

After Recording Return To:

Community Action Resource Enterprises, Inc.
2310 First Street Unit 2
Tillamook, Oregon 97141

Send All Tax Statements To:

Tillamook County Board of Commissioners
201 Laurel Avenue
Tillamook, Oregon 97141

LEASE AGREEMENT

THIS LEASE AGREEMENT ('Agreement'), dated this 25TH day of October 2023, is entered into by and between the County of Tillamook, hereinafter referred to as 'County', a political subdivision of the State of Oregon, and Community Action Resource Enterprises, Inc. hereinafter referred to as 'Lessee'.

WHEREAS, County owns certain real property ('Property') and Lessee desires to lease such real property for use of a shelter program.

NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED:

ARTICLE I - PREMISES

Section 1.1 – Description

County leases to Lessee, on the terms and conditions stated below, the real property described in Exhibit A attached hereto and incorporated herein, situated in the City of Tillamook, Tillamook County, Oregon.

Section 1.2 – Use of Premises

Lessee shall use the premises for the following purposes: Lessee's low-barrier shelter program including night-to-night beds, short-term shelters, bathroom and shower facilities for residents, and peer-led supportive services. Lessee has made its own investigation of zoning and land use laws, rules, and regulations to determine that it may use the Property for the aforesaid purpose.

ARTICLE II - TERM

Section 2.1 – Term

- 2.1.1 The term of this lease shall commence on June 1, 2023 and shall continue through June 30, 2062.
- 2.1.2 Upon expiration of the term of this lease, if Lessee is not then in default and has given notice as herein required. Lessee shall have the right of first refusal to lease the Property described herein for three (3) additional five (5) year periods upon such conditions, terms, and rental amounts as

County deems appropriate. Lessee shall give County written notice at least one hundred eighty days (180) before the expiration of this lease and any extension thereof of Lessee's interest in another lease term.

ARTICLE III – RENTAL PRICE

Section 3.1 – Rent

Lessee shall pay to County annual rent of One and No/100 Dollars (\$1.00). Rent for the entire lease term at Thirty-nine and No/100 Dollars (\$39.00) shall be paid upon lease execution.

ARTICLE IV – LESSEE'S OBLIGATIONS

Section 4.1 – Construction of Improvements

Prior to any construction, alteration or changes upon the Property, Lessee shall submit to County final plans and specifications, and shall not commence any construction until it has received County's written approval.

Section 4.2 – Maintenance

Lessee shall keep and maintain the Property premises and all improvements of any kind, which may be erected, installed or made thereon by Lessee, in good and substantial repair and condition, including the exterior thereof, and shall keep the Property and the improvements thereon in a safe, orderly and clean condition. Lessee shall provide proper containers for trash and garbage and shall keep the Property free and clear of rubbish, debris and litter at all times. County shall at all reasonable times during ordinary business hours have the right to enter upon and inspect such premises, to ascertain that the covenants herein are being complied with.

Section 4.3 – Title to Improvements

Lessee shall have the right to make any improvements or additions to the Property, at Lessee's own expense with the consent of County, with such improvements or additions to become the property of Lessee.

Section 4.4 – Liens

Lessee agrees to pay when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings machinery or equipment which have been furnished or ordered with Lessee's consent to be furnished to and for Lessee in, upon or about the premises herein leased, which may be secured by any mechanics, materialmen or other liens against the premises herein leased or County's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or comes due, provided that Lessee may in good faith contest any mechanics or other liens filed or established, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest so long as County's rights and interest in the Property is not jeopardized.

Section 4.5 – Taxes, Assessments & Utilities

Lessee agrees to pay promptly when due and before the same is in default or delinquent all the following taxes, assessments, obligations, and utilities:

1. all charges for all utilities furnished to the Property including, but not limited to electricity, water, and sewer.
2. taxes, charges and other assessments general or special, of every kind or nature whether now anticipated or not levied, assessed, or imposed, by any and all governmental authorities upon the Property and/or structures and improvements situated thereon, and which may hereafter be erected thereon.

ARTICLE V - INDEMNITY AND INSURANCE

Section 5.1 – Indemnity

Lessee agrees fully to indemnify, save harmless and defend County, its commissioners, officers, employees and contractors, from and against all claims and actions and all expenses incidental to the investigations and defense thereof, made or brought by any person, firm or corporation, based upon or arising directly or indirectly out of damages or injuries to their persons or their property, caused in whole or in part by acts of commission or omission of Lessee, its subtenants, contractors, agents, employees, guests, licensees or business invitees in the use or occupancy of the Property hereby leased, or work performed thereon; provided that County shall give to Lessee prompt notice of any such claims or actions which come to the attention of County, and Lessee shall investigate, compromise and defend same.

Section 5.2 – Insurance

Lessee further agrees at all times during the term hereof, at its own expense, to maintain, keep in effect, furnish and deliver to County, liability insurance policies in form and with an insurer satisfactory to County, insuring County against all liability for damages to person or property in or about the Property arising from any claim, loss or liability based upon or arising directly or indirectly, by acts of commission or omission of Lessee, his subtenants, contractors, agents, employees, guests, licensees or business invitees in the use or occupancy of the Property, or work performed thereon. The amount of said liability insurance shall not be less than One Million Dollars (\$1,000,000) for injury to one person, Two Million Dollars (\$2,000,000) for injuries arising out of one occurrence and not less than Five Hundred Thousand Dollars (\$500,000) for property damage, providing however, the extent of the coverage shall never be less than the limits set by the Oregon Legislature for a municipal corporation, or as may be determined by a court of competent jurisdiction. In the event any court removes the limits of damages, the amount of insurance to be carried will be as set by agreement of the parties or by arbitration in the event agreement cannot be reached. The designation of the foregoing coverage is not a limitation on the extent of Lessee's obligations under this lease. Lessee agrees to and shall indemnify and hold County harmless from any and all claims and demands arising from the acts and conduct of Lessee, his subtenants, contractors, agents, employees, guests, licensees or business invitees, as well as those arising from Lessee's failure to comply with any covenant of this lease on his part to be performed, and Lessee shall at its own expense defend County against any and all suits or actions arising out of such acts and conduct, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgement which may be awarded against County in any such suit or action. In addition , during the term of this

Agreement Lessee shall maintain workers' compensation insurance in compliance with ORS Chapter 656, if Lessee employs "subject workers".

Section 5.3 – Waiver of Subrogation Rights

County shall not be liable to Lessee for any loss arising out of damage to or destruction of any property belonging to Lessee, or any improvement made on the Property, when such loss is caused by any of the perils which are or could be insured against. All such claims for any and all loss, however caused, hereby are waived. Said absence of liability shall exist whether or not the damage or destruction is caused by negligence. It is the intention and agreement that Lessee shall fully provide its own insurance protection with respect to the Property and improvements and personal property thereon, at its own expense, and look to its insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against County.

ARTICLE VI - DEFAULT

Section 6.1 – Events of Default

Lessee shall be in default when any of the following exists:

- A. Default in Other Covenants: Failure of Lessee to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent, taxes, assessments, or other charges) within thirty (30) days after written notice by County specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the thirty (30) day period, this provision shall be complied with if Lessee begins correction of the default within the thirty (30) day period and thereafter proceed diligently and in good faith to affect the remedy as soon as possible.
- B. Insolvency: Insolvency of Lessee; an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; and adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of an involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Lessee to secure discharge of the attachment or release of the levy of execution within ten (10) days.
- C. Assignment of Interest: An assignment, sale, gift, transfer, sublease or alienation in any manner of this lease, any interest therein, or interest in the Property which is the subject of this lease.
- D. Failure to Use Premises: Failure of Lessee to actively undertake and continuously use the premises for the purposes designated in Section 1.2 preceding.

Section 6.2 – Remedies on Default

In the event of a default, County at its option may terminate the lease by notice in writing to Lessee. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance. If the Property is abandoned by Lessee in connection with a default, terminations shall be automatic and without notice.

- A. Damages: In the event of termination of Lessee's interest in this lease and in the Property covered by this lease, Lessee shall forfeit all right to the pre-paid rent referred to in 3.2.
- B. Reentry after Termination: If the lease is terminated for any reason, Lessee's liability to County for damages and attorney's fees as provided herein shall survive such termination, and the rights and obligations of the parties shall be as follows:
 - 1. Lessee shall vacate the Property immediately, and subject to County's prior right to exercise its lien rights, remove any property of Lessee, perform any cleanup, alterations or other work required to leave the Property in the condition required at the end of the term.
- C. Reletting: Following reentry or abandonment, County may relet the Property and in that connection may:
 - 1. Make any suitable alterations or refurbish the Property or both, or change the character or use of the Property, but County shall not be required to relet for any use or purpose (other than that specified in the lease) which County may reasonably consider injurious to the Property, or relet to any tenant which County may reasonably consider objectionable.
 - 2. Relet all or part of the Property, alone or in conjunction with other properties, for a term longer or shorter than the terms of this lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

ARTICLE VII - TERMINATION

Section 7.1

Upon termination of the lease for any reason, Lessee shall surrender the Property in good condition. Alterations constructed by Lessee with permission from County shall not be removed or restored to the original condition unless the terms of permission for the alteration so permit.

ARTICLE VIII - GENERAL PROVISIONS

Section 8.1 – Assignment of Interest

- 8.1.1 It is the intention and agreement of County and Lessee that the rentals reserved by this lease have been fixed in contemplation of only Lessee's use and occupation of the Property and the improvements constructed and to be constructed upon the Property. Lessee shall not part with the possession of the Property, nor shall Lessee or any assignee or other successor of Lessee in any manner, directly or indirectly, by operation of law or otherwise, sublease, sell, set over, assign, transfer, lease or encumber within the Property or any part thereof, this lease or any of Lessee's right in or to this lease or any interest therein, nor license or permit the use of the rights herein granted, in whole or in part without the prior written consent of County.
- 8.1.2 Lessee shall not assign all or any part of its rights and interest under this lease to any successor to its business through merger, consolidation, or voluntary sale or transfer of substantially all of its assets, without prior written approval of County. County shall have the right to require a

completely new lease with a proposed assignee of Lessee, as an alternative to granting consent to a sale, transfer, assignment or alienation of Lessee's interest in said leased premises or this lease.

Section 8.2 – Nonwaiver

Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

Section 8.3 – Attorney's Fees; Venue

In the event this lease is rescinded, or, in the event action is instituted or had to collect any sums payable under terms of this lease, (including any suit, action or proceedings instituted subsequent to any judgment, to discover assets, to satisfy any judgment and/or to reach equitable interest such as through a Creditors Bill action) to obtain or regain possession of the leased premises by Forcible Entry and Detainer proceedings, or otherwise, or to enforce any provision of this lease, or to protect, assert, or determine in any way either party's rights in or to said property, or to gain possession of said property, the prevailing party shall be entitled to collect from the opposing party and any successors in interest, as part of the costs in such suit, action or proceedings, such sum as the judge of the court may adjudge reasonable as attorney's fees; and, in the event of an appeal to an appellate court the prevailing party shall be entitled to recover such sum as reasonable attorney's fee as may be determined by such court. Further, in the event of a default by Lessee in any respect of the terms of this lease, and County shall consult with an attorney with respect to such default or defaults, Lessee agrees to pay all reasonable and necessary costs and attorney's fees as a condition to reinstating and/or keeping this lease in force for Lessee's liability for attorney's fees as provided for in this lease. Such obligation shall survive any termination of the lease. The venue of any action brought to enforce any term of this lease shall be in Tillamook County, Oregon. The parties waive any right to have any action transferred to federal court by reason of any diversity of citizenship of the parties.

Section 8.4 – Waste; Compliance with all Laws; Burning

Lessee shall not permit or suffer the commission of any waste on the leased property or permit the same to be used for any purpose in violation of the state laws, federal laws, state or federal aviation, maritime or environmental rules and regulations, municipal ordinances, zoning, use and environmental laws, rules and regulations, rules and regulations of the County now or hereafter in force and applicable thereto. Lessee shall keep and maintain said premises and every part thereof in a clean condition. No burning shall be permitted on the leased premises without obtaining written permission from the appropriate regulatory bodies authorized to issue burning permits.

Section 8.5 – Time of Essence

It is mutually agreed that time is of the essence in the performance of all covenants and conditions to be kept and performed under the terms of this lease.

Section 8.6 – Warranties/Guarantees

County makes no warranty, guarantee, or averment of any nature whatsoever concerning the physical

condition of the Property, and it is agreed that County will not be responsible for any loss, damage or costs which may be incurred by Lessee by reason of any such physical condition. The parties agree that neither County nor any agent, employee or representative of County has made any representation of any kind, written or oral, not contained within this lease, (a) pertaining to the physical condition of the premises leased, (b) promising to make repairs to premises, (c) promising to construct any improvement on the premises, (d) promising to make a loan to Lessee, or (e) promising to obtain for Lessee, or assist Lessee, in obtaining financing through private or public sources for Lessee's business or personally. The parties further agree that the entire agreement between the parties is set forth in this lease, and that there are no side agreements or commitments, written or oral, between the parties, other than that specifically set forth in this lease.

Section 8.7 – Headings

The article and section headings contained herein are for convenience in reference and not intended to define or limit the scope of any provisions of this lease.

Section 8.8 – Consent of County

Whenever County's consent is required hereunder, it shall be in writing and shall contain all terms designated by County as conditions to giving consent.

Section 8.9 – Notices

All notices required under the lease shall be deemed to be properly served if personally presented to Lessee, or if sent by certified mail to County at the Tillamook County Board of Commissioners, 201 Laurel Avenue, Tillamook, Oregon, 97141, and to Lessee at Community Action Resource Enterprises, 2310 First Street Unit 2, Tillamook, Oregon 97141. Date of service of such notice is date such notice is personally delivered or is deposited in a post office of the United States Post Office Department, postage prepaid, and addressed as hereinabove provided.

Section 8.10 – Modification

Modification of the lease as to term, area or for any other provision, or consent to an assignment or transfer of interest may at the option of County result in an increase in the rental.

Section 8.11 – Improvements

8.11.1 If County elects to require Lessee to remove any improvements, subject to other terms of this lease and to County's exercise of its lien rights under Section 4.4 preceding, at the end of the term of this lease or at the time of its early termination by default or otherwise, Lessee shall remove all any improvements required by County and shall repair any physical damage resulting from the removal. Lessee shall be liable to County for the cost of removal. If Lessee fails to do so, this shall be an abandonment of the improvements, and County may retain the improvements and all rights of Lessee with respect to it shall cease or, by notice in writing given to Lessee within one hundred eighty (180) days after removal was required.

8.11.2 The time for removal of any improvements from the Property the County requires shall be as follows:

1. On or before the date the lease terminates because of expiration of the original or a renewal term or because of default.
2. Removal of improvements at the option of County at the termination of the lease shall be within one hundred eighty (180) days after termination.

Section 8.12 – Construction of Terms in Lease

In construing this lease, it is understood that County or Lessee may be more than one person or a corporation; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals. The law of the State of Oregon shall be applied in the interpretation and construction of this lease. Provided, however, the statute of limitations for enforcing any right under this lease shall be six (6) years as provided in contract actions in general.

Section 8.13 – Savings

Should any clause or section of this Agreement be declared by a court to be void or voidable, the remainder of this Agreement shall remain in full force and effect.

Section 8.14 – Waiver; Modification

Failure by County to enforce any provision of this Agreement does not constitute County's continuing waiver of that provision, any other provision, or of the entire Agreement. The rights and duties under this Agreement shall not be modified, delegated, transferred, or assigned, except upon the written signed consent of both parties.

Section 8.15 – Legal Representation

In entering into this Agreement, each party has relied solely upon the advice of their own attorney. Each party has had the opportunity to consult with counsel or now waives that right. Each party represents and warrants to the other that they are fully satisfied with the representation received from their respective attorneys.

Section 8.16 – Public Contract

This Agreement is a public contract and all applicable provisions of ORS chapter 279 are incorporated here by reference.

Section 8.17 – Prior Agreements

The lease agreement executed on May 31, 2023 (Tillamook County Clerk Deed Record #2023-002523) is hereby terminated.

//

//

Acknowledgment: EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURES BELOW THAT EACH HAS READ, UNDERSTANDS, AND AGREES TO ALL COVENANTS, TERMS AND CONDITIONS OF THIS AGREEMENT. EACH PARTY REPRESENTS TO THE OTHER TO HAVE THE ACTUAL AND/OR APPARENT AUTHORITY TO BIND THEIR RESPECTIVE LEGAL PERSONS, CORPORATE OR OTHERWISE, IN CONTRACT.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first herein written.

DATED THIS _____ DAY OF OCTOBER, 2023.

LESSEE: COMMUNITY ACTION RESOURCE ENTERPRISES, INC.

Jessica Linnell, Board Chair
2310 First Street Unit 2
Tillamook, Oregon 97141

DATED THIS _____ DAY OF OCTOBER, 2023.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
_____ Erin D. Skaar, Chair	___	___	___ / ___
_____ Mary Faith Bell, Vice-Chair	___	___	___ / ___
_____ David Yamamoto, Commissioner	___	___	___ / ___

ATTEST:Tassi O'Neil,
County Clerk

APPROVED AS TO FORM:

By _____
Special Deputy

William K. Sargent
County Counsel

EXHIBIT A
REAL PROPERTY DESCRIPTION

Tillamook County



Land of Cheese, Trees and Ocean Breeze

Surveyor
1510 3rd St. Suite C
Tillamook, OR 97141
503-842-3423
www.co.tillamook.or.us

October 18th, 2023

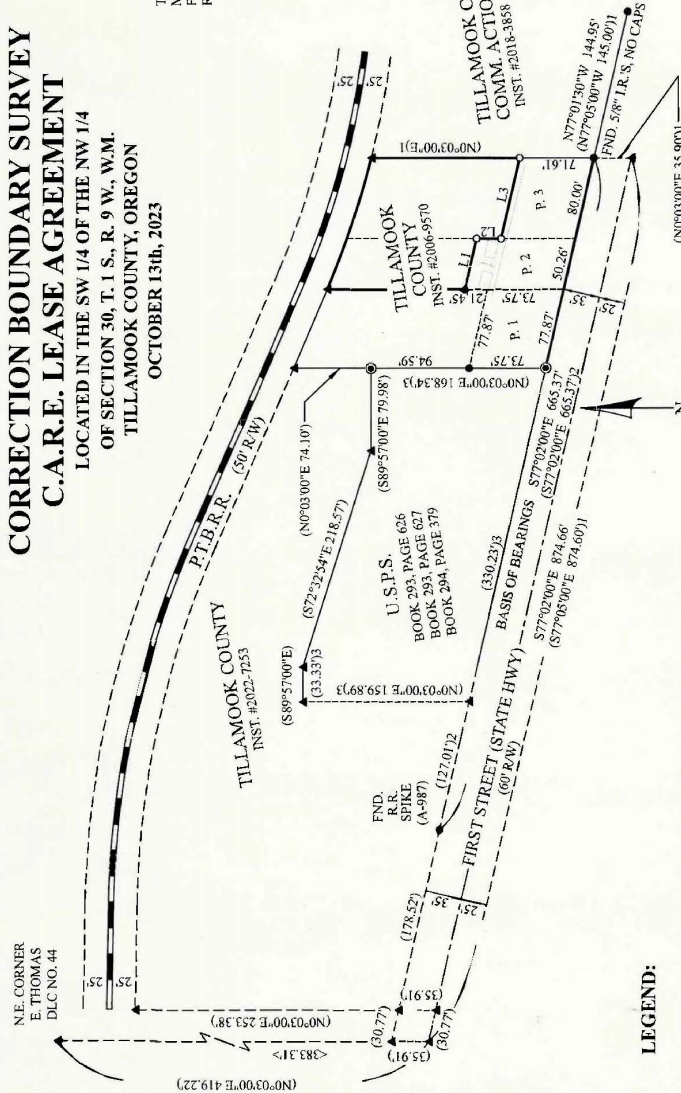
Description for a proposed lease agreement, located in the S.W. 1/4 of the N.W. 1/4 of Section 30, Township 1 South, Range 9 West, Willamette Meridian being a portion of the lands described in deed to Tillamook County as Parcels No. 2 and No. 3, Instrument #2006-009570, Tillamook County Clerk Records, more particularly described as follows:

Commencing at a point on the Northerly right-of-way line of First Street in the City of Tillamook, said point being S00°03'00"W 383.31 feet and S77°02'00"E 874.66 feet from the Northeast Corner of the Edrick Thomas Donation Land Claim No. 44 and being a 5/8" Iron Rod. Said point also being the Southeast Corner of Parcel No. 3, Instrument #2006-009570, Tillamook County Clerk Records; thence leaving said right-of-way along the easterly line of said Parcel No. 3 bearing N00°03'00"E a distance of 71.61 feet to a point marked by a 5/8" iron rod with a red plastic cap marked, "Tillamook Co. Survey", said point being the **true point of beginning** of the land to be described:

Thence bearing N77°02'00"W a distance of 80.00 feet to a point on the west line of the land described as Parcel No. 3, Instrument #2006-009570, Tillamook County Clerk Records, said point marked by a 5/8" iron rod with a red plastic cap marked, "Tillamook Co. Survey"; thence bearing N00°03'00"E a distance of 23.60 feet to a 5/8" iron rod with a red plastic cap marked, "Tillamook Co. Survey"; thence bearing N77°02'00"W a distance of 50.26 feet to a point on the west line of the land described as Parcel No. 2, Instrument #2006-009570, Tillamook County Clerk Records, said point marked by a 5/8" iron rod with a red plastic cap marked, "Tillamook Co. Survey"; thence bearing N00°03'00"E to a point on the southerly right-way of the Port of Tillamook Bay Railroad; thence southeasterly along said southerly right-of-way, to a point that is N00°03'00"E from the point of beginning; thence S00°03'00"W to the **point of beginning**.

Basis of Bearings and monumentation for the above description are based on recorded Map A-8723, Tillamook County Survey Records.

**CORRECTION BOUNDARY SURVEY
C.A.R.E. LEASE AGREEMENT**
LOCATED IN THE SW 1/4 OF THE NW 1/4
OF SECTION 30, T. 1 S., R. 9 W., W.M.
TILLAMOOK COUNTY, OREGON
OCTOBER 13th, 2023



BASIS OF BEARINGS:

THE BEARINGS OF THIS SURVEY WERE BASED UPON FOUND MONUMENTS OF RECORD, ALONG THE NORTH RIGHT OF WAY OF FIRST STREET PER SURVEY MAP A-8446, TILLAMOOK COUNTY SURVEY RECORDS.

NARRATIVE:

THE PURPOSE OF THIS CORRECTION SURVEY OF MAP A-8722 IS TO RE-DEFINE THE LEASE AGREEMENT TO TILLAMOOK COUNTY COMMUNITY ACTION RESOURCE ENTERPRISES, INC., DESCRIBED AS A PORTION OF PARCELS 2 AND 3, INSTRUMENT #2006-009570, TILLAMOOK COUNTY CLERK RECORDS AND TO MONUMENT THE SOUTH LINE OF A PROPOSED LEASE AGREEMENT. USING THE FOUND MONUMENTS FROM MAP A-8446 WE WERE ABLE TO DETERMINE THE SOUTH LINE OF THE ABOVE DESCRIBED PARCELS. SAID LINE BEING THE NORTHERLY RIGHT OF WAY OF FIRST STREET. THE EAST LINE WAS HELD USING THE FOUND MONUMENTS AT THE SOUTHEAST CORNER AND RECORD BEARING. MONUMENTS WERE THEN SET ON THE SOUTHERLY LINE OF THE SUBJECT LEASE AS DIRECTED AND SHOWN HEREON. NO ATTEMPT WAS MADE TO DETERMINE THE NORTHERLY LINE OF THE SUBJECT TRACT, BEING THE SOUTHERLY LINE OF THE RAILROAD RIGHT OF WAY.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Michael R. Rice
OREGON
DECEMBER 11, 2012
MICHAEL R. RICE
86926
RENEWAL 12-31-2024



**TILLAMOOK COUNTY
SURVEY FOR:
COMMISSIONERS**
LANDS DESCRIBED IN THE SW 1/4 OF THE NW 1/4
OF SEC. 30, T. 1 S., R. 9 W., W.M.
INSTRUMENT #2006-9570
TILLAMOOK COUNTY DEED RECORDS

**TILLAMOOK COUNTY
SURVEYOR'S OFFICE**
1510 3rd STREET, SUITE C,
TILLAMOOK, OREGON 97141
OFFICE: (503) 842-3423