

McLOUGHLIN BOULEVARD IMPROVEMENTS AGREEMENT

DATED: May 15, 2013

BETWEEN: CITY OF OREGON CITY, (the "City")
An Oregon municipal corporation
ATTN: Tony Konkol, Community Development Director
625 Center Street
Oregon City, Oregon 97045

AND Oregon City Center, LLC (the "Owner")
ATTN: George Mobayed
1667 East Lincoln Avenue
Orange, California 92865

The Owner received site plan and design review approval through city file SP10-16 for improvements to the Oregon City Shopping Center located at 1900 McLoughlin Boulevard in Oregon City (the "Property"). The Property currently has a driveway access from the SE Frontage Road (aka: Firestone Alley), which is part of the right of way of McLoughlin Boulevard, under the jurisdiction of the Oregon Department of Transportation (ODOT). Improvements to this access were required by Condition #3 of SP10-16. The Property also has frontage along McLoughlin Boulevard where the City is in the pre-construction and design phase of the McLoughlin Boulevard Enhancement Phase 2 improvements (the "Project").

The Owner submitted a design for improvements to this access to the City and ODOT. The City approved the design concept and ODOT approved the construction plans for permit. However, the permit process was stopped pending resolution of this agreement.

The Owner and the City agree that incorporating improvements to the owner's access and SE Frontage Road into the Project design and construction would meet the needs of both the Owner and the City based on the size and complexity of the Project.

This McLoughlin Boulevard Improvement Agreement (the "Agreement") is intended to set forth the respective obligations of the City and the Owner in working together on a consolidated project.

NOW THEREFORE, in consideration of the mutual promises of the parties set forth in this Agreement, the City and the Owner agree as follows:

SECTION 1 EFFECTIVENESS OF AGREEMENT

1.1 City

The City, through the action of its City Commission, approved this Agreement on June 5, 2013.

1.2 Owner

The Owner, through signing this Agreement, agrees to the terms and obligations set forth below.

SECTION 2 TERM

The term of this Agreement shall commence on the date this agreement is executed by both parties and shall terminate upon the completion of the obligations set forth in Sections 3.

SECTION 3 OBLIGATIONS OF THE PARTIES

3.1 Obligations of the City

The City, through an Intergovernmental Agreement with ODOT, agrees to take responsibility for retaining, directing, coordinating and compensating all City consultants and contractors required to complete the final design and construction of the Project improvements consistent with the preliminary design shown by Exhibits A and C, including a new sidewalk with a driveway approach along a portion of the SE Frontage Road from McLoughlin Boulevard to the existing flood wall, a pedestrian refuge island, storm water drainage, bicycle and pedestrian improvements, striping and removal of existing asphalt pavement between the Owner's property line and the back of the new sidewalk. The City also will place in City file SP10-16 a memorandum confirming that completion of the obligations agreed to by the City and the Owner contained in this agreement will achieve compliance with Condition #3 of SP10-16.

3.2 Obligations of the Owner

The Owner agrees to apply for ODOT access and construction permits, and City permits as required to complete the improvements inward towards and onto the Property from the back of the new sidewalk constructed as part of the Project and the improvements on the Property, as depicted in Exhibit B, including landscaping, sidewalks, signage, striping and pavement improvements. The Owner agrees to be responsible for retaining, directing and coordinating all consultants and contractors required to complete these improvements. The Owner also agrees that all of the landscaping to be planted for the redesigned driveway access and parking lot will comply with the development standards in the Oregon City Municipal Code, and that the work described in this section will be designed to match the work completed as part of the Project. The Owner is also responsible for constructing a temporary asphalt pavement connection if the permanent pavement improvements as depicted in Exhibit B are not under construction when the existing asphalt pavement is removed as referenced to in Paragraph 3.1 of this Agreement. The Owner shall apply for applicable ODOT permits for the temporary improvements.

The Owner agrees to commence the design of this work within 30 days of notification by the City that the sidewalk to be constructed by the Project is complete and can be surveyed to establish existing conditions for the design of the work to be completed by the Owner. The Owner further agrees to proceed with the design, permit, and construction process in a timely manner, understanding that time is of the essence in completing the entire scope of the improvements. The Owner agrees to complete this work within 9 months of notification by the City that the sidewalk to be constructed by the Project is completed.

Within 30 days of Owner or City approval of this agreement, whichever comes later, the Owner shall provide for approval and recording by the City Development Services Division the following documents:

- A 5-foot temporary construction easement along the Property's entire McLoughlin Boulevard frontage for future improvements in the adjacent right-of-way associated with the McLoughlin Boulevard Enhancement Phase 2 project. The term of the easement shall be limited to the minimum amount of time necessary to facilitate the

project construction and shall become effective on the date the City of Oregon City issues notice to proceed to the contractor for construction of the McLoughlin Boulevard Enhancement Phase 2 project. The temporary easement shall terminate the earlier of:

- When construction on the property is completed, or
 - When the City of Oregon City has made final acceptance of the project, or
 - After three (3) years from the date the City of Oregon City issues notice to proceed to the contractor for construction of the McLoughlin Boulevard Enhancement Phase 2 project.
- A ten-foot public utility easement (PUE) or an ODOT frontage easement, whichever is wider and as determined by the City, along the Property frontage on McLoughlin Boulevard.
 - A deed of dedication for additional public right-of-way for the redesigned SE Frontage Road improvements as depicted by Exhibit A.
 - A temporary construction easement at the northeast corner of the intersection of McLoughlin Boulevard and Dunes Drive as depicted by Exhibit C.

The Owner acknowledges that its failure to meet the obligations of this Agreement will result in the closure of the existing access from the SE Frontage Road at McLoughlin Boulevard to the Owner's Property.

SECTION 4 FUNDING

The Parties anticipate that the funds for the Project will be provided to the City by ODOT. To the extent that the City is unable to secure adequate funds from ODOT, then the City, in its sole discretion, shall have the right to terminate this Agreement.

SECTION 5 COORDINATION

The City agrees to inform the Owner of the approved construction schedule and timing of the Project's construction work to allow for the Owner's to perform the necessary coordination of the Owner's on-site work and work within the ODOT right-of-way.

SECTION 6 GENERAL PROVISIONS

6.1 Complete Agreement

This Agreement constitutes the complete agreement between the parties with respect to the matters covered by this Agreement.

6.2 Notices

Any notices given under the terms of this Agreement must be in writing and be delivered by messenger or certified mail, return receipt requested, to a party at its address first set forth above.

6.3 Amendment

This Agreement may only be amended by a written amendment signed by both parties.

6.4 Assignment

Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, which may or may not be given in such party's sole discretion.

6.5 Attorneys Fees

In the event legal action is brought by City or Owner against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts of attorneys fees, costs and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

6.6 Effect on Land Use Decision

This Agreement does not constitute a land use decision nor does it affect the site plan design review approval previously granted by the city through City file SP10-16. The conditions of that approval must be met. Termination of this Agreement will not relieve the Owner of its obligations under that approval.

6.7 Severability

The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

6.8 Non waiver

The failure of the City to insist upon or enforce strict performance of any of the terms of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights of any future occasion.

6.9 Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without resort to any jurisdiction's conflict of law, rules or doctrines.

6.10 Exhibits

The attached Exhibits are an integral part of this Agreement.

IN WITNESS WHEREOF, the parties executed and delivered this Agreement to be effective on the date first set forth above.

City

City of Oregon City, an Oregon municipal corporation

By: _____

Its: _____

Owner

By: _____

Its: _____

OR99E: Clackamas River Bridge - Dunes (Oregon City)
 McLoughlin Blvd./SE Frontage Rd. Intersection
 Proposed Improvements - Southeast Corner

Right-of-Way Impact Exhibit
 Date: 3/29/2013

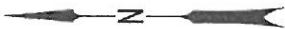
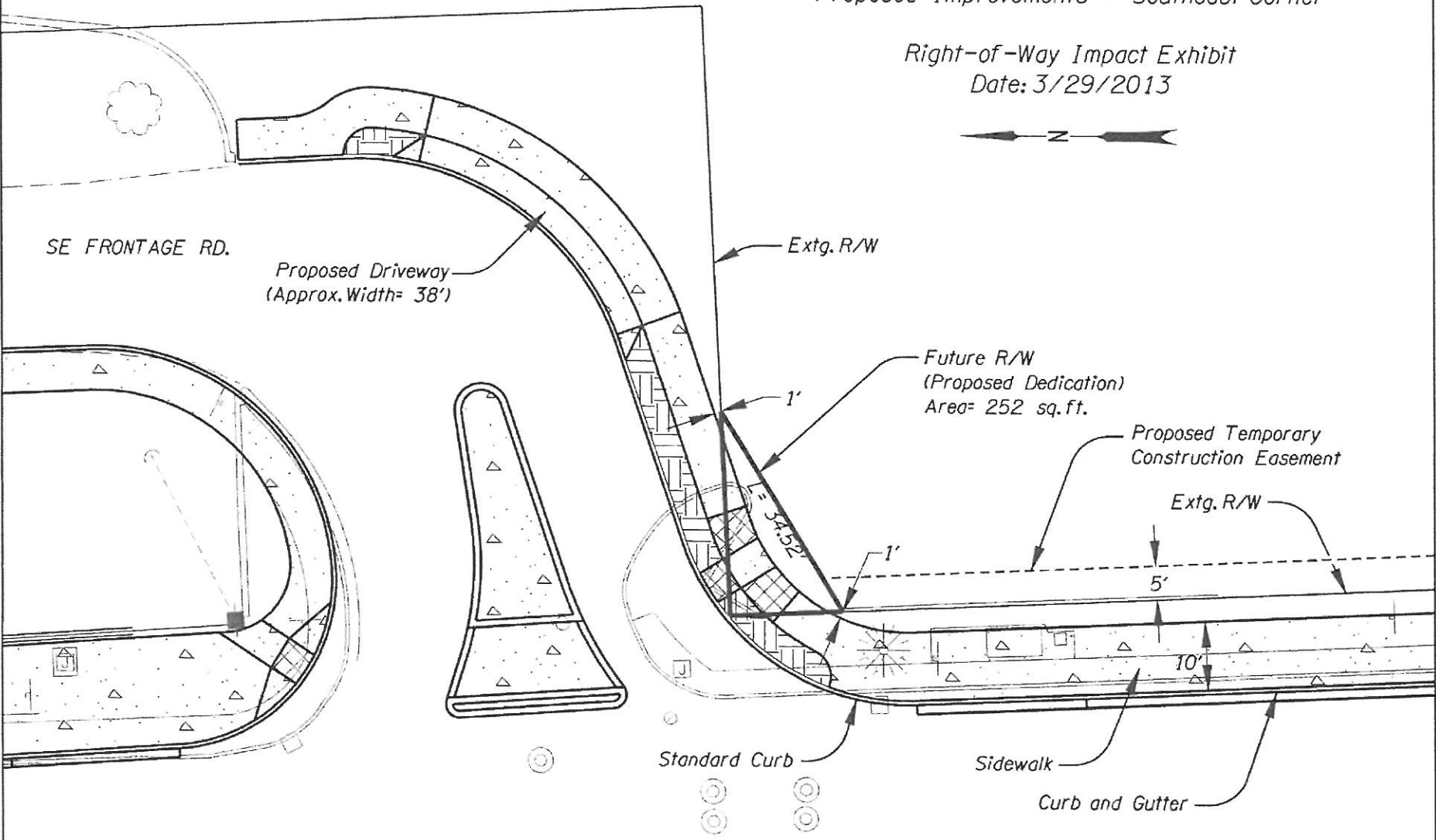


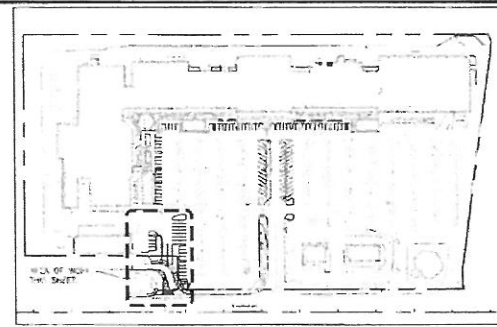
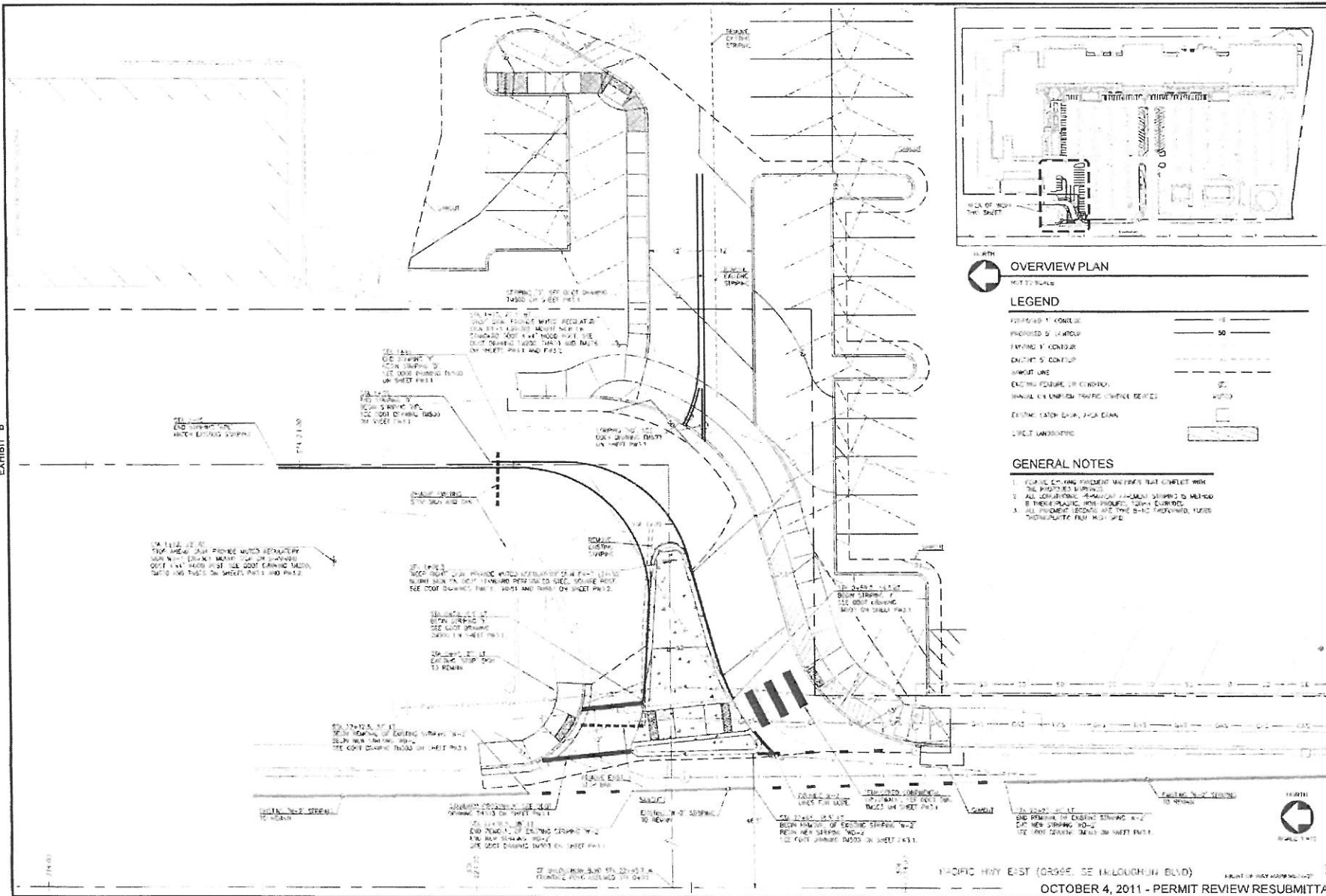
EXHIBIT A



McLOUGHLIN BLVD. (OR99E)

Scale 1" = 20'
 (8.5" x 11" Sheet)

EXHIBIT B



OVERVIEW PLAN
 NORTH
 1" = 50'

LEGEND

PROPOSED 1' CURB	---
PROPOSED 5' DRIVE	---
EXISTING 1' CURB	---
EXISTING 5' DRIVE	---
EXISTING DRIVE OR DRIVEWAY	---
MANUAL OR AUTOMATIC TRAFFIC CONTROL DEVICE	---
EXISTING DRIVE BANK, PARK DRIVE	---
EXISTING DRIVEWAY	---

- GENERAL NOTES**
1. EXISTING DRIVEWAY DIMENSIONS AND OFFSETS THAT CONFLICT WITH THE PROPOSED DRIVEWAY.
 2. ALL OPERATIONS SHALL BE IN ACCORDANCE WITH THE CITY OF OREGON CITY PLANNING DEPARTMENT'S DESIGN MANUAL.
 3. ALL PROJECT SEGMENTS ARE TO BE PROVIDED WITH ADEQUATE SIGNAGE.

T.M.R.
 T.M. RIPPY
 CIVIL ENGINEERS



OREGON CITY SHOPPING CENTER
 1600 McLOUGHLIN BLVD.
 OREGON CITY, OR 97045

OR99E CLACKAMETTE PARK CONNECTION IMPROVEMENTS

DATE: 10/04/11
 DRAWN BY: J. RIPPY
 CHECKED BY: T. RIPPY
 PROJECT NO.: OR99E-11-001

DATE	10/04/11
BY	J. RIPPY
CHECKED BY	T. RIPPY
PROJECT NO.	OR99E-11-001
SHEET NO.	24
TOTAL SHEETS	28

PW2.1

OR99E: Clackamas River Bridge - Dunes (Oregon City)
 McLoughlin Blvd./Dunes Dr. Intersection
 Proposed Improvements - Northeast Corner

Right-of-Way Impact Exhibit
 Date: 3/29/2013

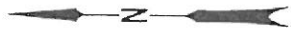
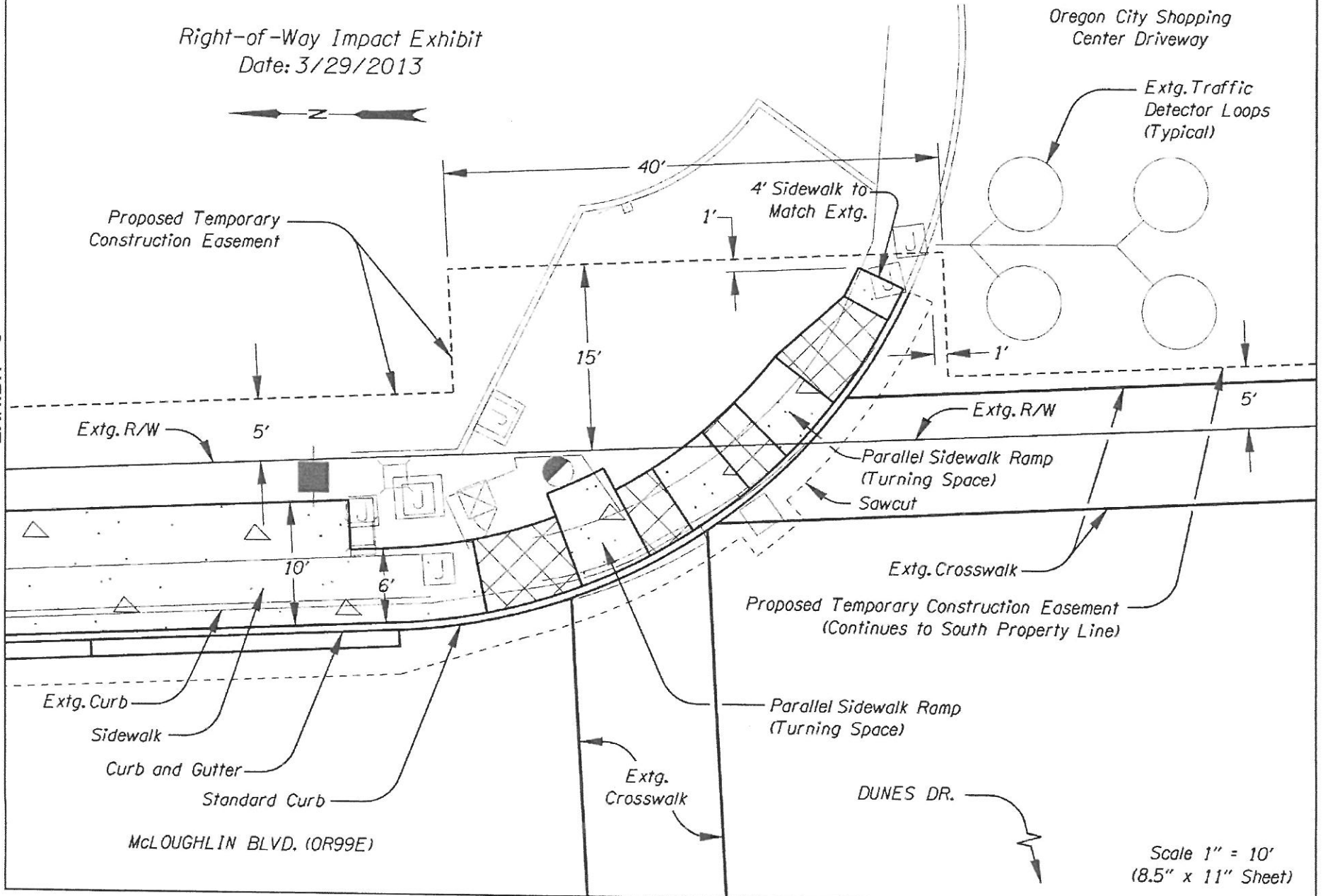


EXHIBIT C



Scale 1" = 10'
 (8.5" x 11" Sheet)