

RESOLUTION NO. 1932

A RESOLUTION OF THE CITY OF WILSONVILLE EXCHANGING AND ADOPTING EASEMENTS, GO DUCKS LLC, GRANTOR.

WHEREAS, the City of Wilsonville Design Review Board approved the Stage II development of The Honda Dealership, 03DB27, which required as a condition of approval that a public utility easement be conveyed to the City; and

WHEREAS, there currently exists on the property an easement recorded as Fee No. 72-29509 and dated September 28, 1972. However, the location of this easement does not meet the requirements of the easement described above. Furthermore, the existing easement does not conform to the needs and requirements of the Public Works Department and, therefore, said easement is no longer needed by the City of Wilsonville; and

WHEREAS, the City Council finds that the existing above referenced real property easement is being exchanged pursuant to ORS 271.310(3) for a real property easement which is of equal or superior useful value for public use for the City's sewer lines; therefore, extinguishment by vacation is unnecessary.

NOW, THEREFORE THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based on the above recitals and findings, the City of Wilsonville adopts the following exchange of easements:

(a) The City's release, by a Reconveyance and Quitclaim, of all its interest in the Sanitary Sewer Easement described in Exhibit 1, attached hereto and incorporated herein, in exchange for

(b) Go Ducks LLC's conveyance to the City of the Sanitary Sewer Pipeline Easement described in Exhibit 2, attached hereto and incorporated herein.

2. The City Manager is authorized to sign these instruments on behalf of the City.

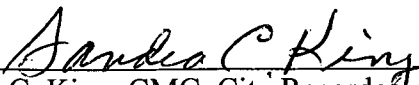
3. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof on the 18th day of April, 2005, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Charlotte Lehan	<u>Yes</u>
Council President Alan Kirk	<u>Yes</u>
Councilor Benny Holt	<u>Yes</u>
Councilor Sandra Scott-Tabb	<u>Yes</u>
Councilor Tim Knapp	<u>Yes</u>

Attachments:
Exhibits 1 and 2

**RECONVEYANCE AND QUITCLAIM
OF EASEMENT**

After recording, return to:
CITY RECORDER
CITY OF WILSONVILLE
30000 SW Town Center Loop E.
Wilsonville, OR 97070

KNOW ALL MEN BY THESE PRESENTS that the **City of Wilsonville**, a municipal corporation, Grantor, releases and quitclaims to **Go Ducks, LLC**, a Washington Limited Liability Company, Grantee, for the consideration hereinafter stated, all right, title and interest in and to the following real property easement, described as follows:

The legal description is set forth in "EXHIBIT A" attached hereto, and incorporated by reference herein.

A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

The true and actual consideration paid for this transfer, in terms of dollars, is None. However, the actual consideration consists of other property of equal or superior value, which is the whole consideration.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, the undersigned Grantor has executed this Reconveyance and Quitclaim of Easement this ___ day of _____, 2005.

GRANTOR: CITY OF WILSONVILLE

By _____
Charlotte Lehan, Mayor

STATE OF OREGON)
) ss
County of Clackamas)

This instrument was acknowledged before me on _____, 2005,
by _____ as _____ of the
City of Wilsonville.

Notary Public for Oregon
My Commission Expires: _____

APPROVED AS TO FORM

this _____ day of _____, 200__.

Paul A. Lee, Assistant City Attorney
City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION

this _____ day of _____, 200__.

Michael A. Stone, P.E., City Engineer
City of Wilsonville, Oregon

AUTHORIZED on behalf of the City of Wilsonville, Oregon
This _____ day of April, 2005.

Charlotte Lehan, Mayor

ATTESTED TO:

Sandra C. King, City Recorder Date

EXHIBIT A

LEGAL DESCRIPTION

SANITARY SEWER EASEMENT (TO BE VACATED)
CLACKAMAS COUNTY
PROJECT: GME1084
FEBRUARY 17, 2005

A PORTION OF THOSE TRACTS OF LAND DESCRIBED IN DEED DOCUMENT NUMBERS 91-02844 AND 93-01078, CLACKAMAS COUNTY DEED RECORDS, LOCATED IN THE NORTHEAST QUARTER OF SECTION 23 IN TOWNSHIP 3 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, STATE OF OREGON, BEING A STRIP OF LAND 20 FEET IN WIDTH, LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 9 OF THE PLAT OF "MAIN STREET VILLAGE", CLACKAMAS COUNTY PLAT RECORDS ON THE NORTH RIGHT-OF-WAY LINE OF MEMORIAL DRIVE;

THENCE S87°17'44"W, ALONG THE SOUTH LINE OF THOSE TRACTS OF LAND DESCRIBED IN DEED DOCUMENT NUMBERS 91-02844 AND 93-01078, AND ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 229.98 FEET TO **THE TRUE POINT OF BEGINNING** OF THE CENTERLINE DESCRIPTION;

THENCE N01°32'47"E, LEAVING SAID SOUTH LINE, A DISTANCE OF 524.63 FEET TO THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED DOCUMENT NUMBER 93-01078 AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

THE SIDELINES OF THESE EASEMENTS SHALL BE LENGTHENED OR SHORTENED AS NECESSARY TO PROVIDE A UNIFORM STRIP OF LAND OF THE DESCRIBED WIDTH.

CONTAINS 10.493 SQUARE FEET OR 0.241 ACRES, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JAN. 18, 1994
KEVIN WILLIAMS
2650

RENEWAL DATE 6-30-06

EXHIBIT B

BEING A PORTION OF THOSE TRACTS OF LAND DESCRIBED IN
DEED DOCUMENT NUMBERS 91-02844 AND 93-01078, CLACKAMAS COUNTY DEED RECORDS,
LOCATED IN THE NORTHEAST QUARTER OF SECTION 23
IN TOWNSHIP 3 SOUTH, RANGE 1WEST, WILLAMETTE MERIDIAN,
CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON
JANUARY 18, 2005

DOC. NO. 89-08623

T A X L O T 4 0 0



SCALE: 1" = 60'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Kevin Williams
OREGON
JAN. 18, 1994
KEVIN WILLIAMS
2650

RENEWAL DATE 6-30-06

SHEET 1 OF 1 JOB NO.: GME1084



TETSUKA ASSOCIATES, INC.
LAND SURVEY CONSULTING

9900 S.W. WILSHIRE STREET, #110
PORTLAND, OR 97225
503.517.0682 FAX: 503.445.1300

PARKWAY AVENUE

DOC. NO. 91-02844

N01°32'47"E 524.63'

10.00'
10.00'
20.00'

DOC. NO.
2004-069237

DOC. NO. 84-11773

POINT OF
BEGINNING

DOC. NO. 93-01078

LOT 9

SOUTHWEST CORNER OF
LOT 9 OF THE PLAT OF
"MAIN STREET VILLAGE"

S87°17'44"W 229.98'
MEMORIAL DRIVE

PIPELINE EASEMENT
Grantor - Limited Liability Company

After recording, return to:
CITY RECORDER
CITY OF WILSONVILLE
30000 SW TOWN CENTER LOOP, E.
WILSONVILLE OR 97070

KNOW ALL MEN BY THESE PRESENTS, that Go Ducks LLC

hereinafter referred to as "Grantor", for the consideration hereinafter stated, does forever grant unto the CITY OF WILSONVILLE, a municipal corporation, hereinafter referred to as "Grantee", a permanent right-of-way and easement over and along the full width and length of the premises described as follows, to-wit:

1. Legal description is set forth in EXHIBIT "A" attached hereto, and incorporated by reference herein.
2. A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

together with a temporary construction easement as follows: N/A

The temporary construction easement shall be effective only for and during the time of the initial construction of the below described public improvements, and shall under any circumstances be extinguished and expire on N/A, 200__ (specific date).

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 0.
However, the actual consideration consists of or includes other property or value given or promised which is (the whole ~~part of the~~ consideration (indicate which). (If not applicable, the sentence between the symbols * should be deleted. See ORS 93.030.)

In the event the permanent right-of-way and easement shall no longer serve a public purpose, it shall revert back to the Grantor, its successors and/or assigns; and

TO HAVE AND TO HOLD the above described permanent right-of-way and easement unto said Grantee in accordance with the conditions and covenants as follows:

1. The permanent right-of-way and easement shall include the right, privilege, and authority, to the said City of Wilsonville, to excavate for, and to construct, build, install, lay, patrol, operate, maintain, repair, replace and remove an underground sanitary sewer, storm drain, or water pipeline or pipelines, with all appurtenances incident thereto or necessary therewith, including aboveground valve boxes, fire hydrants or manholes, for the purpose of carrying and conveying sewage wastes, surplus waters or potable water as the case may be, and for similar

uses in, under, and across the said premises, and to cut and remove from said right-of-way any trees and other obstructions which may endanger the safety or interfere with the use of said pipelines, appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above described premises at any and all times for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted. No building or structure shall be constructed over the pipeline easement right-of-way.

2. To the extent allowed by law, Grantee will indemnify and hold harmless the Grantor, its successors and/or assigns from claims for injury to person or property as a result of the negligence of the Grantee, its agents or employees in the construction, operation, or maintenance of said pipeline.

3. The City of Wilsonville, upon the initial installation, and upon each and every occasion that the same be repaired, replaced, renewed, added to, or removed, shall restore the premises of the Grantor, and any improvements disturbed by the City, to as good condition as they were prior to any such installation work, including, but not limited to, the restoration of any topsoil, lawn and nursery stock of like kind and quality subject to reasonable substitution as may be necessitated by obstruction or interference with the use granted herein.

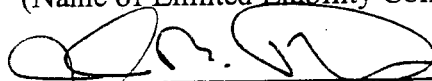
4. Grantor may, at its option and expense, relocate said right-of-way, easement and associated public appurtenances and utilities, provided such relocation is accepted by the City as complying with applicable codes and standards, land use laws and regulations.

IN WITNESS WHEREOF, the undersigned grantor has executed this easement, this 23rd day of December, 2004.

GRANTOR:

Go Ducks, LLC
(Name of Limited Liability Company)

By:

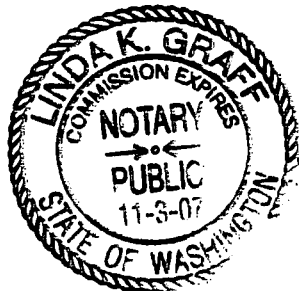

(Agent) Manager

(Agent)

STATE OF WASHINGTON)
) ss
County of Pierce)

On this 23rd day of December, 2004, before me, a notary public in and for said County and State, personally appeared John B. Dimmer, known to me to be the person whose name he subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.



Linda K. Graff
NOTARY PUBLIC in and for the State of Washington
My Commission Expires: 11/3/07

STATE OF WASHINGTON)
) ss
County of Pierce)

On this ___ day of _____, 200__, before me, a notary public in and for said County and State, personally appeared _____, known to me to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

NOTARY PUBLIC in and for the State of Washington
My Commission Expires: _____

APPROVED AS TO FORM

this _____ day of _____, 200__.

Paul A. Lee, Assistant City Attorney
City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION

this _____ day of _____, 200__.

Michael A. Stone, P.E., City Engineer
City of Wilsonville, Oregon

ACCEPTED on behalf of the City of Wilsonville, OR,
this _____ day of _____, 200__.

ATTESTED TO:

Sandra C. King, CMC, City Recorder
Date: _____

STATE OF OREGON)
) ss
County of Clackamas)

On this ___ day of _____, 200__, before me personally appeared _____, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that she executed the same.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION

SANITARY SEWER EASEMENT
CLACKAMAS COUNTY
PROJECT: GME1084
FEBRUARY 17, 2005

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THENCE S87°17'44"W, ALONG THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED DOCUMENT NUMBER 93-01078, AND ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 215.57 FEET TO **THE TRUE POINT OF BEGINNING** OF THE CENTERLINE DESCRIPTION;

THENCE N00°38'20"W, LEAVING SAID SOUTH LINE, A DISTANCE OF 67.12 FEET;

THENCE N53°13'39"W, A DISTANCE OF 160.28 FEET;

THENCE N01°32'47"E, A DISTANCE OF 280.06 FEET;

THENCE N64°38'44"E, A DISTANCE OF 133.57 FEET;

THENCE N01°32'47"E, A DISTANCE OF 23.57 FEET TO THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED DOCUMENT NUMBER 89-08623, CLACKAMAS COUNTY DEED RECORDS AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

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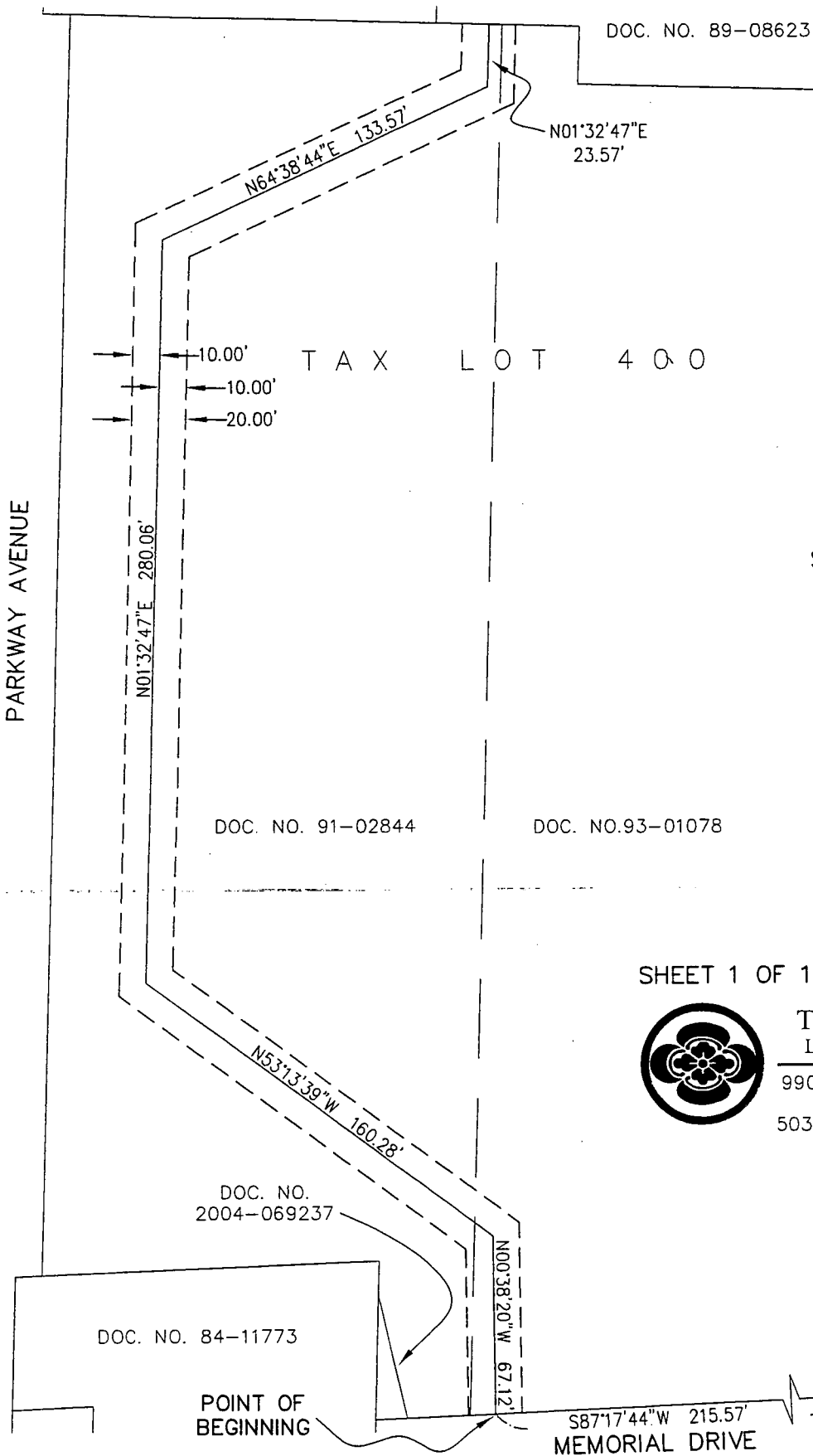
CONTAINS 10,086 SQUARE FEET OR 0.232 ACRES, MORE OR LESS.



RENEWAL DATE 6-30-06

EXHIBIT B

BEING A PORTION OF THOSE TRACTS OF LAND DESCRIBED IN DEED DOCUMENT NUMBERS 91-02844 AND 93-01078, CLACKAMAS COUNTY DEED RECORDS, LOCATED IN THE NORTHEAST QUARTER OF SECTION 23 IN TOWNSHIP 3 SOUTH, RANGE 1WEST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON
FEBRUARY 17, 2005



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Kevin Williams

OREGON
JAN. 18, 1994
KEVIN WILLIAMS
2650

RENEWAL DATE 6-30-06

SHEET 1 OF 1 JOB NO.: GME1084

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