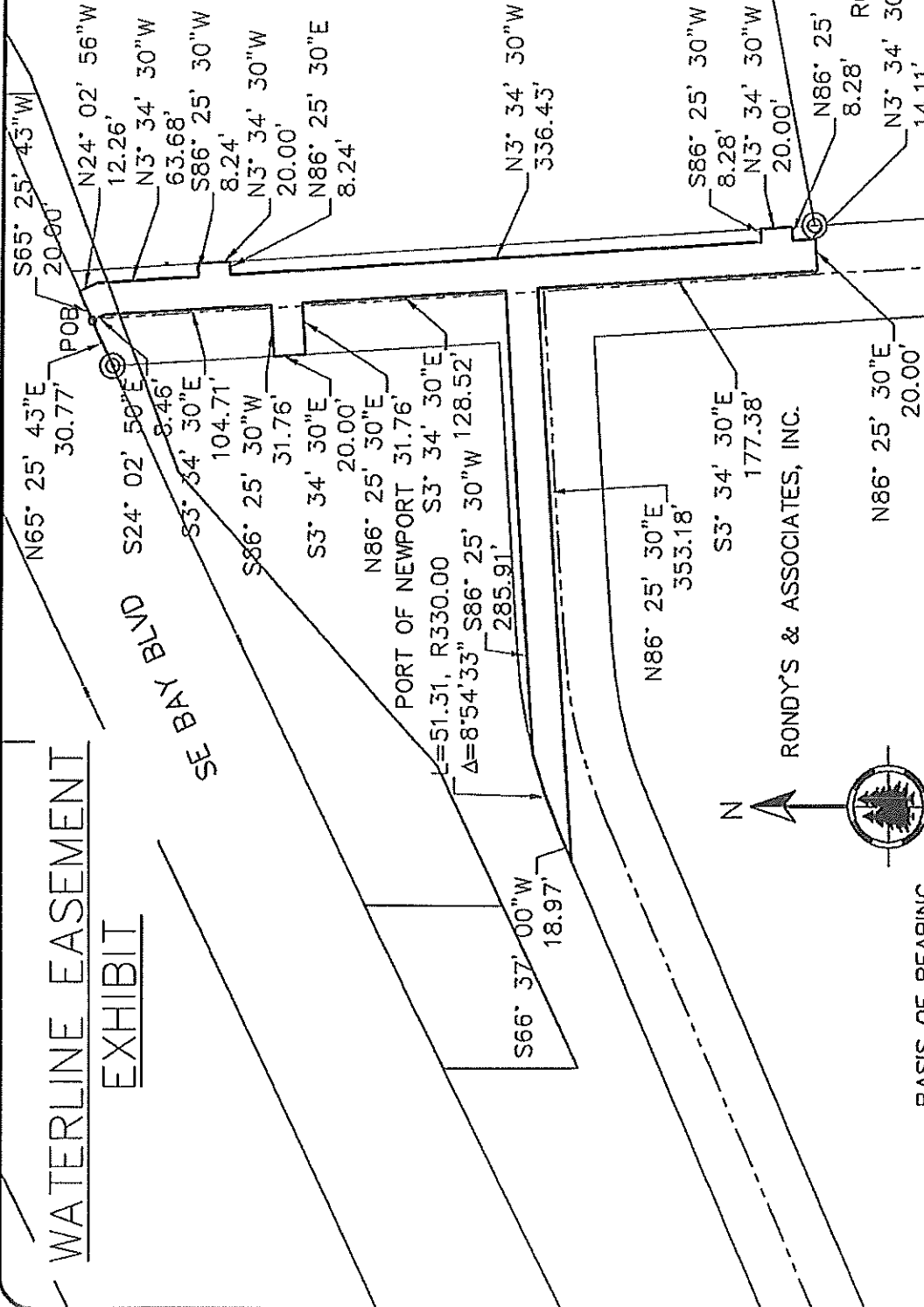
PORT OF NEWPORT

REGISTERED PROFESSIONAL LAND SURVEYOR

Ralph E. Dunham

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2445

EXPIRES 12/31/17



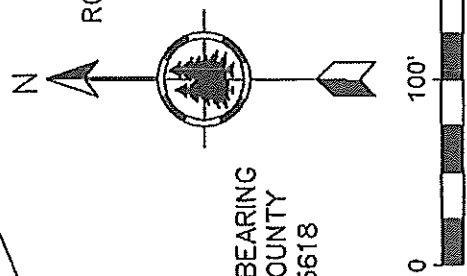
705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
Engineering - Land Surveying - Forestry - Land Planning - Water Rights
PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

JOB # 112-2-100
DATE: APR. 2017
DRAWN BY: AER
CHECKED BY: RED

Port of Newport
Waterline Easement Exhibit

FILE NAME: Port Site 2016 Easements.dwg

SHEET 1 OF 1



BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF 10 FOOT WIDE NON-EXCLUSIVE COMMUNICATION
UTILITIES EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

The following is the described centerline of a 10 foot wide communications easement, extending 5 feet perpendicular to said centerline in each direction, said centerline lying 5 feet East of, and parallel to the West line of that easement described in Book 148, Page 2163 Lincoln County Book of Records;

Commencing at a point 337.42 feet south and 1,471.95 feet west of the Meander Corner on the East line of Section 9, Township 11 South, Range 11 West, W.M. in Lincoln County, Oregon, said point marked by a 5/8" iron rod with a "MSS Engineering" plastic cap. Said point being the intersection of the western edge of an existing 60 foot wide access road and the southern boundary of County Road No. 515 right of way;

Thence South 03°34'30" East 11.42 feet more or less to the true Point of Beginning, said point of beginning being on the West line of that easement described in Book 148, Page 2163 Lincoln County Book of Records;

Thence South 24°34'18" East 13.83 feet;

Thence South 03°34'30" East 422.85 feet to a point located 55.00' South 86° 25'30" West of the South West corner of that property described as Parcel "L" in Bk. 148 Pg 2162 owned by the Port of Newport.

Said easement containing 0.10 acres, more or less, sidelines extended or retracted to meet property boundaries.

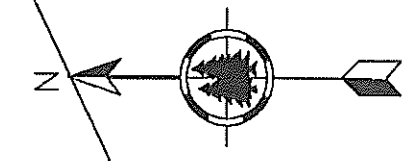
Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Point of Commencement monument as per Lincoln County Survey No. 20555 by Peter Seaders.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Ralph Dunham
OREGON
JUL 25 1980
Page 42 of 87

EXHIBIT F

PUBLIC UTILITY EASEMENT EXHIBIT



BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER

SE BAY BLVD

SE BAY BLVD

S3° 34' 30"E
11.42'

S24° 34' 18"E
13.83'

S3° 34' 30"E
422.85'

MONUMENT FROM
CS #20555

PORT OF NEWPORT

RONDY'S & ASSOCIATES, INC.

10' EASEMENT
5' EITHER SIDE OF
DESCRIBED
CENTERLINE

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Ralph E. Dunham

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443

EXPIRES 12/31/17

EXHIBIT FJ

Page 2 of 4



705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

JOB #: 112-2-100
DATE: APR. 2017
DRAWN BY: AER
CHECKED BY: RED

Port of Newport

Public Utility Easement Exhibit

FILE NAME: Port Site 2016 Easements.dwg SHEET 1 OF 1



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF 10 FOOT WIDE NON-EXCLUSIVE PRIVATE
COMMUNICATION UTILITIES EASEMENT FOR THE PORT OF NEWPORT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

The following is the described centerline of a 10 foot wide communications easement, extending 5 feet perpendicular to said centerline in each direction;

Commencing at a point 337.42 feet south and 1,471.95 feet west of the Meander Corner on the East line of Section 9, Township 11 South, Range 11 West, W.M. in Lincoln County, Oregon, said point marked by a 5/8" iron rod with a "MSS Engineering" plastic cap. Said point being the intersection of the western edge of an existing 60 foot wide access road and the southern boundary of County Road No. 515 right of way;

Thence South 03°34'30" East, 83.11 feet to the true Point of Beginning, said point of beginning being on the West line of that access easement described in Book 148, Page 2163 Lincoln County Book of Records;

Thence North 54°58'02" East 70.36 feet to a point located on the East line of that access easement described in Book 148, Page 2163 Lincoln County Book of Records.

Said easement containing 0.02 Acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Point of Commencement monument as per Lincoln County Survey No. 20555 by Peter Seaders.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2442

EXPIRES 12/31/17

PRIVATE UTILITY EASEMENT EXHIBIT

SE BAY BLVD

SE BAY BLVD

MONUMENT FROM
CS #20555



PORT OF NEWPORT

POB

10' EASEMENT
5' EITHER SIDE OF
DESCRIBED
CENTERLINE

S3° 34' 30"E
85.11'

N54° 58' 02"E
70.36'

RONDY'S & ASSOCIATES, INC.

PORT OF NEWPORT

RONDY'S & ASSOCIATES, INC.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443

EXPIRES 12/31/17

BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER

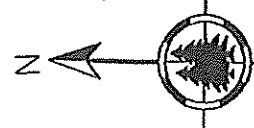


EXHIBIT F

705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

PHONE: (541) 267-2872
FAX: (541) 267-0388
www.stuntzner.com

JOB #: 112-2-100	Port of Newport
DATE: APR. 2017	Private Utility Easement Exhibit
DRAWN BY: AER	
CHECKED BY: RED	
FILE NAME: Port Site 2016 Easements.dwg	SHEET 1 OF 1

RONDY'S & ASSOCIATES, INC.

AFTER RECORDING RETURN TO:

Dennis L. Bartoldus
Attorney at Law
P.O. Box 1510
Newport, OR 97365

WETLAND MITIGATION AGREEMENT

This AGREEMENT is entered into this ____ day of _____, 2017, by and between Rondys Inc., a Washington corporation, licensed to do business in Oregon, hereinafter "Rondys", and the Port of Newport, an ORS 777 municipal corporation of the State of Oregon, hereinafter "Port".

RECITALS

A. Rondys and Port own adjacent properties located in Lincoln County, Oregon. The real property owned by Rondys is described in Exhibit "A". The real property owned by the Port is described in Exhibit "B". A map depicting the relationship of the properties to one another is attached as Exhibit "C".

B. The Port has requested that Rondys provide property to mitigate wetlands located on the Port property.

C. There are also wetlands located on the Rondys property. Rondys intends to mitigate wetlands existing on its property at the same location as the Port is using to mitigate wetlands. The size of the mitigation site on the Rondys property is sufficient to allow the mitigation of wetlands on both the Port property and the Rondys property.

D. The area to be provided for mitigation for both the Rondys property and the Port property is approximately 0.9 acres in size and is described in Exhibit "D".

AGREEMENT

1. **Grant of Use.** Rondys agrees to allow the Port to utilize the property described in Exhibit "D" for wetland mitigation for wetlands located on the property described in Exhibit "B". The Port acknowledges that wetland mitigation for the Rondys property will take place at the same location and the 0.9 acres has been deemed sufficient to mitigate the wetlands which must be mitigated on the properties described in Exhibit A and Exhibit B.

2. **Application.** The Port agrees it will submit an application to permitting agencies for the fill, removal and mitigation of .24 acres of wetlands which is the area needed to remediate wetlands on the Port property. Together with a wetland mitigation ratio applied, the Port will

utilize a total of .26 acres of mitigation for wetlands being mitigated on Port property. Rondys will submit its own permit to permitting agencies to mitigate .42 acres of wetland on Rondys property, which together with the wetland mitigation ratio applied will result in the need for Rondys to have .51 acres for mitigation. Rondys will pay its own application fee and consultant fees. The parties agree they will use John vanStaveren of Pacific Habitat Services as a wetlands consultant to assist with the application. In the event Mr. vanStaveren is unable to perform the duties or the parties mutually agree to employ someone else to perform the tasks, another consultant may be hired. The Port shall pay for all construction costs and monitoring costs of the mitigation for both the Port and Rondys properties in consideration of being able to mitigate its wetlands on the Rondys property.

3. **Construction.** The actual wetland remediation work for both Port and Rondys at the mitigation site will be done by a contractor hired and paid for by the Port. However, Rondys has the right to approve all mitigation plans on Rondys property. About 7,000 cubic yards of material will be removed for the construction of the mitigation area. Rondys will accept the buildable fill removed from the site as fill on the property owned by Rondys but any fill that is not building suitable or is in excess of what is needed by Rondys shall be removed by the Port from the property at Port's expense. The topsoil placed on the Rondys property shall be placed as directed by Rondys.

4. **Wetland Monitoring.** Any and all wetland monitoring and compliance required as part of the mitigation will be done and paid for by the Port. If the Port fails to monitor or otherwise fails to keep the mitigation site in compliance, then Rondys may do so and charge and recover from the Port any expenses Rondys incurs in monitoring for compliance and for any repair or additional work that is necessary to fully comply with all permits.

5. **Easement.** Rondys hereby grants Port an easement to the mitigation site for the purposes of access, monitoring and maintaining the mitigation area. The access will be over the Rondys property in an area designated by Rondys and in accessing the mitigation site, Port shall not interfere with operations on the Rondys property.

6. **Construction Time.** The construction of the mitigation area will begin on or about November 1, 2017 and the work shall be diligently pursued to completion within a reasonable period of time thereafter but must be completed within any time perimeters set forth in the permits and in accordance with all requirements of the permits.

7. **Indemnification.** The Port shall indemnify and hold Rondys harmless from any damages, claims and demands caused by construction, monitoring, maintenance, repair and restoration of the wetland mitigation site and from any obligation that is to be performed by Port. It is understood that this indemnification is a contractual obligation of the Port and the Port's obligation to indemnify Rondys is not limited by any provision of the tort claims limitation imposed by Oregon law. The parties agree that the contractual limit of indemnification is \$10,000,000.00.

8. **Binding Effect.** This agreement will be binding on the heirs, successors and assigns of each party.

9. **Notice and Cure.** Neither party shall be in default hereunder until it has received written notice from the other specifying the nature of its failure to comply with the terms hereof and such failure shall have continued for a period of 30 days after receipt of notice. Provided, however, that such party shall not be in default if the failure to comply is not reasonably curable within the 30 day period and the party proceeds with diligence to cure the failure to comply. In the event an emergency exists or when damage would occur as a result of delay, the 30 day notice provided herein is not necessary. Provided, however, that the right to cure shall not relieve a party from paying damages or equitable remedies if the other party has suffered damage as a result of a breach of this agreement.

10. **Notices.** All notices to be given hereunder shall be sent as follows:

To Rondys: Rondys, Inc.
1301 West Oregon Street
Bellingham, WA 98225

To Port: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

All notices required or permitted to be given will be in writing and will be deemed given and received on personal service or two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested to the addresses listed in this section. The addresses may be changed by written notice, given in the same manner. Notice given in any other manner other than the manner set forth herein will be effective when received by the party for whom it is intended.

11. **Attorney Fees.** In the event any suit or action is filed to enforce any term, condition or omission under this agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs and attorney fees, including any attorney fees and costs incurred on any appeal.

12. **Governing Law.** This agreement shall be governed by the laws of the state of Oregon.

13. **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and merges and replaces all prior and contemporaneous negotiations, discussion, representations, warranties, promises and agreements of the parties with respect to the subject matter hereof.

14. **No Waiver.** No waiver of any action or default by any party will be implied from a failure or delay by the other party to take any action in respect to such action or default.

15. **Insurance.** The Port shall at all times maintain adequate insurance to repair any damage to Rondy's property caused by the Port or anyone using under the Port for any use or activities that result in damage that are outside the use of the terms of this agreement and shall

also maintain adequate insurance for injury to any person caused by the Port's activities. Adequate insurance is defined as \$10,000,000 per occurrence and in the aggregate. Rondys shall be named as an additional insured on any policy and Port shall provide a copy of the policy to Rondys upon the request of Rondys.

IN WITNESS WHEREOF, the parties have entered into this agreement this _____ day of _____, 2017.

PORT OF NEWPORT

RONDYS, INC.

By: _____

By: _____

Its: _____

Its: _____

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A

PARCEL I: (TL 600)

That portion of land lying above the "Ordinary Low Water" line (Mean Low Water; +1.3 M.L.L.W. Datum) and within the herein described parcel;
Beginning at the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence South 0 deg. 37' 45" East, 1,489.38 feet, along said Section line; thence leaving said Section line South 79 deg 05' 40" West, 561.95 feet to a point on the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence along said "Ordinary High Water" line as follows; Thence North 04 deg. 30' 06" West 898.42 feet; thence North 01 deg. 18' 14" West, 445.57 feet; thence North 11 deg. 03' 28" East 192.23 feet; thence North 74 deg. 58' 49" East 129.12 feet; thence North 86 deg. 45' 06" East 230.53 feet; thence South 89 deg. 56' 29" East 141.93 feet; thence North 45 deg. 52' 08" East 112.70 feet to a point on the East line of Section 9, T 11 S, R 11 W, W.M.; thence along said Section line South 01 deg. 30' 00" East, 59.03 feet to the Meander Corner and the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

PARCEL II: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11, S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "Ordinary High Water" line (Mean High Water, + 7.5 M.L.L.W. Datum) the following bearings and distances: thence South 01 deg. 18' 14" East 182.28 feet; thence South 04 deg. 30' 06" East 898.42 feet; thence South 07 deg. 35' 00" East 346.12 feet; thence South 05 deg. 44' 50" East 176.97 feet; thence South 00 deg. 41' 31" West 170.71 feet; thence South 29 deg. 29' 42" West 105.01 feet; thence South 64 deg. 29' 57" West 302.14 feet; thence South 74 deg. 09' 48" West 91.76 feet; thence South 74 deg. 36' 04" West 106.43 feet; thence South 82 deg. 25' 07" West 67.60 feet; thence North 53 deg. 46' 58" West 213.35 feet; thence North 45 deg. 24' 33" West 442.89 feet; thence North 48 deg. 30' 25" West 473.05 feet; thence South 79 deg. 14' 06" West 102.30 feet; thence leaving said High Water line the following bearings and distances; thence North 59 deg. 00' 00" West 218.00 feet; thence North 14 deg. 59' 11" East 607.90 feet; thence North 66 deg. 37' 09" East 35.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 160.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 270.00 feet returning to said Ordinary High Water Line; thence along said High Water Line the following bearings and distances; thence South 66 deg. 37' 09" West 442.42 feet; thence North 79 deg 18' 23" West 363.57 feet; thence North 75 deg. 47' 46" West 50.47 feet; thence North 69 deg. 39' 06" West 16.82 feet; thence North 40 deg. 28' 56" West 15.90 feet; thence North 03 deg. 54' 48" East 15.23 feet; thence North 57 deg. 15' 49" East 16.20 feet; thence North 84 deg. 09' 41" East 9.71 feet; thence South 85 deg. 27' 31" East 29.11 feet; thence North 05 deg. 37' 46" West 132.99 feet; thence North 06 deg. 23' 52" West 132.55 feet; thence North 48 deg. 16' 05" West 156.69 feet; thence North 53 deg. 06' 28" West 231.05 feet; thence North 21 deg. 00' 00" East 22.80 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 42 deg. 17' 57" East 19.97 feet; thence South 57 deg. 44' 00" East 175.80 feet; thence South 54 deg. 39' 31" East 134.93 feet; thence South 72 deg. 55' 33" East 193.87 feet; thence South 69 deg. 30' 32" East 161.53 feet; thence South 77 deg. 14' 36" East 168.78 feet; thence South 85 deg. 55' 21" East 119.45 feet; thence North 88 deg. 26' 06" East 180.76 feet; thence North 74 deg. 58' 04" East 299.55 feet; thence North 14 deg. 26' 08" West 242.29 feet to a point on the "1953 Mean Low Tide, National Ocean Survey (Hydrographic Sheet No. 8041)" line; thence along said Low Tide line the following bearings and distances; thence North 83 deg. 11' 10" East 417.96 feet; thence South 73 deg. 48' 38" East 63.52 feet; thence South 59 deg. 47' 58" East 250.66 feet; thence North 58 deg. 18' 10" East 96.59 feet; thence North 32 deg. 07' 55" East 192.28 feet; thence North 40 deg. 55' 25" East 111.41 feet; thence South 87 deg. 05' 06" East 164.38 feet; thence North 65 deg. 41' 34" East 124.87 feet; thence North 70 deg. 07' 01" East 140.90 feet; thence North 60 deg. 34' 58" East 109.29 feet; thence South 65 deg. 41' 15" East 79.08 feet; thence South 57 deg. 43' 35" East 105.25 feet; thence South 84 deg. 31' 08" East 0.10 feet to the point of beginning on said "Ordinary High Water" line.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

PARCEL III: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "1953 Mean Low Tide National Ocean Survey" (Hydrographic Sheet No. 8041) line the following bearings and distances; thence North 84 deg. 31' 08" West 0.10 feet; thence North 57 deg. 43' 35" West 105.25 feet; thence North 65 deg. 41' 15" West 79.08 feet; thence South 60 deg. 34' 58" West 109.29 feet; thence South 70 deg. 07' 01" West 140.90 feet; thence South 65 deg. 41' 34" West 124.87 feet; thence North 87 deg. 05' 06" West 164.38 feet; thence South 40 deg. 55' 25" West 111.41 feet; thence South 32 deg. 07' 55" West 192.28 feet; thence South 58 deg. 18' 10" West 96.59 feet; thence North 59 deg. 47' 58" West 250.66 feet; thence North 73 deg. 48' 38" West 63.52 feet; thence South 83 deg. 11' 10" West 417.96 feet; thence South 14 deg. 26' 08" East 242.29 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 74 deg. 58' 04" West 299.55 feet; thence South 88 deg. 26' 06" West 180.76 feet; thence North 85 deg. 55' 21" West 119.45 feet; thence North 77 deg. 14' 36" West 168.78 feet; thence North 69 deg. 30' 32" West 161.53 feet; thence North 72 deg. 55' 33" West 193.87 feet; thence North 54 deg. 39' 31" West 134.93 feet; thence North 57 deg. 44' 00" West 175.80 feet; thence North 42 deg. 17' 57" West 19.97 feet; thence South 21 deg. 00' 00" West 22.80 feet; thence North 37 deg. 22' 27" West 66.69 feet; thence North 51 deg. 36' 30" West, 117.06 feet; thence North 49 deg. 20' 47" West 4.16 feet; thence North 39 deg. 56' 57" East 171.84 feet to the Southerly line of that parcel recorded in Volume 98, page 1415, Lincoln County Records; thence along the Southerly line South 62 deg. 54' 03" East 177.42 feet to the Southeast corner; thence along the East line North 38 deg. 24' 37" East 108.97 feet to the Northeast corner of said parcel; said point also being on the Southerly boundary of County Road No. 515; thence along the Southerly right of way South 50 deg. 51' 58" East, 66.57 feet; thence an arc length of 329.99 feet along a curve to the left having a radius of 622.96 feet; thence South 81 deg. 05' 08" East 328.37 feet; thence an arc length of 165.17 feet along a curve to the left having a radius of 1768.87 feet; thence an arc length of 325.46 feet along a curve to the left having a radius of 622.96 feet; thence North 63 deg. 37' 52" East 422.68 feet to the Northwest corner of that parcel conveyed to Dean Warren and recorded in Book 276, page 39, Lincoln County Records on 16th, March 1967; thence South along the West line of said parcel a distance of 86.2 feet, more or less, to the Mean High Water of 1912 line of Yaquina Bay; thence along said Mean High Water line as established by C. S. 5618, the following bearings and distances; thence North 64 deg. 39' 15" East 95.72 feet; thence North 47 deg. 48' 52" East 241.88 feet; thence North 68 deg. 44' 27" East 263.16 feet; thence North 59 deg. 08' 15" East 353.30 feet; thence North 77 deg. 30' 00" East 113.80 feet; thence North 86 deg. 29' 15" East 327.80 feet to a point along the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence South 74 deg. 58' 49" West, 28.54 feet; thence South 11 deg. 03' 28" West 192.23 feet; thence South 01 deg. 18' 14" East 263.29 feet along said High Water Line to the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

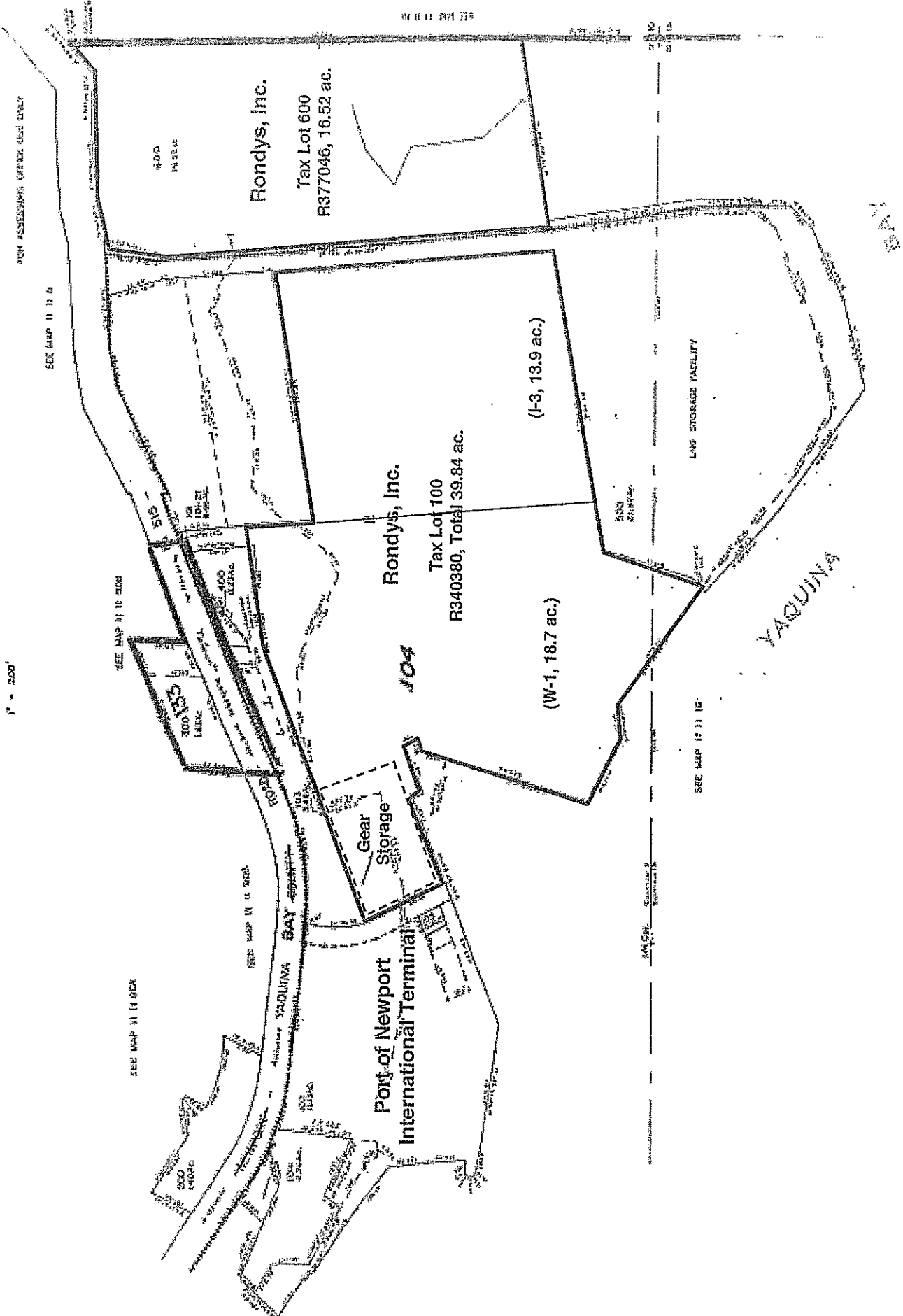
AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

EXHIBIT B
DESCRIPTION OF PORT PROPERTY

EXHIBIT C

SE 1/4 SECTION 9 T11S R11W WM
LINCOLN COUNTY



11 11 9D

11 11 9D



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF A MITIGATION SITE BOUNDARY

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Commencing at a point, said point having the coordinates of Northing 368,844.19' and Easting 7,283,657.54' in conformance with the Oregon State Plane Coordinate System, North Zone, North American Datum 83 (1991), Bearings based upon True North;

Thence North 22°15'01" East 136.19 feet;

Thence North 66°35'34" West 49.10 feet;

Thence South 74°15'32" West 20.28 feet;

Thence South 45°02'48" West 20.53 feet;

Thence North 76°26'02" West 29.86 feet;

Thence North 57°52'05" West 36.68 feet;

Thence South 83°39'22" West 13.59 feet;

Thence South 31°51'32" West 17.07 feet;

Thence North 82°04'50" West 39.94 feet;

Thence South 04°16'24" West 33.61 feet;

Thence South 55°49'26" East 92.60 feet;

Thence South 26°48'08" West 47.98 feet;

Thence South 76°15'54" East 55.56 feet to the Point of Beginning;

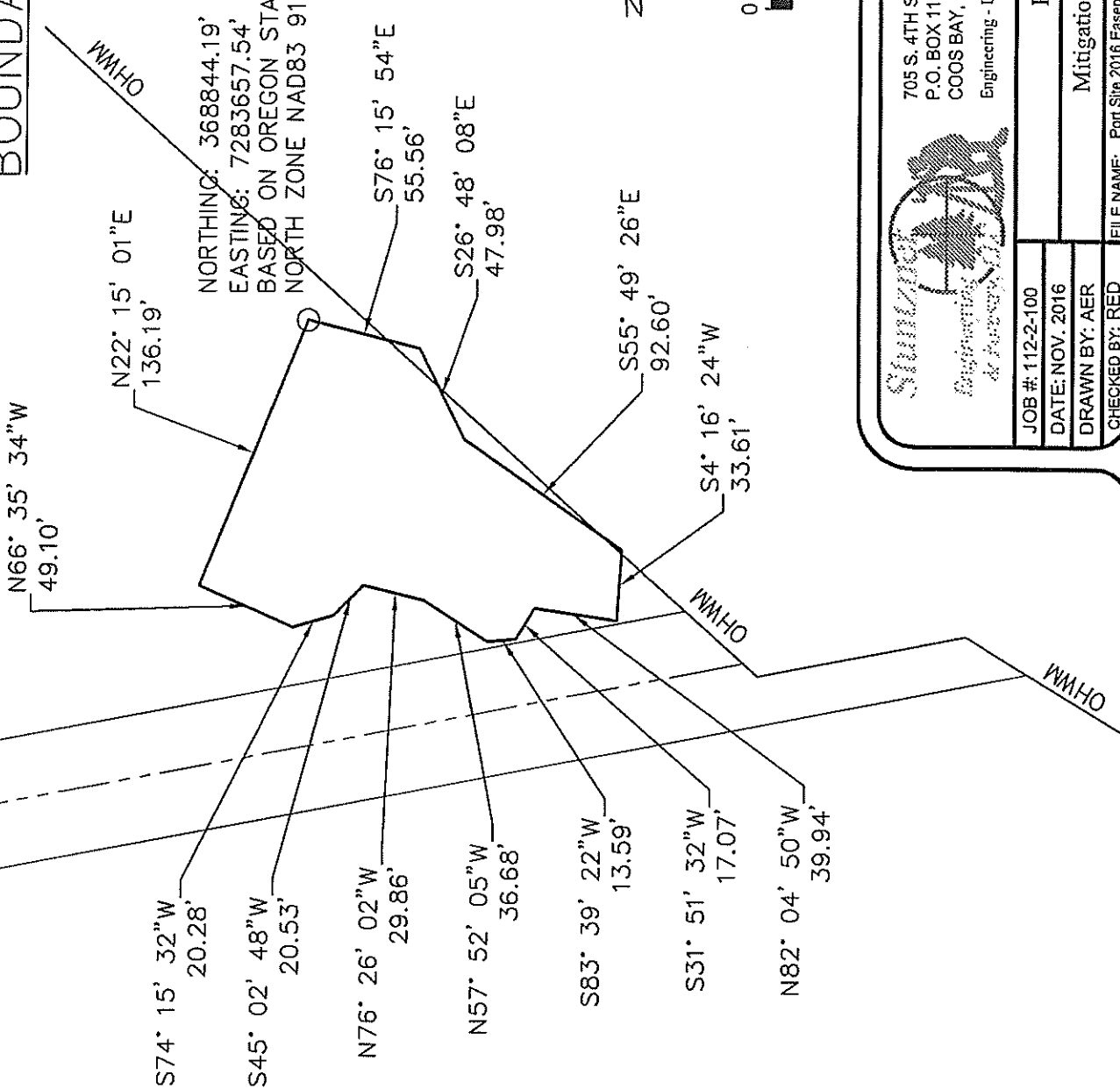
Said easement containing 0.38 acres, more or less.

**THIS DESCRIPTION IS
SUBJECT TO REVISION**

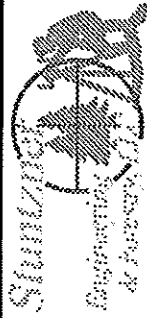
REGISTERED
PROFESSIONAL
LAND SURVEYOR
Ralph E. Dunham
ORIGON
JULY 25, 1990
RALPH E. DUNHAM
2448
EXPIRES 12/31/17

MITIGATION SITE BOUNDARY EXHIBIT

RONDY'S &
ASSOCIATES, INC.



NORTHING: 368844.19'
EASTING: 7283657.54'
BASED ON OREGON STATE PLANE
NORTH ZONE NAD83 91



705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

JOB #:	112-2-100
DATE:	NOV. 2016
DRAWN BY:	AER
CHECKED BY:	RED

Port of Newport
Mitigation Site Easement Exhibit
FILE NAME: Port Site 2016 Easements.dwg

SHEET 1 OF 1

DREDGE SPOILS AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2017 by and between Rondys, Inc., a Washington corporation, licensed to do business in Oregon, hereinafter "Rondys", and the Port of Newport, an ORS 777 Municipal corporation of the State of Oregon, hereinafter "Port".

RECITALS:

- A. The Port has completed a dredging project in Yaquina Bay, Lincoln County, Oregon and has deposited dredge spoils on property owned by Rondys.
- B. The dredge spoils have been stored on Rondys property for a period of time.
- C. Rondys has used of a portion of dredge spoils for filling Rondys property and preparing property owned by Rondys for commercial and industrial development.
- D. The parties desire to enter into an agreement regarding the storage and use of the dredge spoils.
- E. The real property owned by Rondys is described in Exhibit A.

AGREEMENT:

1. **Consideration.** In consideration of the Port being allowed to store and to the extent set forth herein dispose of dredge spoils on property owned by Rondys, the Port agrees to perform the acts required by it to be performed under this agreement.

2. **Use of Spoils.** The Port agrees, at its expense, to grade, level and compact as necessary the dredge spoils over the Rondys property as directed by Rondys to provide a base suitable for the development of commercial and industrial buildings on the Rondys property.

3. **Removal of Spoils.** As of the date of this agreement, the Port has placed approximate 46,000 cubic yards of buildable dredge spoils on Rondys property. Port will remove and use approximately 22,000 cubic yards of buildable dredge spoils from Rondys property with the balance to be used by Rondys. In addition, Port agrees to relocate up to 16,000 cubic yards of unbuildable materials (topsoil) to a site located on Rondys property as directed by Rondys. The parties agree to the specifications for handling this material as shown in the Port's shipping facility construction documents.

The work to be performed under this section shall be completed by December 31, 2017. If the work is not completed by that time, then the work shall be completed by Port within 120 days after written notice is sent by Rondys to Port to complete the work.

4. **Obtaining Permits.** The Port shall obtain all necessary permits from any government agencies that are necessary to perform the word required under this agreement at the

sole expense of the Port. Rondys, as the property owner, shall cooperate in signing applications and other documents necessary and convenient to allow the work to progress.

5. **Port Representations.**

a. The Port represents that the dredge spoils are clean and are free from hazardous materials and that in the event any hazardous materials are found or placed, the Port shall be solely responsible for any remediation of the hazardous material so placed.

b. The Port represents that it gave notice to the State of Oregon pursuant to ORS 274.550 and OAR 141-014-0320 so that Rondys will not be charged for dredge spoils used on Rondys property. In the event any compensation is sought by the State of Oregon for any of the dredge spoils used on the Rondys property, the Port shall indemnify and defend Rondys and make any payment that may be required to the State.

6. **Indemnification.** The Port shall indemnify and hold Rondys harmless for any liability for work done in grading, leveling and compacting the dredge material and also from any other work in hauling and removing the dredge spoils on the property. It is understood that this indemnification is a contractual obligation of the tort and the obligation to indemnify is not limited by any provision of the Port claim limitations imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

7. **Insurance.** The Port shall carry and maintain comprehensive liability insurance for all work done on the Rondys property in the minimum amount of \$10,000,000.00 per occurrence and \$10,000,000.00 in the aggregate. The Port's policy shall name Rondys as an additional insured. The Port shall furnish a copy of the policy to Rondys upon the request of Rondys.

8. **Binding Effect.** This agreement will be binding on the heirs, successors and assigns of each party.

9. **Notice and Cure.** In the event the Port is in breach of this agreement, Rondys shall give the Port not less than 30 days' written notice of the nature of default and an opportunity to cure for a period of 30 days after mailing or delivery of the notice. Provided, however, that if the default is not reasonably curable within the 30 day period and the Port is proceeding diligently to cure the failure, the Port will be allowed additional time to cure provided it is proceeding with all due diligence and the default continues to be curable. In the event an emergency exists or when damage would occur as a result of delay, the 30 day notice provided herein is not necessary. Provided, however, that the right to cure shall not relieve a party from paying damages or equitable remedies if the other party has suffered damage as a result of a breach of this agreement.

10. **Notices.** All notices to be given hereunder shall be sent as follows:

To Rondys: Rondys, Inc.
1301 West Oregon Street
Bellingham, WA 98225

To Port: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

All notices required or permitted to be given will be in writing and will be deemed given and received on personal service or two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested to the addresses listed in this section. The addresses may be changed by written notice, given in the same manner. Notice given in any other manner other than the manner set forth herein will be effective when received by the party for whom it is intended.

11. **Attorney Fees.** In the event any suit or action is filed to enforce any term, condition or omission under this agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs and attorney's fees, including any attorney's fees and costs incurred on any appeal.

12. **Governing Law.** This agreement shall be governed by the laws of the state of Oregon.

13. **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and merges and replaces all prior and contemporaneous negotiations, discussions, representations, warranties, promises and agreements of the parties with respect to the subject matter hereof.

14. **No Waiver.** No waiver of any action or default by any party will be implied from a failure or delay by the other party to take action in respect to such action or default.

IN WITNESS WHEREOF, the parties have entered into this agreement this _____ day of _____, 2017.

PORT OF NEWPORT

RONDYS, INC.

By: _____

By: _____

Its: _____

Its: _____

[Acknowledgements appear on the following page]

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

PARCEL I: (TL 600)

That portion of land lying above the "Ordinary Low Water" line (Mean Low Water; +1.3 M.L.L.W. Datum) and within the herein described parcel;
Beginning at the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence South 0 deg. 37' 45" East, 1,489.38 feet, along said Section line; thence leaving said Section line South 79 deg 05' 40" West, 561.95 feet to a point on the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence along said "Ordinary High Water" line as follows; Thence North 04 deg. 30' 06" West 898.42 feet; thence North 01 deg. 18' 14" West, 445.57 feet; thence North 11 deg. 03' 28" East 192.23 feet; thence North 74 deg. 58' 49" East 129.12 feet; thence North 86 deg. 45' 06" East 230.53 feet; thence South 89 deg. 56' 29" East 141.93 feet; thence North 45 deg. 52' 08" East 112.70 feet to a point on the East line of Section 9, T 11 S, R 11 W, W.M.; thence along said Section line South 01 deg. 30' 00" East, 59.03 feet to the Meander Corner and the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

PARCEL II: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11, S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "Ordinary High Water line (Mean High Water, + 7.5 M.L.L.W. Datum) the following bearings and distances: thence South 01 deg. 18' 14" East 182.28 feet; thence South 04 deg. 30' 06" East 898.42 feet; thence South 07 deg. 35' 00" East 346.12 feet; thence South 05 deg. 44' 50" East 176.97 feet; thence South 00 deg. 41' 31" West 170.71 feet; thence South 29 deg. 29' 42" West 105.01 feet; thence South 64 deg. 29' 57" West 302.14 feet; thence South 74 deg. 09' 48" West 91.76 feet; thence South 74 deg. 36' 04" West 106.43 feet; thence South 82 deg. 25' 07" West 67.60 feet; thence North 53 deg. 46' 58" West 213.35 feet; thence North 45 deg. 24' 33" West 442.89 feet; thence North 48 deg. 30' 25" West 473.05 feet; thence South 79 deg. 14' 06" West 102.30 feet; thence leaving said High Water line the following bearings and distances; thence North 59 deg. 00' 00" West 218.00 feet; thence North 14 deg. 59' 11" East 607.90 feet; thence North 66 deg. 37' 09" East 35.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 160.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 270.00 feet returning to said Ordinary High Water Line; thence along said High Water Line the following bearings and distances; thence South 66 deg. 37' 09" West 442.42 feet; thence North 79 deg 18' 23" West 363.57 feet; thence North 75 deg. 47' 46" West 50.47 feet; thence North 69 deg. 39' 06" West 16.82 feet; thence North 40 deg. 28' 56" West 15.90 feet; thence North 03 deg. 54' 48" East 15.23 feet; thence North 57 deg. 15' 49" East 16.20 feet; thence North 84 deg. 09' 41" East 9.71 feet; thence South 85 deg. 27' 31" East 29.11 feet; thence North 05 deg. 37' 46" West 132.99 feet; thence North 06 deg. 23' 52" West 132.55 feet; thence North 48 deg. 16' 05" West 156.69 feet; thence North 53 deg. 06' 28" West 231.05 feet; thence North 21 deg. 00' 00" East 22.80 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 42 deg. 17' 57" East 19.97 feet; thence South 57 deg. 44' 00" East 175.80 feet; thence South 54 deg. 39' 31" East 134.93 feet; thence South 72 deg. 55' 33" East 193.87 feet; thence South 69 deg. 30' 32" East 161.53 feet; thence South 77 deg. 14' 36" East 168.78 feet; thence South 85 deg. 55' 21" East 119.45 feet; thence North 88 deg. 26' 06" East 180.76 feet; thence North 74 deg. 58' 04" East 299.55 feet; thence North 14 deg. 26' 08" West 242.29 feet to a point on the "1953 Mean Low Tide, National Ocean Survey (Hydrographic Sheet No. 8041)" line; thence along said Low Tide line the following bearings and distances; thence North 83 deg. 11' 10" East 417.96 feet; thence South 73 deg. 48' 38" East 63.52 feet; thence South 59 deg. 47' 58" East 250.66 feet; thence North 58 deg. 18' 10" East 96.59 feet; thence North 32 deg. 07' 55" East 192.28 feet; thence North 40 deg. 55' 25" East 111.41 feet; thence South 87 deg. 05' 06" East 164.38 feet; thence North 65 deg. 41' 34" East 124.87 feet; thence North 70 deg. 07' 01" East 140.90 feet; thence North 60 deg. 34' 58" East 109.29 feet; thence South 65 deg. 41' 15" East 79.08 feet; thence South 57 deg. 43' 35" East 105.25 feet; thence South 84 deg. 31' 08" East 0.10 feet to the point of beginning on said "Ordinary High Water" line.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

PARCEL III: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "1953 Mean Low Tide National Ocean Survey" (Hydrographic Sheet No. 8041) line the following bearings and distances; thence North 84 deg. 31' 08" West 0.10 feet; thence North 57 deg. 43' 35" West 105.25 feet; thence North 65 deg. 41' 15" West 79.08 feet; thence South 60 deg. 34' 58" West 109.29 feet; thence South 70 deg. 07' 01" West 140.90 feet; thence South 65 deg. 41' 34" West 124.87 feet; thence North 87 deg. 05' 06" West 164.38 feet; thence South 40 deg. 55' 25" West 111.41 feet; thence South 32 deg. 07' 55" West 192.28 feet; thence South 58 deg. 18' 10" West 96.59 feet; thence North 59 deg. 47' 58" West 250.66 feet; thence North 73 deg. 48' 38" West 63.52 feet; thence South 83 deg. 11' 10" West 417.96 feet; thence South 14 deg. 26' 08" East 242.29 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 74 deg. 58' 04" West 299.55 feet; thence South 88 deg. 26' 06" West 180.76 feet; thence North 85 deg. 55' 21" West 119.45 feet; thence North 77 deg. 14' 36" West 168.78 feet; thence North 69 deg. 30' 32" West 161.53 feet; thence North 72 deg. 55' 33" West 193.87 feet; thence North 54 deg. 39' 31" West 134.93 feet; thence North 57 deg. 44' 00" West 175.80 feet; thence North 42 deg. 17' 57" West 19.97 feet; thence South 21 deg. 00' 00" West 22.80 feet; thence North 37 deg. 22' 27" West 66.69 feet; thence North 51 deg. 36' 30" West, 117.06 feet; thence North 49 deg. 20' 47" West 4.16 feet; thence North 39 deg. 56' 57" East 171.84 feet to the Southerly line of that parcel recorded in Volume 98, page 1415, Lincoln County Records; thence along the Southerly line South 62 deg. 54' 03" East 177.42 feet to the Southeast corner; thence along the East line North 38 deg. 24' 37" East 108.97 feet to the Northeast corner of said parcel; said point also being on the Southerly boundary of County Road No. 515; thence along the Southerly right of way South 50 deg. 51' 58" East, 66.57 feet; thence an arc length of 329.99 feet along a curve to the left having a radius of 622.96 feet; thence South 81 deg. 05' 08" East 328.37 feet; thence an arc length of 165.17 feet along a curve to the left having a radius of 1768.87 feet; thence an arc length of 325.46 feet along a curve to the left having a radius of 622.96 feet; thence North 63 deg. 37' 52" East 422.68 feet to the Northwest corner of that parcel conveyed to Dean Warren and recorded in Book 276, page 39, Lincoln County Records on 16th, March 1967; thence South along the West line of said parcel a distance of 86.2 feet, more or less, to the Mean High Water of 1912 line of Yaquina Bay; thence along said Mean High Water line as established by C. S. 5618, the following bearings and distances; thence North 64 deg. 39' 15" East 95.72 feet; thence North 47 deg. 48' 52" East 241.88 feet; thence North 68 deg. 44' 27" East 263.16 feet; thence North 59 deg. 08' 15" East 353.30 feet; thence North 77 deg. 30' 00" East 113.80 feet; thence North 86 deg. 29' 15" East 327.80 feet to a point along the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence South 74 deg. 58' 49" West, 28.54 feet; thence South 11 deg. 03' 28" West 192.23 feet; thence South 01 deg. 18' 14" East 263.29 feet along said High Water Line to the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

AFTER RECORDING RETURN TO:

Dennis L. Bartoldus
Attorney at Law
P.O. Box 1510
Newport, OR 97365

DRAINAGE EASEMENT (Ditch)

This EASEMENT AGREEMENT is entered into this ____ day of _____, 2017, by and between Rondys Inc., a Washington corporation, licensed to do business in Oregon, as the Grantor, and the Port of Newport, an ORS 777 municipal corporation of the State of Oregon as the Grantee.

RECITALS

A. The Grantor and Grantee own adjacent properties located in Lincoln County, Oregon. The real property owned by the Grantor is described in Exhibit "A". The real property owned by the Grantee is described in Exhibit "B". A map depicting the relationship of the properties to one another is attached as Exhibit "C".

B. The Grantee has requested from Grantor an easement for installation of a storm drain, an easement for drainage and property on which to perform wetland mitigation.

C. Grantor is willing to grant the easements to the Grantee upon the terms and conditions set forth herein.

GRANT AND TERMS OF EASEMENT

1. **Grant of Easement.** Grantor hereby grants to Grantee an easement for a storm drain and drainage over real property owned by Grantor. The location of the storm drain is described in Exhibit "D" and the location for the continued drainage way is described in Exhibit "E". The easements granted herein are appurtenant to the real property owned by the Grantee described in Exhibit "B". The easement granted herein are non-exclusive and may be used in conjunction with others to whom an easement may be granted and also may be used by the Grantor.

2. **Placement.** The storm drain and drainage way to be installed herein shall be installed, maintained and repaired solely by the Grantee. The storm drain and drainage way must be installed at an adequate depth so as to not interfere with any surface activity on the Grantor's property. The Grantee is aware that a road carrying heavy vehicles will run over the storm drain

and the Grantee shall take all care and precaution to engineer and install the storm drain so as to avoid damage to the roadway and to avoid interruption in the use of the road.

3. **Conditions of Use.** Grantee agrees that it will not allow any hazardous or toxic materials from Grantee's property to be drained onto the Grantor's through this drainage channel or otherwise. The Grantee covenants and agrees that all water entering the Grantor's storm drainage system must be treated to comply with NOAA Slopes V requirements and the DEQ NPDES 1200-Z Permit.

4. **Maintenance.** In the event the drain easement is in need of maintenance or repair, Grantee shall contribute on a pro rata basis with Grantor to pay the costs of maintaining, cleaning or repairing the easement to allow it to serve its purpose of serving as a drain for runoff and storm water. Grantor will coordinate and organize the work within the easement, notifying the Grantee of the reason for the work and the breakdown of the cost for each party. Grantee shall pay its share of the cost within 30 days after being provided a statement of the amount due from Grantee. In the event the maintenance or repair is due to the negligence of one party, such as allowing pollutants in prohibited amounts to enter the drainage, the party causing the need for the maintenance or repair shall pay for those costs of maintenance or repair.

5. **Compliance with all Laws.** In installing, maintaining, repairing and utilizing the storm drain and drainage way and mitigation site, the Grantee shall comply with all applicable governmental laws, rules and regulations, including all provisions of the clean water acts that provide for the filtering and/or treatment of drain water so as to not violate any law, rule or regulation. Compliance with all laws shall be required as long as this easement is in effect.

6. **Indemnification.** The Grantee shall indemnify and hold Grantor harmless from any damages, claims and demands caused by the construction, repair and maintenance of the storm drain and drainage way and any obligation of Grantee under this agreement. The duty to indemnify shall include a duty to indemnify and hold harmless Grantor from any attorney fees and costs incurred by Grantee in defending or responding to any claim, demand or litigation, regardless of whether any litigation is actually filed and includes attorneys fees and costs on any appeal. It is understood that this indemnification is a contractual obligation of the Grantee and the Grantee's obligation to indemnify the Grantor is not limited by any provision of the tort claim limitations imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

7. **Insurance.** The Grantee shall maintain adequate insurance which is defined as a general liability policy of at least \$10,000,000.00 per occurrence and \$10,000,000.00 in the aggregate. The Grantee's insurance policy shall name the Grantor as an additional insured and Grantee shall provide a copy of the policy to Grantor upon the request of Grantor.

8. **Binding Effect.** This agreement shall be binding on the heirs, successors and assigns of each of the parties.

9. **Notice and Cure.** Neither party shall be in default hereunder until it has received written notice from the other specifying the nature of its failure to comply with the terms hereof and such failure shall have continued for a period of 30 days after receipt of notice. Provided, however, that such party shall not be in default if the failure to comply is not reasonably curable within the 30 day period and the party proceeds with diligence to cure the failure to comply. In the event an emergency exists or when damage would occur as a result of delay, the 30 day notice provided herein is not necessary. Provided, however, that the right to cure shall not relieve a party from paying damages or equitable remedies if the other party has suffered damage as a result of a breach of this agreement.

10. **Notices.** All notices to be given hereunder shall be sent as follows:

To Grantor: Rondys, Inc.
1301 West Oregon Street
Bellingham, WA 98225

To Grantee: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

All notices required or permitted to be given will be in writing and will be deemed given and received on personal service or two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested to the addresses listed in this section. The addresses may be changed by written notice, given in the same manner. Notice given in any other manner other than the manner set forth herein will be effective when received by the party for whom it is intended.

11. **Attorney Fees.** In the event any suit or action is filed to enforce any term, condition or omission under this agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs and attorney fees, including any attorney fees and costs incurred on any appeal.

12. **Governing Law.** This agreement shall be governed by the laws of the State of Oregon.

13. **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and merges and replaces all prior and contemporaneous negotiations, discussion, representations, warranties, promises and agreements of the parties with respect to the subject matter hereof.

14. **No Waiver.** No waiver of any action or default by any party will be implied from a failure or delay by the other party to take any action in respect to such action or default.

15. **Right of Approval.** Rondys has the right to approve all plans and improvements placed within the easement.

16. **Non-Exclusive.** The easements granted herein are non-exclusive and the Grantor reserves the right to grant other easements to other parties and to utilize the easement area for improvements to the Grantor's property.

17. **Easement over Grantee's Property.** In consideration of the grant of this easement, the Port of Newport hereby grants, gives and conveys to Rondys and its heirs, successors and assigns, an easement over the Port property for utilities, including but not limited to, power, water, sewer, communication cables, to serve the Rondys property. The location of said easement shall be in a location reasonable in scope and nature so as to not unreasonably interfere with the Port's property.

IN WITNESS WHEREOF, the parties have entered into this agreement this _____ day of _____, 2017.

PORT OF NEWPORT

RONDYS, INC.

By: _____

By: _____

Its: _____

Its: _____

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A

PARCEL I: (TL 600)

That portion of land lying above the "Ordinary Low Water" line (Mean Low Water; +1.3 M.L.L.W. Datum) and within the herein described parcel;

Beginning at the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence South 0 deg. 37' 45" East, 1,489.38 feet, along said Section line; thence leaving said Section line South 79 deg 05' 40" West, 561.95 feet to a point on the "Ordinary High Water " line (Mean High Water; + 7.5 M.L.L.W. Datum); thence along said "Ordinary High Water" line as follows; Thence North 04 deg. 30' 06" West 898.42 feet; thence North 01 deg. 18' 14" West, 445.57 feet; thence North 11 deg. 03' 28" East 192.23 feet; thence North 74 deg. 58" 49" East 129.12 feet; thence North 86 deg. 45' 06" East 230.53 feet; thence South 89 deg. 56' 29" East 141.93 feet; thence North 45 deg. 52' 08" East 112.70 feet to a point on the East line of Section 9, T 11 S, R 11 W, W.M.; thence along said Section line South 01 deg. 30' 00" East, 59.03 feet to the Meander Corner and the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

PARCEL II: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11, S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "Ordinary High Water line(Mean High Water, + 7.5 M.L.L.W. Datum) the following bearings and distances: thence South 01 deg. 18' 14" East 182.28 feet; thence South 04 deg. 30' 06" East 898.42 feet; thence South 07 deg. 35' 00" East 346.12 feet; thence South 05 deg. 44' 50" East 176.97 feet; thence South 00 deg. 41' 31" West 170.71 feet; thence South 29 deg. 29' 42" West 105.01 feet; thence South 64 deg. 29' 57" West 302.14 feet; thence South 74 deg. 09' 48" West 91.76 feet; thence South 74 deg. 36' 04" West 106.43 feet; thence South 82 deg. 25' 07" West 67.60 feet; thence North 53 deg. 46' 58" West 213.35 feet; thence North 45 deg. 24' 33" West 442.89 feet; thence North 48 deg. 30' 25" West 473.05 feet; thence South 79 deg. 14' 06" West 102.30 feet; thence leaving said High Water line the following bearings and distances; thence North 59 deg. 00' 00" West 218.00 feet; thence North 14 deg. 59' 11" East 607.90 feet; thence North 66 deg. 37' 09" East 35.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 160.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 270.00 feet returning to said Ordinary High Water Line; thence along said High Water Line the following bearings and distances; thence South 66 deg. 37' 09" West 442.42 feet; thence North 79 deg 18' 23" West 363.57 feet; thence North 75 deg. 47' 46" West 50.47 feet; thence North 69 deg. 39' 06" West 16.82 feet; thence North 40 deg. 28' 56" West 15.90 feet; thence North 03 deg. 54' 48" East 15.23 feet; thence North 57 deg. 15' 49" East 16.20 feet; thence North 84 deg. 09' 41" East 9.71 feet; thence South 85 deg. 27' 31" East 29.11 feet; thence North 05 deg. 37' 46" West 132.99 feet; thence North 06 deg. 23' 52" West 132.55 feet; thence North 48 deg. 16' 05" West 156.69 feet; thence North 53 deg. 06' 28" West 231.05 feet; thence North 21 deg. 00' 00" East 22.80 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 42 deg. 17' 57" East 19.97 feet; thence South 57 deg. 44' 00" East 175.80 feet; thence South 54 deg. 39' 31" East 134.93 feet; thence South 72 deg. 55' 33" East 193.87 feet; thence South 69 deg. 30' 32" East 161.53 feet; thence South 77 deg. 14' 36" East 168.78 feet; thence South 85 deg. 55' 21" East 119.45 feet; thence North 88 deg. 26' 06" East 180.76 feet; thence North 74 deg. 58' 04" East 299.55 feet; thence North 14 deg. 26' 08" West 242.29 feet to a point on the "1953 Mean Low Tide, National Ocean Survey (Hydrographic Sheet No. 8041)" line; thence along said Low Tide line the following bearings and distances; thence North 83 deg. 11' 10" East 417.96 feet; thence South 73 deg. 48' 38" East 63.52 feet; thence South 59 deg. 47' 58" East 250.66 feet; thence North 58 deg. 18' 10" East 96.59 feet; thence North 32 deg. 07' 55" East 192.28 feet; thence North 40 deg. 55' 25" East 111.41 feet; thence South 87 deg. 05' 06" East 164.38 feet; thence North 65 deg. 41' 34" East 124.87 feet; thence North 70 deg. 07' 01" East 140.90 feet; thence North 60 deg. 34' 58" East 109.29 feet; thence South 65 deg. 41' 15" East 79.08 feet; thence South 57 deg. 43' 35" East 105.25 feet; thence South 84 deg. 31' 08" East 0.10 feet to the point of beginning on said "Ordinary High Water" line.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

PARCEL III: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "1953 Mean Low Tide National Ocean Survey" (Hydrographic Sheet No. 8041) line the following bearings and distances; thence North 84 deg. 31' 08" West 0.10 feet; thence North 57 deg. 43' 35" West 105.25 feet; thence North 65 deg. 41' 15" West 79.08 feet; thence South 60 deg. 34' 58" West 109.29 feet; thence South 70 deg. 07' 01" West 140.90 feet; thence South 65 deg. 41' 34" West 124.87 feet; thence North 87 deg. 05' 06" West 164.38 feet; thence South 40 deg. 55' 25" West 111.41 feet; thence South 32 deg. 07' 55" West 192.28 feet; thence South 58 deg. 18' 10" West 96.59 feet; thence North 59 deg. 47' 58" West 250.66 feet; thence North 73 deg. 48' 38" West 63.52 feet; thence South 83 deg. 11' 10" West 417.96 feet; thence South 14 deg. 26' 08" East 242.29 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 74 deg. 58' 04" West 299.55 feet; thence South 88 deg. 26' 06" West 180.76 feet; thence North 85 deg. 55' 21" West 119.45 feet; thence North 77 deg. 14' 36" West 168.78 feet; thence North 69 deg. 30' 32" West 161.53 feet; thence North 72 deg. 55' 33" West 193.87 feet; thence North 54 deg. 39' 31" West 134.93 feet; thence North 57 deg. 44' 00" West 175.80 feet; thence North 42 deg. 17' 57" West 19.97 feet; thence South 21 deg. 00' 00" West 22.80 feet; thence North 37 deg. 22' 27" West 66.69 feet; thence North 51 deg. 36' 30" West, 117.06 feet; thence North 49 deg. 20' 47" West 4.16 feet; thence North 39 deg. 56' 57" East 171.84 feet to the Southerly line of that parcel recorded in Volume 98, page 1415, Lincoln County Records; thence along the Southerly line South 62 deg. 54' 03" East 177.42 feet to the Southeast corner; thence along the East line North 38 deg. 24' 37" East 108.97 feet to the Northeast corner of said parcel; said point also being on the Southerly boundary of County Road No. 515; thence along the Southerly right of way South 50 deg. 51' 58" East, 66.57 feet; thence an arc length of 329.99 feet along a curve to the left having a radius of 622.96 feet; thence South 81 deg. 05' 08" East 328.37 feet; thence an arc length of 165.17 feet along a curve to the left having a radius of 1768.87 feet; thence an arc length of 325.46 feet along a curve to the left having a radius of 622.96 feet; thence North 63 deg. 37' 52" East 422.68 feet to the Northwest corner of that parcel conveyed to Dean Warren and recorded in Book 276, page 39, Lincoln County Records on 16th, March 1967; thence South along the West line of said parcel a distance of 86.2 feet, more or less, to the Mean High Water of 1912 line of Yaquina Bay; thence along said Mean High Water line as established by C. S. 5618, the following bearings and distances; thence North 64 deg. 39' 15" East 95.72 feet; thence North 47 deg. 48' 52" East 241.88 feet; thence North 68 deg. 44' 27" East 263.16 feet; thence North 59 deg. 08' 15" East 353.30 feet; thence North 77 deg. 30' 00" East 113.80 feet; thence North 86 deg. 29' 15" East 327.80 feet to a point along the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence South 74 deg. 58' 49" West, 28.54 feet; thence South 11 deg. 03' 28" West 192.23 feet; thence South 01 deg. 18' 14" East 263.29 feet along said High Water Line to the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

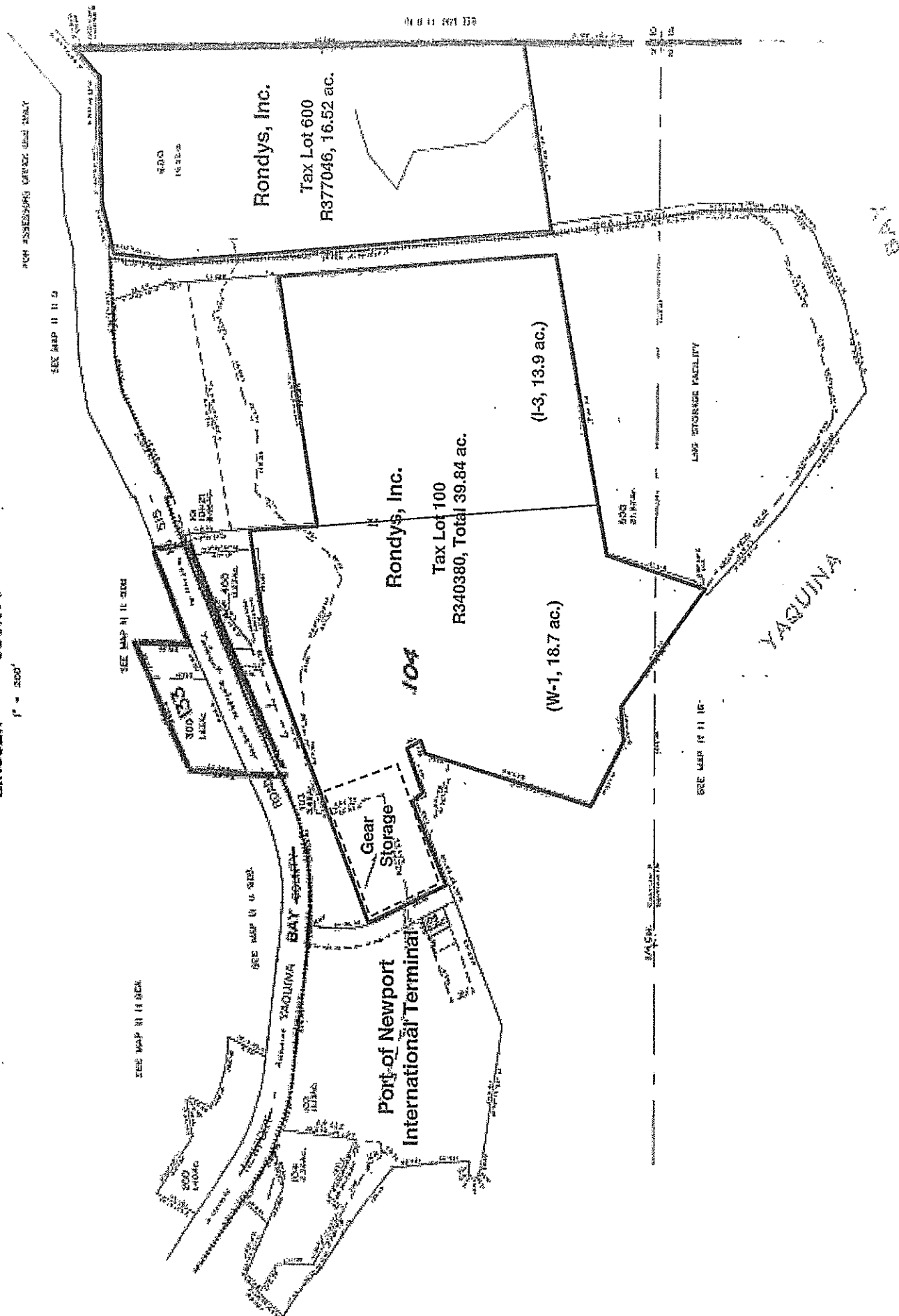
AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

EXHIBIT B
DESCRIPTION OF PORT PROPERTY

EXHIBIT C

SE 1/4 SECTION 9 T11S R11W WM
LINCOLN COUNTY

1" = 200'



11 11 9D

11 11 9D



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF 10 FOOT WIDE NON-EXCLUSIVE STORM DRAINAGE
EASEMENT FOR THE PORT OF NEWPORT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

The following is the described centerline of a 10 foot wide storm drainage easement, extending 5 feet perpendicular to said centerline in each direction;

Commencing at a point 337.42 feet south and 1,471.95 feet west of the Meander Corner on the East line of Section 9, Township 11 South, Range 11 West, W.M. in Lincoln County, Oregon, said point marked by a 5/8" iron rod with a "MSS Engineering" plastic cap at the intersection of the western edge of an existing 60 foot wide access road easement and the southern boundary of County Road No. 515 right of way;

Thence South 03°34'30" East, 244.18 feet to a 5/8" iron rod with a "MSS Engineering" plastic cap being on the North line of that access easement described in Book 148, Page 2163 Lincoln County Book of Records;

Thence South 86°25'30" West 19.75 feet to the True Point of Beginning;

Thence South 26°18'19" East 64.87 feet to a point;

Thence South 03°34'30 East 143.14 feet to a point perpendicular to the Southwest corner of that property owned by the Port of Newport, said point bears North 86°25'30" East 54.67 feet to a 5/8" iron rod set in Lincoln County Survey No. 20555 marking the southwest corner of that property described in Lincoln County Book of Records as Parcel "L" Book 148, Page 2162.

Said easement containing 0.05 Acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Monuments noted as per Lincoln County Survey No. 20555, by Peter Seaders.

EXHIBIT D

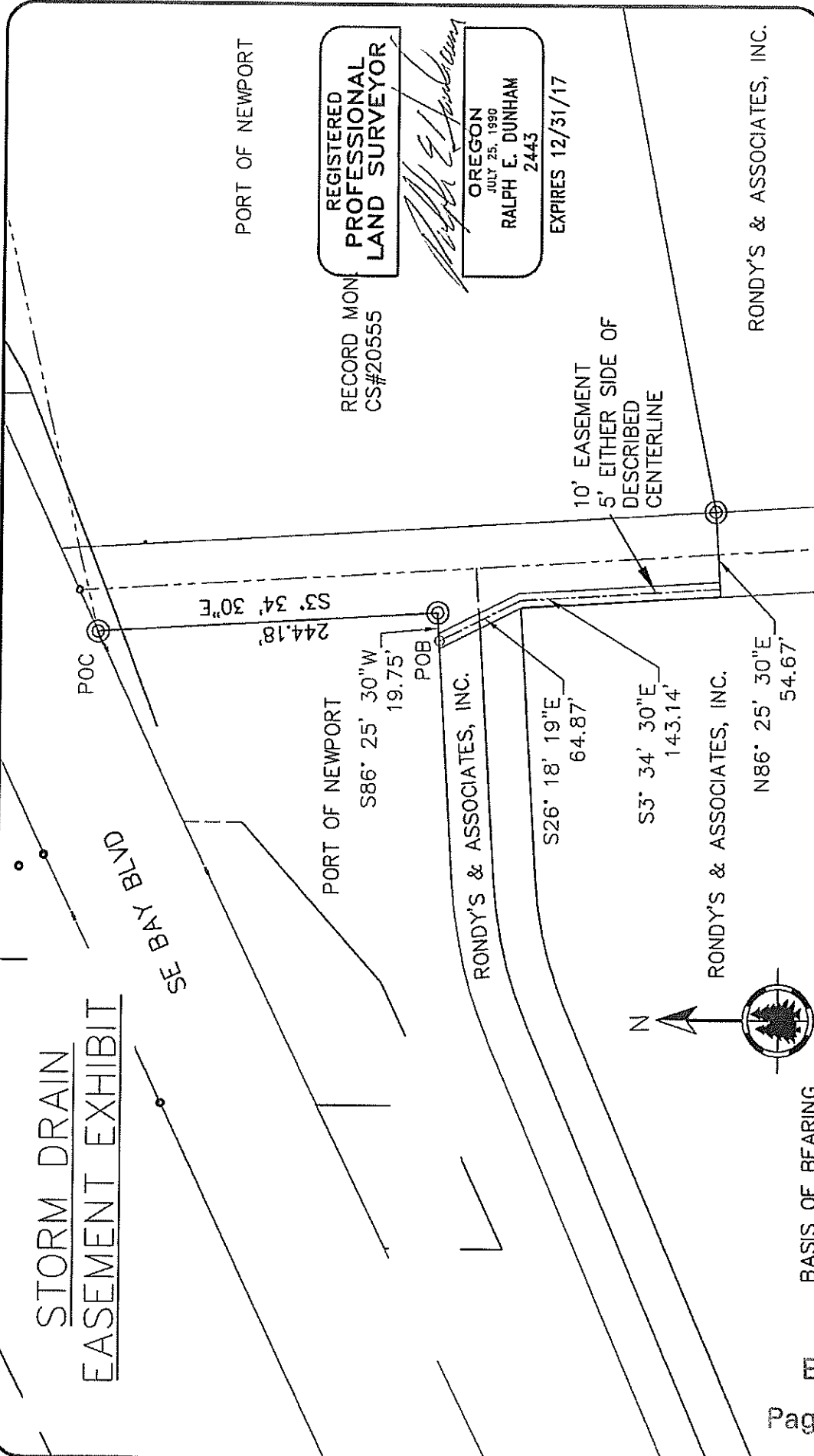
Page 1 of 2

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Ralph Dunham
OREGON
11/18/17 Page 71 of 87

EXPIRES 12/31/17

STORM DRAIN EASEMENT EXHIBIT



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443

EXPIRES 12/31/17

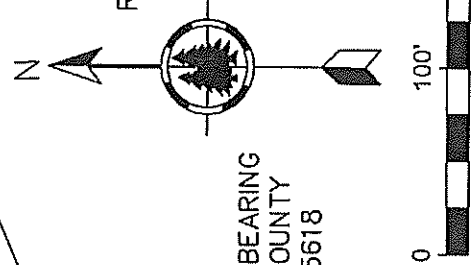
RECORD MON
CS#20555



705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

JOB #: 112-2-100	Port of Newport
DATE: APR. 2017	Storm Drain Easement Exhibit
DRAWN BY: AER	
CHECKED BY: RED	
FILE NAME: Port Site 2016 Easements.dwg	SHEET 1 OF 1



BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF A NON-EXCLUSIVE DRAINAGE EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Beginning at the Southwest corner of that property owned by the Port of Newport, recorded as Parcel "L" in Book 148 Page 2162 marked with a yellow plastic cap marked "MSS Engineering" per Lincoln County Survey No. 20555, said point having the coordinates of Northing 370,085.42' and Easting 7,283,922.58' in conformance with the Oregon State Plane Coordinate System, North Zone, North American Datum 83 (1991), Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be True North;

Thence North 78°59'06" East 15.12 feet;

Thence South 03°34'30" East 968.88 feet more or less to the north line of that property owned by NW Natural Gas Co.;

Thence along said north line of NW Natural Gas Co. South 79°05'10" West 173.88 feet to a 5/8" Iron Rod per Lincoln County Survey No. 20555;

Thence South 79°05'10" West 12.82 feet;

Thence South 15°43'30" West 267.90 feet;

Thence South 46°21'19" West 58.82 feet more or less to the Ordinary High Water Line;

Thence North 48°32'17" West along said Ordinary High Water Line 30.11 feet;

Thence North 46°21'19" East 53.17 feet more or less;

Thence North 15°43'30" East 284.08 feet;

Thence North 63°18'16" East 92.72 feet;

Thence North 79°05'10" East 45.52 feet;

EXHIBIT E
Page 1 of 3

Thence North 03°34'30" West 915.61 feet:

Thence North 86°25'30" East 60.00 feet to the Southwest corner of the property owned by the Port of Newport and the Point of Beginning;

Said easement containing 2.05 acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Monuments noted as per Lincoln County Survey No. 20555 by Peter Seaders.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1990
RALPH E. DUNHAM
2448

EXPIRES 12/31/17

DRAINAGE EASEMENT EXHIBIT

PORT OF NEWPORT

NORTHING: 370085.42'
 EASTING: 7283922.58'
 BASED ON OREGON
 STATE PLANE NORTH
 ZONE NAD83 91

RONDY'S &
 ASSOCIATES, INC.

(S1° 03' 01"E GRID)
 S3° 34' 30"E
 968.88'

© MONUMENT FROM
 CS #20555
 NW NATURAL

N78° 59' 06"E
 15.12'

N86° 25' 30"E
 60.00'

N3° 34' 30"W
 915.61'

N79° 05' 10"E
 45.52'

N63° 18' 16"E
 92.72'

N15° 43' 30"E
 284.08'

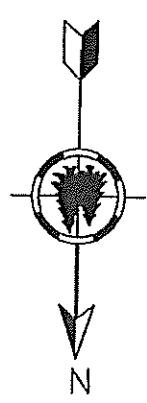
S79° 05' 10"W
 173.88'

S79° 05' 10"W
 12.82'

S46° 21' 19"W
 58.82'

S15° 43' 30"W
 267.90'

BASIS OF BEARING
 LINCOLN COUNTY
 SURVEY #5618
 BRUBAKER

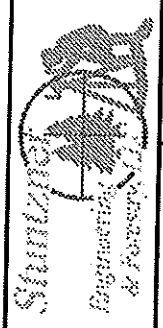


LOCATED SE 1/4 OF SEC 9,
 T11S, R11W, W.M.
 LINCOLN CO. OREGON

REGISTERED
**PROFESSIONAL
 LAND SURVEYOR**

OREGON
 JULY 25, 1990
RALPH E. DUNHAM
 2443
 EXPIRES 12/31/17

RONDY'S &
 ASSOCIATES, INC.



705 S. 4TH ST.
 P.O. BOX 118
 COOS BAY, OREGON 97420
 Engineering - Land Surveying - Forestry - Land Planning - Water Rights
 PHONE: (541) 267-2872
 FAX: (541) 267-0588
 www.stuntzner.com

JOB #: 112-2-100	Port of Newport
DATE: MAY 2017	Drainage Easement Exhibit
DRAWN BY: AER	
CHECKED BY: RED	
FILE NAME: Port Site 2016 Easements.dwg	SHEET 1 OF 1

AFTER RECORDING RETURN TO:

Dennis L. Bartoldus
Attorney at Law
P.O. Box 1510
Newport, OR 97365

**DRAINAGE EASEMENT
(Underground)**

This EASEMENT AGREEMENT is entered into this ____ day of _____, 2017, by and between Rondys Inc., a Washington corporation, licensed to do business in Oregon, as the Grantor, and the Port of Newport, an ORS 777 municipal corporation of the State of Oregon as the Grantee.

RECITALS

A. The Grantor and Grantee own adjacent properties located in Lincoln County, Oregon. The real property owned by the Grantor is described in Exhibit "A". The real property owned by the Grantee is described in Exhibit "B". A map depicting the relationship of the properties to one another is attached as Exhibit "C".

B. The Grantee has requested a drainage easement from Grantor. Grantor is willing to grant the easement, subject to the terms and conditions of this easement agreement.

GRANT OF AND TERMS OF EASEMENT

1. **Grant of Easement.** Grantor hereby grants to Grantee an easement to allow Grantee to channel drainage water from Grantee's property through a drainage system constructed by Grantor. The easement granted herein is appurtenant to the real property owned by the Grantee described in Exhibit "B". The easement granted herein is non-exclusive and may be used in conjunction with others to whom an easement may be granted by the Grantor and said drainage system may also be used by the Grantor for Grantor's property.

2. **Location.** The location of the easement across Grantor's property is described in attached Exhibit "D".

3. **Consideration.** In consideration of receiving this easement from Grantor, Grantee agrees that it will channel water from its property described in Exhibit "B" to the drainage easement described herein. The Grantor will be constructing an underground drain line to collect water and drain it to Yaquina Bay. Grantee agrees it will not drain water onto the Grantor's property, except as provided by the terms of this agreement.

4. **Conditions of Use.** Grantee agrees that it will not allow any hazardous or toxic materials from Grantee's property to be drained onto the Grantor's through this drainage channel or otherwise. The Grantee covenants and agrees that all water entering the Grantor's storm drainage system must be treated to comply with NOAA Slopes V requirements and the DEQ NPDES 1200-Z Permit.

5. **Maintenance.** In the event the drain easement is in need of maintenance or repair, Grantee shall contribute on a pro rata basis with Grantor to pay the costs of maintaining, cleaning or repairing the easement to allow it to serve its purpose of serving as a drain for runoff and storm water. Grantor will coordinate and organize the work within the easement, notifying the Grantee of the reason for the work and the breakdown of the cost for each party. Grantee shall pay its share of the cost within 30 days after being provided a statement of the amount due from Grantee. In the event the maintenance or repair is due to the negligence of one party, such as allowing pollutants in prohibited amounts to enter the drainage, the party causing the need for the maintenance or repair shall pay for those costs of maintenance or repair.

6. **Compliance with all Laws.** In installing, maintaining, repairing and utilizing the storm drain and drainage way and mitigation site, the Grantee shall comply with all applicable governmental laws, rules and regulations, including all provisions of the clean water acts that provide for the filtering and/or treatment of drain water so as to not violate any law, rule or regulation. Compliance with all laws shall be required as long as this easement is in effect.

7. **Indemnification.** The Grantee shall indemnify and hold Grantor harmless from any damages, claims and demands resulting from Grantee's use of the easement and the obligations of Grantee under this agreement. The duty to indemnify shall include a duty to indemnify and hold harmless Grantor from any attorney fees and costs incurred by Grantee in defending or responding to any claim, demand or litigation, regardless of whether any litigation is actually filed and includes attorneys fees and costs on any appeal. It is understood that this indemnification is a contractual obligation of the Grantee and the Grantee's obligation to indemnify the Grantor is not limited by any provision of the tort claim limitations imposed by Oregon law. The parties agree that the contractual limit of indemnification shall be \$10,000,000.00.

8. **Insurance.** The Grantee shall maintain adequate insurance which is defined as a general liability policy of at least \$10,000,000.00 per occurrence and \$10,000,000.00 in the aggregate. The Grantee's insurance policy shall name the Grantor as an additional insured and Grantee shall provide a copy of the policy to Grantor upon the request of Grantor.

9. **Binding Effect.** This agreement shall be binding on the heirs, successors and assigns of each of the parties.

10. **Notice and Cure.** Neither party shall be in default hereunder until it has received written notice from the other specifying the nature of its failure to comply with the terms hereof and such failure shall have continued for a period of 30 days after receipt of notice. Provided, however, that such party shall not be in default if the failure to comply is not reasonably curable

within the 30 day period and the party proceeds with diligence to cure the failure to comply. In the event an emergency exists or when damage would occur as a result of delay, the 30 day notice provided herein is not necessary. Provided, however, that the right to cure shall not relieve a party from paying damages or equitable remedies if the other party has suffered damage as a result of a breach of this agreement.

11. **Notices.** All notices to be given hereunder shall be sent as follows:

To Grantor: Rondys, Inc.
1301 West Oregon Street
Bellingham, WA 98225

To Grantee: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

All notices required or permitted to be given will be in writing and will be deemed given and received on personal service or two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested to the addresses listed in this section. The addresses may be changed by written notice, given in the same manner. Notice given in any other manner other than the manner set forth herein will be effective when received by the party for whom it is intended.

12. **Attorney Fees.** In the event any suit or action is filed to enforce any term, condition or omission under this agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs and attorney fees, including any attorney fees and costs incurred on any appeal.

13. **Governing Law.** This agreement shall be governed by the laws of the State of Oregon.

14. **Entire Agreement.** This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and merges and replaces all prior and contemporaneous negotiations, discussion, representations, warranties, promises and agreements of the parties with respect to the subject matter hereof.

15. **No Waiver.** No waiver of any action or default by any party will be implied from a failure or delay by the other party to take any action in respect to such action or default.

16. **Easement over Grantee's Property.** In consideration of the grant of this easement, the Port of Newport hereby grants, gives and conveys to Rondys and its heirs, successors and assigns, an easement over the Port property for utilities, including but not limited to, power, water, sewer, communication cables, to serve the Rondys property. The location of said easement shall be in a location reasonable in scope and nature so as to not unreasonably interfere with the Port's property.

IN WITNESS WHEREOF, the parties have entered into this agreement this _____ day of _____, 2017.

PORT OF NEWPORT

RONDYS, INC.

By: _____

By: _____

Its: _____

Its: _____

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of the Port of Newport, an ORS 777 municipal corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, _____ of Rondys Inc., a Washington corporation, on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

PARCEL I: (TL 600)

That portion of land lying above the "Ordinary Low Water" line (Mean Low Water; +1.3 M.L.L.W. Datum) and within the herein described parcel;
Beginning at the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence South 0 deg. 37' 45" East, 1,489.38 feet, along said Section line; thence leaving said Section line South 79 deg 05' 40" West, 561.95 feet to a point on the "Ordinary High Water " line (Mean High Water; + 7.5 M.L.L.W. Datum); thence along said "Ordinary High Water" line as follows; Thence North 04 deg. 30' 06" West 898.42 feet; thence North 01 deg. 18' 14" West, 445.57 feet; thence North 11 deg. 03' 28" East 192.23 feet; thence North 74 deg. 58" 49" East 129.12 feet; thence North 86 deg. 45' 06" East 230.53 feet; thence South 89 deg. 56' 29" East 141.93 feet; thence North 45 deg. 52' 08" East 112.70 feet to a point on the East line of Section 9, T 11 S, R 11 W, W.M.; thence along said Section line South 01 deg. 30' 00" East, 59.03 feet to the Meander Corner and the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

PARCEL II: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11, S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "Ordinary High Water line(Mean High Water, + 7.5 M.L.L.W. Datum) the following bearings and distances: thence South 01 deg. 18' 14" East 182.28 feet; thence South 04 deg. 30' 06" East 898.42 feet; thence South 07 deg. 35' 00" East 346.12 feet; thence South 05 deg. 44' 50" East 176.97 feet; thence South 00 deg. 41' 31" West 170.71 feet; thence South 29 deg. 29' 42" West 105.01 feet; thence South 64 deg. 29' 57" West 302.14 feet; thence South 74 deg. 09' 48" West 91.76 feet; thence South 74 deg. 36' 04" West 106.43 feet; thence South 82 deg. 25' 07" West 67.60 feet; thence North 53 deg. 46' 58" West 213.35 feet; thence North 45 deg. 24' 33" West 442.89 feet; thence North 48 deg. 30' 25" West 473.05 feet; thence South 79 deg. 14' 06" West 102.30 feet; thence leaving said High Water line the following bearings and distances; thence North 59 deg. 00' 00" West 218.00 feet; thence North 14 deg. 59' 11" East 607.90 feet; thence North 66 deg. 37' 09" East 35.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 160.00 feet; thence North 23 deg. 22' 51" West 40.00 feet; thence South 66 deg. 37' 09" West 270.00 feet returning to said Ordinary High Water Line; thence along said High Water Line the following bearings and distances; thence South 66 deg. 37' 09" West 442.42 feet; thence North 79 deg 18' 23" West 363.57 feet; thence North 75 deg. 47' 46" West 50.47 feet; thence North 69 deg. 39' 06" West 16.82 feet; thence North 40 deg. 28' 56" West 15.90 feet; thence North 03 deg. 54' 48" East 15.23 feet; thence North 57 deg. 15' 49" East 16.20 feet; thence North 84 deg. 09' 41" East 9.71 feet; thence South 85 deg. 27' 31" East 29.11 feet; thence North 05 deg. 37' 46" West 132.99 feet; thence North 06 deg. 23' 52" West 132.55 feet; thence North 48 deg. 16' 05" West 156.69 feet; thence North 53 deg. 06' 28" West 231.05 feet; thence North 21 deg. 00' 00" East 22.80 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 42 deg. 17' 57" East 19.97 feet; thence South 57 deg. 44' 00" East 175.80 feet; thence South 54 deg. 39' 31" East 134.93 feet; thence South 72 deg. 55' 33" East 193.87 feet; thence South 69 deg. 30' 32" East 161.53 feet; thence South 77 deg. 14' 36" East 168.78 feet; thence South 85 deg. 55' 21" East 119.45 feet; thence North 88 deg. 26' 06" East 180.76 feet; thence North 74 deg. 58' 04" East 299.55 feet; thence North 14 deg. 26' 08" West 242.29 feet to a point on the "1953 Mean Low Tide, National Ocean Survey (Hydrographic Sheet No. 8041)" line; thence along said Low Tide line the following bearings and distances; thence North 83 deg. 11' 10" East 417.96 feet; thence South 73 deg. 48' 38" East 63.52 feet; thence South 59 deg. 47' 58" East 250.66 feet; thence North 58 deg. 18' 10" East 96.59 feet; thence North 32 deg. 07' 55" East 192.28 feet; thence North 40 deg. 55' 25" East 111.41 feet; thence South 87 deg. 05' 06" East 164.38 feet; thence North 65 deg. 41' 34" East 124.87 feet; thence North 70 deg. 07' 01" East 140.90 feet; thence North 60 deg. 34' 58" East 109.29 feet; thence South 65 deg. 41' 15" East 79.08 feet; thence South 57 deg. 43' 35" East 105.25 feet; thence South 84 deg. 31' 08" East 0.10 feet to the point of beginning on said "Ordinary High Water" line.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

PARCEL III: (portion TL 100)

Beginning at a point 517.72 feet South and 610.11 feet West of the Meander Corner on the East line of Section 9, T 11 S, R 11 W, W.M., in Lincoln County, Oregon; thence along the "1953 Mean Low Tide National Ocean Survey" (Hydrographic Sheet No. 8041) line the following bearings and distances; thence North 84 deg. 31' 08" West 0.10 feet; thence North 57 deg. 43' 35" West 105.25 feet; thence North 65 deg. 41' 15" West 79.08 feet; thence South 60 deg. 34' 58" West 109.29 feet; thence South 70 deg. 07' 01" West 140.90 feet; thence South 65 deg. 41' 34" West 124.87 feet; thence North 87 deg. 05' 06" West 164.38 feet; thence South 40 deg. 55' 25" West 111.41 feet; thence South 32 deg. 07' 55" West 192.28 feet; thence South 58 deg. 18' 10" West 96.59 feet; thence North 59 deg. 47' 58" West 250.66 feet; thence North 73 deg. 48' 38" West 63.52 feet; thence South 83 deg. 11' 10" West 417.96 feet; thence South 14 deg. 26' 08" East 242.29 feet to a point on the "1914 Mean Lower Low Water, National Ocean Survey (Hydrographic Sheet No. 3727)" line; thence along said Low Water line the following bearings and distances; thence South 74 deg. 58' 04" West 299.55 feet; thence South 88 deg. 26' 06" West 180.76 feet; thence North 85 deg. 55' 21" West 119.45 feet; thence North 77 deg. 14' 36" West 168.78 feet; thence North 69 deg. 30' 32" West 161.53 feet; thence North 72 deg. 55' 33" West 193.87 feet; thence North 54 deg. 39' 31" West 134.93 feet; thence North 57 deg. 44' 00" West 175.80 feet; thence North 42 deg. 17' 57" West 19.97 feet; thence South 21 deg. 00' 00" West 22.80 feet; thence North 37 deg. 22' 27" West 66.69 feet; thence North 51 deg. 36' 30" West, 117.06 feet; thence North 49 deg. 20' 47" West 4.16 feet; thence North 39 deg. 56' 57" East 171.84 feet to the Southerly line of that parcel recorded in Volume 98, page 1415, Lincoln County Records; thence along the Southerly line South 62 deg. 54' 03" East 177.42 feet to the Southeast corner; thence along the East line North 38 deg. 24' 37" East 108.97 feet to the Northeast corner of said parcel; said point also being on the Southerly boundary of County Road No. 515; thence along the Southerly right of way South 50 deg. 51' 58" East, 66.57 feet; thence an arc length of 329.99 feet along a curve to the left having a radius of 622.96 feet; thence South 81 deg. 05' 08" East 328.37 feet; thence an arc length of 165.17 feet along a curve to the left having a radius of 1768.87 feet; thence an arc length of 325.46 feet along a curve to the left having a radius of 622.96 feet; thence North 63 deg. 37' 52" East 422.68 feet to the Northwest corner of that parcel conveyed to Dean Warren and recorded in Book 276, page 39, Lincoln County Records on 16th , March 1967; thence South along the West line of said parcel a distance of 86.2 feet, more or less , to the Mean High Water of 1912 line of Yaquina Bay; thence along said Mean High Water line as established by C. S. 5618, the following bearings and distances; thence North 64 deg. 39' 15" East 95.72 feet; thence North 47 deg. 48' 52" East 241.88 feet; thence North 68 deg. 44' 27" east 263.16 feet; thence North 59 deg. 08' 15" East 353.30 feet; thence North 77 deg. 30' 00" East 113.80 feet; thence North 86 deg. 29' 15" East 327.80 feet to a point along the "Ordinary High Water" line (Mean High Water; + 7.5 M.L.L.W. Datum); thence South 74 deg. 58' 49" West, 28.54 feet; thence South 11 deg. 03' 28" West 192.23 feet; thence South 01 deg. 18' 14" East 263.29 feet along said High Water Line to the point of beginning.

EXCEPTING therefrom that part, if any, lying in Tracts 1 and 2 of Northwest Natural Gas Co. deed, recorded March 29, 1974 in Volume 48, page 147, Film Records of Lincoln County, Oregon.

ALSO EXCEPTING Parcels A, G and L as described in instrument recorded April 2, 1984, Book 148, page 2144 Microfilm Records for Lincoln County, Oregon.

AND ALSO EXCEPTING that tract described in instrument recorded August 7, 2006, Document No. 200611998, Microfilm Records for Lincoln County, Oregon.

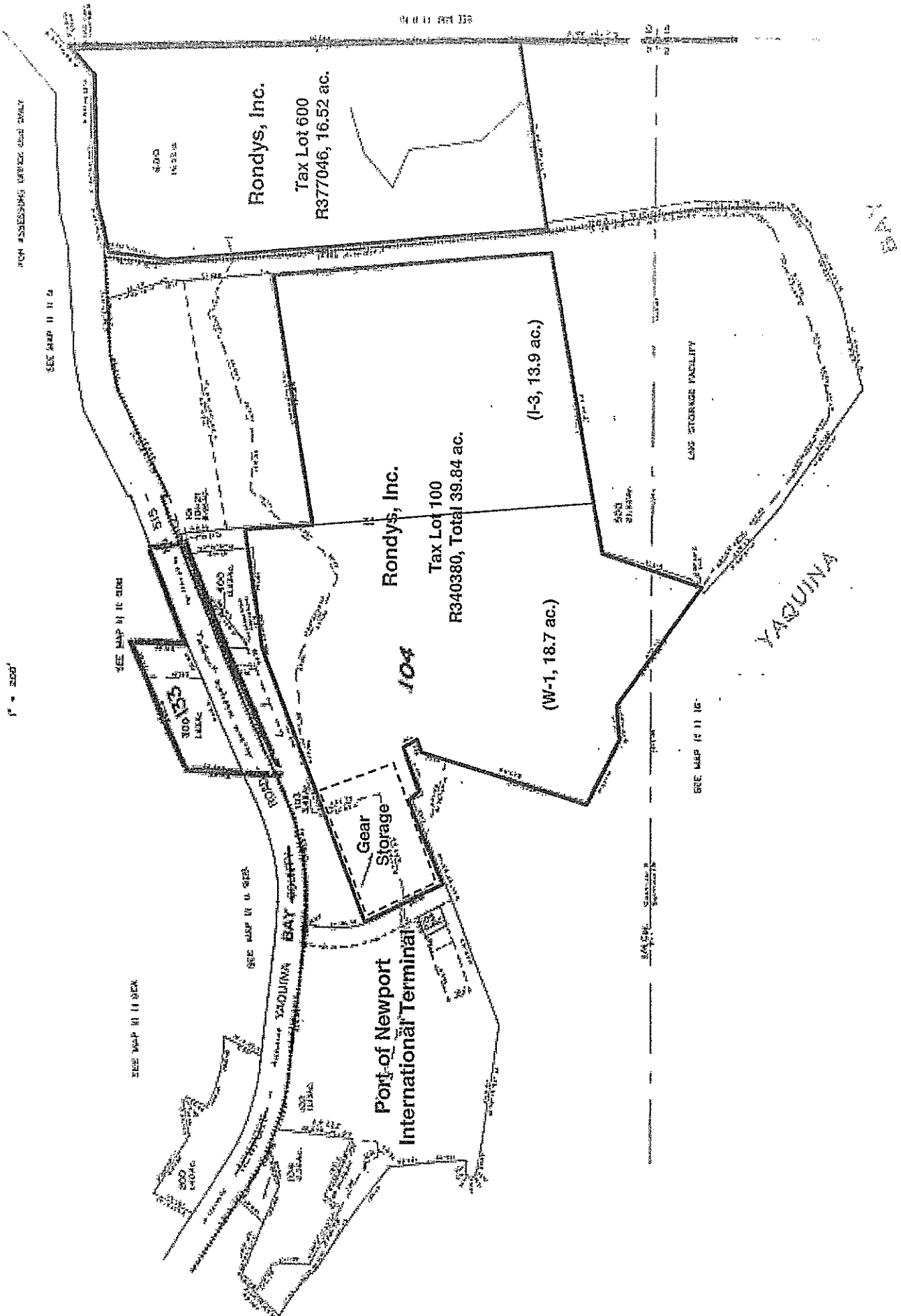
AND ALSO EXCEPTING that tract described in instrument recorded October 1, 1980, Book 117, page 595, Microfilm Records for Lincoln County, Oregon.

EXHIBIT B
DESCRIPTION OF PORT PROPERTY

EXHIBIT C

SE 1/4 SECTION 9 T11S R11W W1N
LINCOLN COUNTY

1" = 200'



11 11 9D



TELEPHONE (541) 267-2872
FAX (541) 267-0588
ralphdunham@stuntzner.com

705 SO. 4TH, P.O. BOX 118
COOS BAY, OREGON 97420

COOS BAY – FOREST GROVE -DALLAS

EXHIBIT
DESCRIPTION OF A NON-EXCLUSIVE DRAINAGE EASEMENT

Easement located in the SE ¼ of Section 9, T11S, R11W, W.M, Lincoln County, Oregon.

Beginning at the Southwest corner of that property owned by the Port of Newport, recorded as Parcel "L" in Book 148 Page 2162 marked with a yellow plastic cap marked "MSS Engineering" per Lincoln County Survey No. 20555, said point having the coordinates of Northing 370,085.42' and Easting 7,283,922.58' in conformance with the Oregon State Plane Coordinate System, North Zone, North American Datum 83 (1991), Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be True North;

Thence North 78°59'06" East 15.12 feet;

Thence South 03°34'30" East 968.88 feet more or less to the north line of that property owned by NW Natural Gas Co.;

Thence along said north line of NW Natural Gas Co. South 79°05'10" West 173.88 feet to a 5/8" Iron Rod per Lincoln County Survey No. 20555;

Thence South 79°05'10" West 12.82 feet;

Thence South 15°43'30" West 267.90 feet;

Thence South 46°21'19" West 58.82 feet more or less to the Ordinary High Water Line;

Thence North 48°32'17" West along said Ordinary High Water Line 30.11 feet;

Thence North 46°21'19" East 53.17 feet more or less;

Thence North 15°43'30" East 284.08 feet;

Thence North 63°18'16" East 92.72 feet;

Thence North 79°05'10" East 45.52 feet;

Thence North 03°34'30" West 915.61 feet:

Thence North 86°25'30" East 60.00 feet to the Southwest corner of the property owned by the Port of Newport and the Point of Beginning;

Said easement containing 2.05 acres, more or less.

Bearings based upon Lincoln County Survey No. 5618, by Arnold Brubaker, presumed to be true north. Monuments noted as per Lincoln County Survey No. 20555 by Peter Seaders.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443

EXPIRES 12/31/17

DRAINAGE EASEMENT EXHIBIT

PORT OF NEWPORT

RONDY'S &
ASSOCIATES, INC.

NORTHING: 370085.42'
EASTING: 7283922.58'
BASED ON OREGON
STATE PLANE NORTH
ZONE NAD83 91

(S1° 03' 01"E GRID)
S3° 34' 30"E
968.88'

N78° 59' 06"E
15.12'

N86° 25' 30"E
60.00'

N3° 34' 30"W
915.61'

N79° 05' 10"E
45.52'

N63° 18' 16"E
92.72'

N15° 43' 30"E
284.08'

BASIS OF BEARING
LINCOLN COUNTY
SURVEY #5618
BRUBAKER



LOCATED SE 1/4 OF SEC 9,
T11S, R11W, W.M.
LINCOLN CO. OREGON

© MONUMENT FROM
CS #20555

NW NATURAL

S79° 05' 10"W
173.88'

S79° 05' 10"W
12.82'

S46° 21' 19"W
58.82'

S15° 43' 30"W
267.90'

N46° 21' 19"E
53.17'

N48° 32' 17"W
30.11'

RONDY'S &
ASSOCIATES, INC.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Ralph E. Dunham

OREGON
JULY 25, 1990
RALPH E. DUNHAM
2443

EXPIRES 12/31/17



705 S. 4TH ST.
P.O. BOX 118
COOS BAY, OREGON 97420
Engineering - Land Surveying - Forestry - Land Planning - Water Rights

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

JOB #: 112-2-100

DATE: MAY 2017

DRAWN BY: AER

CHECKED BY: RED

Port of Newport

Drainage Easement Exhibit

FILE NAME: Port Site 2016 Easements.dwg

SHEET 1 OF 1

EXHIBIT D

Page 3 of 3