

**RESOLUTION NO. 1523**

**A RESOLUTION ACCEPTING AN EASEMENT FROM THE PORT OF PORTLAND FOR A PORTION OF TAX LOT 500, SECTION 24C, TOWNSHIP 1 NORTH, RANGE 3 EAST, OF THE WILLAMETTE MERIDIAN, FOR THE WATER POLLUTION CONTROL FACILITY PIPELINE**

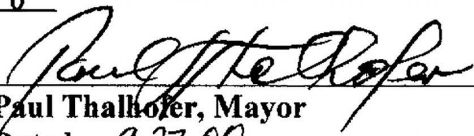
**THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**


1. The City is constructing a new water pollution control facility north of the existing sewage treatment plant just northeast of the Troutdale Airport.
2. There is a need for a new influent pipeline to convey raw sewage from the existing treatment plant area to the new treatment facility site. There is also a need for a new effluent pipeline to convey treated waste water from the new treatment facility to the outfall in the Sandy River.
3. The most efficient pipeline route crosses a portion of Tax Lot 500 belonging to the Port of Portland.
4. Following negotiations between the parties, the Port of Portland has agreed to grant an easement to the City under the terms and conditions expressed therein, including a consideration of \$3,050.30.
5. The City desires to accept the proposed easement.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

That the City of Troutdale accepts an easement, which is attached hereto and made a part hereof, from the Port of Portland for a portion of Tax Lot 500, Section 24C, Township 1 North, Range 3 East, of the Willamette Meridian, for the water pollution control facility pipeline.

YEAS: 6  
NAYS: 0  
ABSTAINED: 0

  
\_\_\_\_\_  
Paul Thalhofer, Mayor  
Dated: 9-27-00

  
\_\_\_\_\_  
Debbie Stickney, City Recorder

Adopted: 9-26-00

2001-014

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk

Total : 59.00

2001-007737 01/16/2001 03:23:01pm ATSM

A49	9	REC	SUR	DOR	OLIS
		45.00	3.00	10.00	1.00

RECORDING COVER SHEET

TRANSACTION(S): Sanitary Sewer Pipeline Easement

GRANTOR(S): Port of Portland

GRANTEE(S): City of Troutdale, Oregon

AFTER RECORDING  
RETURN TO:

Candice Chance *P/O 1-16-01*  
Legal Assistant  
Port of Portland  
Legal Department  
PO Box 3529  
Portland, Oregon 97208

COVER SHEET  
PREPARED AND  
SUBMITTED BY:

Candice Chance

[NOTE: This cover sheet is presented for recording purposes and is not intended to be a part of the attached documents. Any errors in this cover sheet shall not affect the terms and conditions contained in the recorded instrument(s)].

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## SANITARY SEWER PIPELINE EASEMENT

**GRANTOR:** THE PORT OF PORTLAND, a port district of the State of Oregon, whose address is P.O. Box 3529, Portland, Oregon 97208.

**GRANTEE:** THE CITY OF TROUTDALE, OREGON, a municipal corporation of the state of Oregon, whose address is 104 SE Kibling Avenue, Troutdale, Oregon 97060-2099.

For and in consideration of Three Thousand Fifty Dollars and 30/100 (\$3,050.30), the receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, for the uses and on the conditions set forth below, a perpetual non-exclusive easement upon, over, under and through a portion of Grantor's property more particularly described as PARCEL 1 on Exhibit A (the "Legal Description of Easement Area") and shown on Exhibit B ("Map of Easement Area").

### 1. GRANTEE'S USE

#### 1.1 General

Grantee shall have the right to use the Easement Area for the construction, installation, operation, maintenance, repair or replacement of a sanitary sewer pipeline, and for the ingress and egress necessary thereto, and for no other purposes without Grantor's prior written consent.

#### 1.2 Security

Grantee shall manage and, as appropriate, secure the Easement Area and its occupation or use so as to prevent any unauthorized access or waste disposal by any party on or relating to the Easement Area.

#### 1.3 Hazardous Substances

Grantee may use, handle or store on the Easement Area, for their intended purposes in accordance with manufacturers' instructions, only those hazardous substances reasonably and necessarily used in the course of Grantee's permitted uses of the Easement Area.

### 2. TERM

This Easement shall commence on November 1, 2000 and shall continue in perpetuity unless terminated by mutual agreement of the parties. In the event of an abandonment of this Easement by Grantee or upon termination, Grantee shall promptly execute and deliver to Grantor recordable documents sufficient to remove this Easement as an encumbrance against the property.

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AFTER RECORDING, RETURN TO:  
Engineering Department  
City of Troutdale  
104 SE Kibling Avenue  
Troutdale, Oregon 97060-2099

Tax statement shall be sent to:  
No Change

### **3. COMPLIANCE WITH LAWS**

Grantee shall conduct its activities under this Easement in compliance with all applicable state, federal, and local laws, regulations, agency guidance documents, Port rules and regulations, and terms of any permits applicable to the Easement Area or Grantor's property.

### **4. RESTORATION OF EASEMENT AREA**

#### **4.1 Disturbance**

In the event that the Easement Area or any landscaping or other improvement located within or adjacent to the Easement Area is disturbed by the exercise of any rights granted herein or any associated construction, Grantee shall promptly remove any debris and restore the Easement Area including any disturbed landscaping or other improvement to a condition not less than the condition prior to the exercise of such rights.

#### **4.2 Condition on Termination**

Upon termination, Grantee shall, at its option, restore the Easement Area to a condition not less than the condition of the Easement Area prior to the date of this Easement, or to a condition not less than that of Grantor's surrounding property. Restoration shall include the removal of all improvements constructed or used in the Easement Area by Grantee or, at Grantee's option, abandonment in place in a manner compatible with Grantor's current and intended future uses of the Easement Area.

#### **4.3 Hazardous Substance Releases**

In the event of any release of substances, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any environmental law, including fuels, petroleum and petroleum-derived products, on the Easement Area, on other properties, in the air or in adjacent or nearby waterways (including groundwater), which results from or occurs in connection with Grantee's occupancy or use of the Easement Area, Grantee shall be responsible for such release, shall promptly notify Grantor, and shall clean up and restore the Easement Area and other affected properties to the extent required by law and compatible with Grantor's current and intended future uses of the Easement Area and other affected properties.

### **5. CONSTRUCTION OF IMPROVEMENTS**

Prior to the commencement of any new construction or material reconstruction activities in the Easement Area, Grantee shall, except in the case of emergency: (a) obtain from Grantor a Construction Permit and Right of Entry; and (b) obtain from all governmental authorities having jurisdiction all necessary permits, consents, approvals, and other authorizations. Without limitation of the foregoing, Grantee shall be solely responsible for all regulatory compliance, obtaining all necessary permits, complying with any erosion and sediment control requirements, including preparation of an Erosion and Sediment Control Plan, if necessary, and performing all necessary mitigation in connection with the filling of any wetlands as a result of the construction activities contemplated by this Easement or any Construction Permit and Right of Entry issued by the Port pursuant to this Easement. Grantee acknowledges and agrees that, under current law in effect as of the date of this Easement, prior to the commencement of any new construction or material reconstruction activities in the Easement Area, Grantee is required to file with the U.S

Federal Aviation Administration ("FAA") an FAA Form 7460-1 Notice of Proposed Construction or Alteration, and obtain the FAA's approval of such construction activities in the Easement Area.

#### **6. INDEMNIFICATION**

To the extent allowed under Oregon law, Grantee agrees to indemnify, hold harmless and defend Grantor, its commissioners, directors, officers, and employees from and against and to reimburse Grantor for all claims, actions, damages, injuries, costs, loss, or expenses incidental to the investigation and defense thereof, arising out of the acts or omissions of, or use or occupancy of the Easement Area by Grantee, its agents, contractors, or employees. To the extent allowed under Oregon law, Grantor agrees to indemnify, hold harmless and defend Grantee, its commissioners, officers, and employees from and against and to reimburse Grantee for all claims, actions, damages, injuries, costs, loss, or expenses incidental to the investigation and defense thereof, arising out of the acts or omissions of, or use or occupancy of the Easement Area by Grantor, its agents, contractors, or employees.

#### **7. GRANTOR'S USE**

Grantor reserves the right to use the Easement Area for any lawful purpose not inconsistent with Grantee's permitted use, including the installation, maintenance, repair, removal, or replacement of underground utilities and services, paths, roadways or driveways, parking lots, shallow-rooted landscaping, and continued operation and development of Grantor's property. In the event that Grantor needs all or a portion of the Easement Area for other purposes, Grantor reserves the right to relocate, after consultation with Grantee and at Grantor's expense, the Easement Area and any utilities or facilities located in the Easement Area.

#### **8. CONDITION; REPAIRS AND MAINTENANCE**

Grantor makes no warranty, guarantee, or representation concerning the physical condition of the Easement Area nor its suitability for any of Grantee's intended purposes. Grantee will maintain, repair and replace the improvements owned or used by Grantee in the Easement Area to keep them in good condition and repair at all times.

#### **9. AGREEMENTS WITH UNITED STATES; AIRPORT SECURITY**

This Easement shall be subject to the provisions of any existing or future agreement between Grantor and the United States relative to the operation or maintenance of Portland-Troutdale Airport (the "Airport"), the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Grantee agrees to reimburse Grantor for any fines or penalties levied against Grantor by the United States Government for security violations as a result of any actions on the part of Grantee, its employees, agents or contractors.

#### **10. MEDIATION**

If any dispute should arise between Grantor and Grantee concerning this Easement or the parties' obligations or activities under this Easement, the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by both parties, prior to commencement of

arbitration or litigation. If the parties fail to agree on a mediator, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court.

**11. BINDING**

This Easement shall be and hereby is made a part of each conveyance of all or any part of the Easement Area and shall run with the land as to all property burdened by this Easement. As used in this Easement, the terms "Grantee" and "Grantor" shall include the above named Grantee and Grantor, and such parties' successors and assigns.

**12. NOTICES**

All notices required under this Easement shall be sent certified mail, return receipt requested, to the addresses set forth below unless changed by the parties by notice in writing:

The City of Troutdale  
104 SE Kibling Avenue  
Troutdale, Oregon 97060-2099  
Attn: James Galloway

The Port of Portland  
7000 N.E. Airport Way, 3<sup>rd</sup> Floor  
Portland, Oregon 97218  
Attn: General Aviation Manager

with a copy to Legal Department:

The Port of Portland  
Attn: Legal Department  
121 N.W. Everett Street  
Portland, Oregon 97209

13. AMENDMENT

This Easement may not be amended except by written agreement of all parties. No amendment shall be effective until duly recorded in the records of Multnomah County, Oregon.

This grant is made and accepted as of the 13<sup>th</sup> day of October, 2000.

GRANTOR

GRANTEE

THE PORT OF PORTLAND

THE CITY OF TROUTDALE

By: [Signature]  
Executive Director

By: [Signature]  
Title: MAYOR

APPROVED FOR LEGAL SUFFICIENCY  
FOR THE PORT OF PORTLAND

[Signature]  
Counsel for the Port of Portland

Accepted and approved by the City Council of the City of Troutdale, Oregon on the 26<sup>th</sup> day of September, 2000.

Signed by the Mayor of the City of Troutdale, Oregon on the 27<sup>th</sup> day of September, 2000.

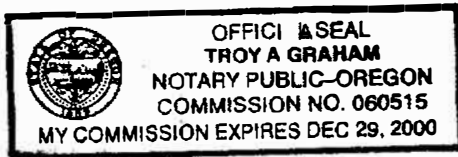
[Signature]  
Paul Thalhofer, Mayor

Attest: [Signature]  
City Recorder

ACKNOWLEDGMENTS FOR  
EASEMENT BETWEEN THE PORT OF PORTLAND AND  
THE CITY OF TROUTDALE

STATE OF OREGON)  
County of Multnomah)

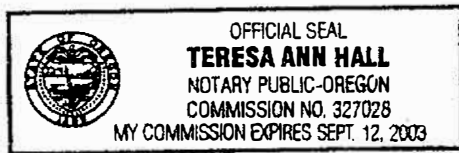
This Easement was acknowledged before me on October 13, 2000, by \_\_\_\_\_  
Mike Thorne  
as Executive Director of The Port of Portland.



[Signature]  
Notary Public for Oregon  
My Commission Expires: December 29, 2000

STATE OF OREGON)  
County of Multnomah)

This Easement was acknowledged before me on September 27<sup>th</sup>, 2000, by \_\_\_\_\_  
Paul Thalhofer  
as MAYOR of the City of Troutdale.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 9/27/00

## EXHIBIT A

### Legal Description of Easement Area

#### PARCEL I (PERMANENT EASEMENT)

A parcel of land lying in the southwest one-quarter of Section 24, Township 1 North, Range 3 East of the Willamette Meridian, City of Troutdale, Multnomah County, Oregon, being a portion of that property described in a deed recorded in 1942, in Book 691, Page 106, Records of Multnomah County, lying southeasterly of N.W. Graham Road and northeasterly of Harlow Road; said parcel being that portion included in a strip of land 20.00-feet-wide, lying parallel with and 10.00 feet on each side of the following described centerline:

BEGINNING a point in N.W. Graham Road, from whence the southwest corner of said Section 24 bears, South 72°02'46" West, 1180.55 feet;

thence, along said centerline, the following four (4) courses:

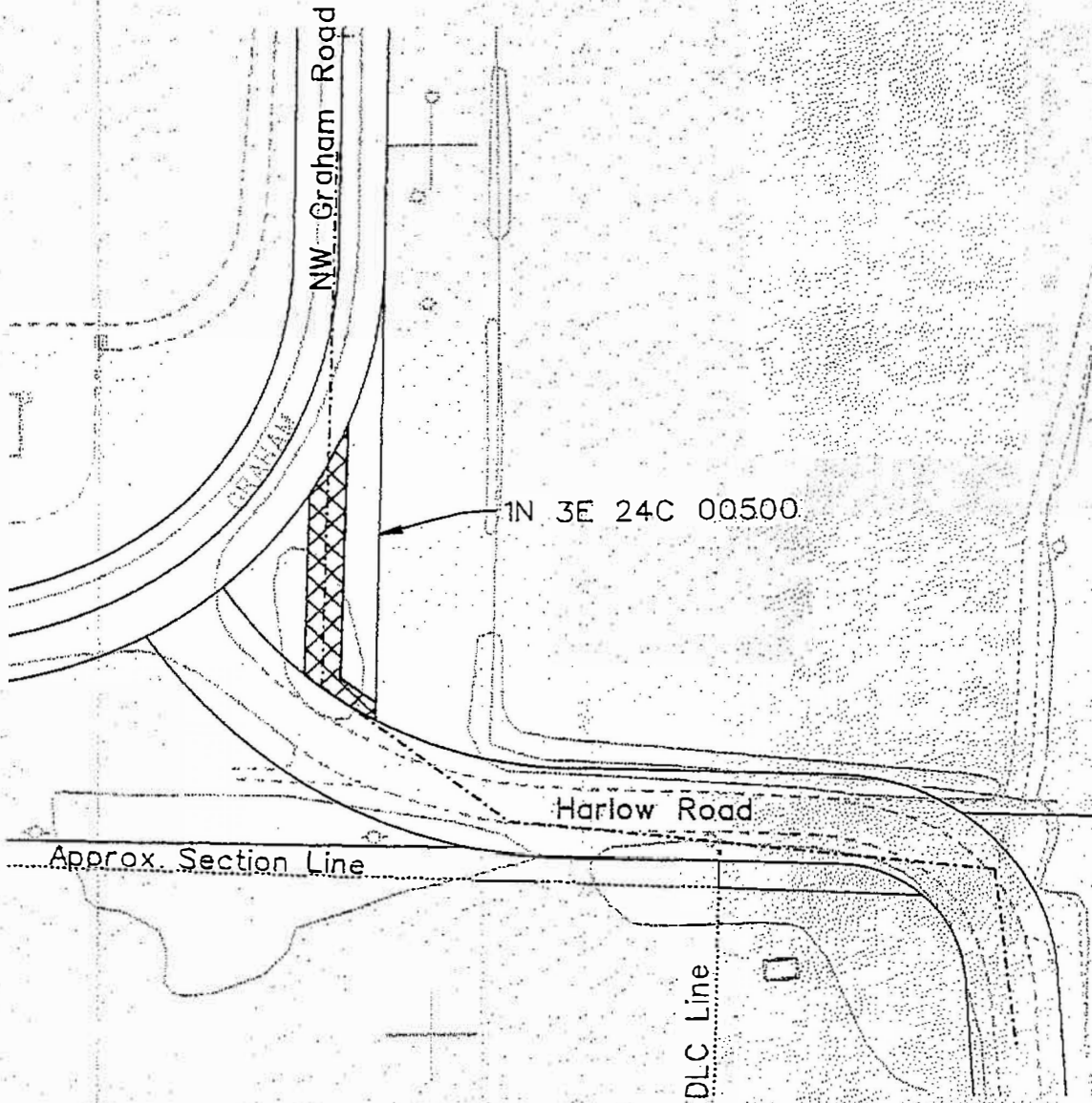
- 1) South 01° 42' 06" West, 300.00 feet;
- 2) South 53° 19' 22" East, 128.00 feet;
- 3) South 84° 04' 01" East, 262.34 feet;
- 4) South 06° 27' 20" East, 100.00 feet to the point of termination of this centerline, from whence the N.E. Corner of the D.F. Buxton D.L.C. No. 59 bears North 55° 22' 50" West, 192.30 feet, as said D.L.C. Corner is shown in B.T. Book F, Page 211.

Excepting therefrom all that portion of said strip lying within the right-of-way of NW Graham Road, and the right-of-way of Harlow Road.

The area of land to which the Parcel I description applies contains 2773 square feet (0.064 acres) more or less.

# EXHIBIT A

### MAP OF EASEMENT AREA



Easement Area = 2773 Sq. Ft.

# EXHIBIT B

Troutdale Water Pollution Control Facility  
Conveyance Pipeline Easement's  
City of Troutdale, OR

1" = 100'