

2006-017692

Klamath County, Oregon



00002776200600176920080085

09/01/2006 12:15:06 PM

Fee: \$56.00

1st-534158

COVER SHEET

ORS: 205.234

This cover sheet has been prepared by the persons presenting the attached instrument for recording. Any errors in this cover sheet **DO NOT** affect the transaction(s) contained in the instrument itself.

After recording, return to:
Shannon L. fish, Project Coordinator
Right-of-Way Associates, Inc.
10186 SW Laurel Street
Beaverton, OR 97005

Send Tax Statements to:
Same as on file.

The date of the instrument attached is 8-1-06.

1) NAMES(S) OF THE INSTRUMENT(S) required by ORS 205.234(a)
Temporary Construction Easement Agreement

2) PARTY(IES)/GRANTOR, required by ORS 205.125(1)(b) and ORS 205.160:

Bi-Mart Corporation

3) PARTY(IES)/GRANTEE, required by ORS 205.125(1)(b) and ORS 205.160

City of Klamath Falls

4) TRUE and ACTUAL CONSIDERATION (if any), ORS 93.030

\$ 7,592.00

5) FULL OR PARTIAL SATISFACTION ORDER or WARRANT FILED IN THE COUNTY CLERK'S
LIEN RECORDS, ORS 205.121(1)(c)

6) RE-RECORDED to correct: _____
Previously recorded as: _____

56-F

1st 534158 **TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

This Temporary Construction Easement Agreement is made and entered into on the 1st day of Aug., 2006 by and between **The Bi-Mart Corporation**, hereinafter "Grantor," and **The City of Klamath Falls, Oregon**, hereinafter "City."

RECITALS:

A. City is an Oregon municipal corporation and is currently in the process of making improvements to widen South 6th Street and Washburn Way. As part of this widening project, City is purchasing additional right-of-way from Grantor.

Construction of these improvements is expected to commence in early Spring of 2006 and is expected to continue until approximately December 31, 2006. These proposed improvements consist of the following: curbs, gutters, pavement and associated street improvements, hereinafter "the Improvements."

B. In order to facilitate construction of the Improvements, City needs to use a portion of certain real property owned by Grantor legally described as follows: See Exhibit "A" which is incorporated into this document by reference, hereinafter "Property." Grantor and City intend by this agreement to grant City a temporary construction easement.

GRANT OF EASEMENT:

In consideration of SEVEN THOUSAND FIVE HUNDRED NINETY TWO AND NO/100 DOLLARS (\$7,592) and the terms and conditions of this Easement, the sufficiency of which is hereby acknowledged, Grantor does hereby grant, bargain and convey to City a temporary, exclusive construction easement in, into, upon, over and across a strip of land 15 feet in width contiguous to the property frontage on South Sixth Street and of varying widths on Washburn Way as described in Exhibit B and shown on Exhibit C herein and which are incorporated into this document by reference.

The Easement Area lies within the Property owned by Grantor that is legally described above.

Additional terms of this Easement are as follows:

1. **Purposes of Easement.** This Easement is granted for the purpose of ingress and egress and for transporting and/or storing equipment, personnel, supplies and materials that may be necessary or expedient for the construction of the Improvements. Grantor agrees that any other use of the Easement Area

permitted by Grantor shall not interfere with City's use and enjoyment of this Easement.

2. **Indemnification by City.** City shall indemnify, defend and hold Grantor harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings asserted by third parties against Grantor and Grantor's heirs, successors and assigns (including attorney's fees, costs and expenses) that arise from or out of the City's use of the Easement Area during the term of this Easement.
3. **Term of Easement.** This Easement shall terminate on December 31, 2006 or upon completion of construction of the Improvements, whichever is later.
4. **Restoration of Property.** Within a reasonable time after completion of construction of the Improvements, the City promises and agrees to replace and restore as nearly as practicable the surface of the Easement Area to the same condition as existed prior to City's entry into the Easement Area pursuant to this Easement.

This Easement, and the rights and obligations granted and imposed herein, shall run with the Property, including any division or partition of the property. The rights, covenants and obligations of this easement shall bind burden and/or benefit all subsequent purchasers of the property, the City, and the heirs, successors and assigns of Grantor and City.

IN WITNESS WHEREOF, I/We have hereunto set our hands this 1st day of AUGUST, 2006.

GRANTOR:

The B Mart Company

By: [Signature]

Name: JOHN D. HARRIS

Title: PRESIDENT

Exhibit "A"

A tract of land being a portion of Tract 805 of Enterprise Tracts, situated in the Northeast quarter of Section 4, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron pin with aluminum cap being on the South line of said Tract 805, said iron pin being South 89°51'00" West 20.00 feet from the Southeast corner of said Tract 805, and on the Westerly right of way line of Washburn Way; thence North 00°03'30" East, along the Westerly right of way line of Washburn Way (North 00°03'30" East by M-73 on page 3750) 238.00 feet; thence North 55°46'50" West (North 55°50" West by M-73 on page 3750) 257.48 feet; thence North 34°13'10" East (North 34°09'30" East by M-73, page 3753) 25.00 feet; thence North 55°46'50" West (North 55°50'30" West by M-73, page 3753) 50.00 feet; thence North 34°13'10" East (North 34°09'30" East by M-73 on page 3753) 110.00 feet to the Southwesterly right of way line of South Sixth Street; thence North 55°46'50" West, along said South Sixth Street (North 55°50'30" West by M73, Page 3753 and North 55°50" West by M-73, page 3750) 50.00 feet; thence South 34°13'10" West (South 34°09'50" West by M-73 on page 3753 and South 34°10' West by M-73, Page 3750) 400.00 feet; thence South 55°46'50" East (South 55°50'30" East by M-73, page 3753 and South 55°50' East by M-73 on page 3750) 27.00 feet; thence South 00°34'05" East 205.84 feet (South, 205 feet, more or less, by M-73 on page 3750) to the South line of said tract 805; thence North 89°51'00" East, along said South line (North 89°47' East by M-73 on page 3750) 420.00 feet to the point of beginning.

Tax Parcel Number: 530991

Exhibit "B"

A strip of land 15 feet in width and contiguous to on the south to the following described property. Said strip contains 750 square feet more or less.

A parcel of land situated in the NE1/4 of Section 4, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being a portion of that property described in Deed Volume M88, Page 10487, Klamath County Deed Records, being more particularly described as follows:

Beginning at the intersection of the westerly line of said property with the existing southwesterly right-of-way line of South Sixth Street, as widened by the Oregon State Highway Department in 1946, said point being marked with a 5/8 inch rebar; thence, along said southwesterly right-of-way line, South 55°00'03" East, 50.00 feet to the easterly line of said property; thence, along said easterly line, South 34°59'57" West, 8.29 feet; thence leaving said easterly line, North 55°00'51" West, 41.33 feet; thence North 47°25'24" West, 8.74 feet to said westerly line; thence, along said westerly line, North 34°59'57" East, 7.15 feet to the point of beginning.

Containing 410 square feet.

Exhibit B

LEGAL DESCRIPTION OF: BI-MART CONSTRUCTION EASEMENT

TAX LOT 3909-04AA-05600

A parcel of land, being a portion of Tract 805 of Enterprise Tracts, situated in the NE1/4 of Section 4, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being a portion of that property described in Deed Volume M88, Page 10487, Klamath County Deed Records, being more particularly described as follows:

Beginning at a point on the south line of said Tract 805, said point being North 89°22'17" West 27.00 feet from the southeast corner of said Tract 805; thence continuing North 89°22'17" West 136.78 feet along said south line; thence North 00°51'14" East, 57.38 feet; thence South 88°48'07" East, 108.05 feet; thence North 00°37'17" East, 126.33 feet; thence North 21°41'28" West, 60.50 feet; thence North 55°11'29" West, 65.52 feet; thence North 35°44'46" East, 33.19 feet to a point on the south line of that property described as Parcel 2 in Deed Volume M04, Page 89337; thence South 55°00'03" East, 108.25 feet along said south line; thence South 02°28'38" West, 63.44 feet; thence South 00°51'14" West, 178.05 feet along a line parallel with and 57.00 feet westerly of the centerline of Washburn Way, to the point of beginning.

Containing 16.708 square feet, more or less.

Exhibit "C"

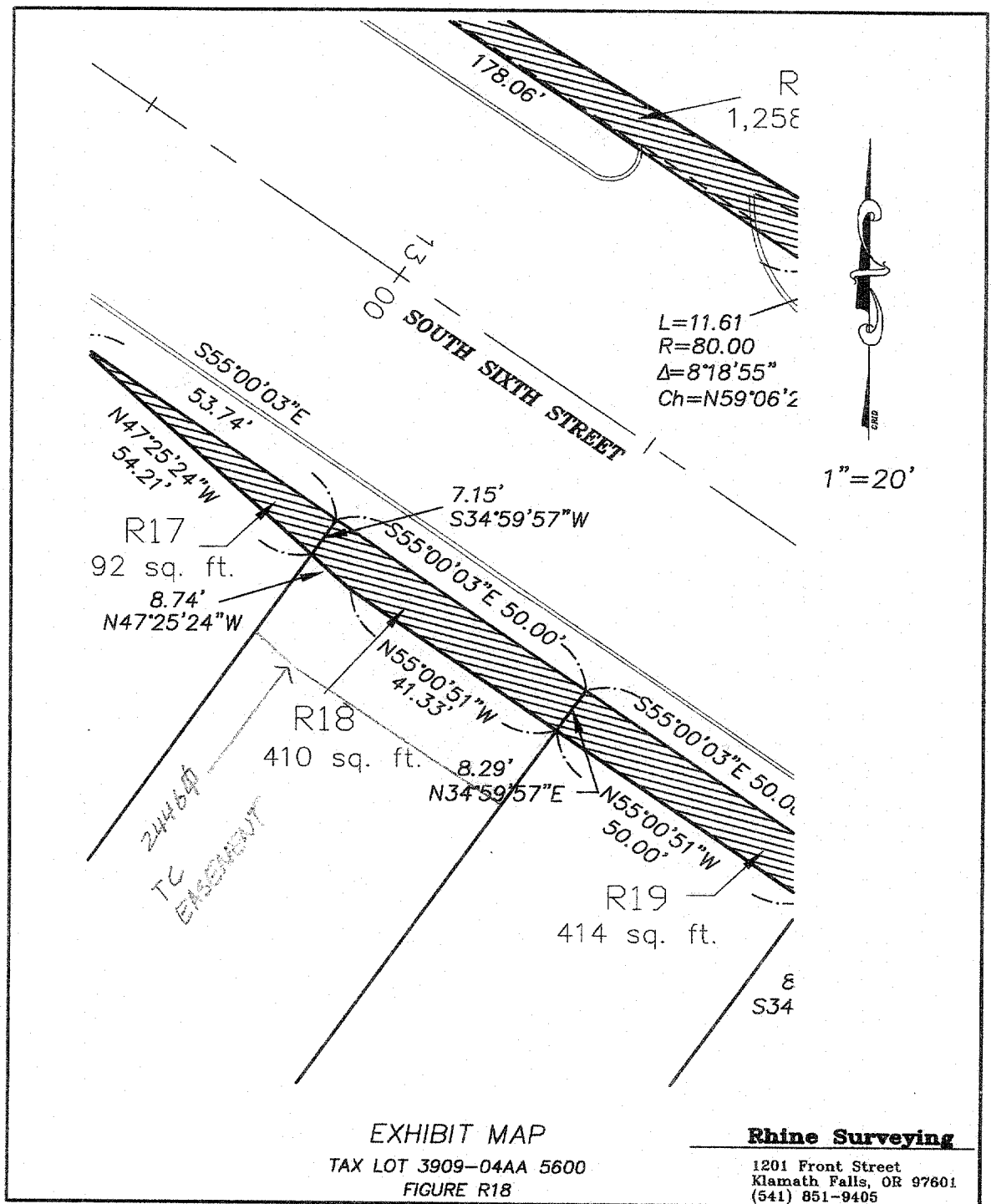


EXHIBIT MAP

TAX LOT 3909-04AA 5600
 FIGURE R18

Rhine Surveying

1201 Front Street
 Klamath Falls, OR 97601
 (541) 851-9405

Exhibit C

