

RESOLUTION NO.1977

A RESOLUTION ACCEPTING TWO TEMPORARY CONSTRUCTION EASEMENTS FOR THE SE HARLOW AVENUE RETAINING WALL RELOCATION PROJECT

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Erin Janssens is the owner of real property on which a City-constructed retaining wall currently encroaches. The City intends to relocate the retaining wall with the SE Harlow Avenue Retaining Wall Relocation project.
2. Patricia Diaz is the owner of real property that must also be accessed in order to relocate the retaining wall.
3. Ms. Janssens and Ms. Diaz have each agreed to dedicate a temporary construction easement and have each provided a signed easement document of a form and content that is in accordance with the requirements of the City.

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

Section 1. The City of Troutdale accepts the temporary construction easements, included herewith as Attachments 1 and 2, for the construction of the SE Harlow Avenue Retaining Wall Relocation project.

Section 2. This resolution is effective upon adoption

YEAS: 7
NAYS: 0
ABSTAINED: 0


Paul Thalhofer, Mayor

December 10, 2008
Date

Debbie Stickney
Debbie Stickney, City Recorder

Adopted: December 9, 2008

Debbie Stickney

From: David Ross
Sent: Thursday, December 11, 2008 8:57 AM
To: Debbie Stickney
Subject: RE: Temp. Construction Easements

That's correct; because it's a stand-alone (it's not, for example, a permanent easement with a TCE that expires in 2 years or at project completion whichever first occurs) it's not worth clouding the owner's title, or the expense to the city, to record them.

-----Original Message-----

From: Debbie Stickney
Sent: Thursday, December 11, 2008 8:31 AM
To: David Ross
Subject: Temp. Construction Easements

David,

Olaf indicated that you didn't believe that these 2 Temporary Construction Easements for the construction of the SE Harlow Avenue Retaining Wall Relocation project needed to be recorded since the project will be completed by the end of the month. I just wanted to verify this with you.

Thank You,
Debbie Stickney, City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060
503-674-7237

12/11/2008

After recording, return to:
City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement ("AGREEMENT") is entered into by Erin Janssens ("GRANTOR"), and the City of Troutdale, an Oregon municipal corporation ("GRANTEE"), as of the date the GRANTOR signs the Certificate of Grantor.

RECITALS

- A. GRANTOR owns the property described in this Agreement under paragraph 9 (the "Easement Area").
- B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities, including its contracted agents and assigns.
- C. The purpose of this Agreement is to grant a temporary construction easement to GRANTEE for access and use of the Easement Area.

EASEMENT GRANTED

1. **Grant.** For no money, but for other good and valuable consideration that is acknowledged and received, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a temporary, nonexclusive easement for the Easement Area so that GRANTEE may reconstruct an existing retaining wall on the northern boundary of the Easement Area.
2. **Use and Access.** GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly reconstruct the retaining wall. Any loss, damage, or destruction caused by GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions shall be restored in kind by GRANTEE at no expense to GRANTOR.
3. **Term.** The term of this temporary easement shall expire upon completion of the work or on December 31, 2008, whichever occurs first.
4. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.
5. **Integration.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this temporary construction easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein.

6. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon. The parties agree to venue in Multnomah County, state of Oregon.
7. **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.
8. **Easement Area.**

Tax Lot 1N3E25CA 4600, legally described as Lots 1 & 3, Block 11, of "Troutdale 1st Addition".

CERTIFICATE OF GRANTOR

I, Erin Janssens, owner of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

Dated this _____ day of ~~November~~, 2008.

1st

December, 2008

Erin A. Janssens

Erin Janssens

43000 SE Trout Creek Rd.
Corbett, OR 97019

STATE OF OREGON

)

) ss.

COUNTY OF MULTNOMAH

)

Personally appeared the above named Erin Janssens and acknowledged the foregoing instrument to be her voluntary act and deed.

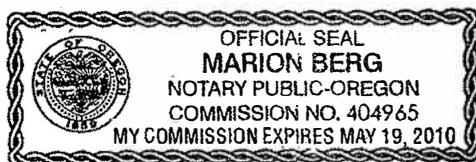
BEFORE ME

Marion Berg

Notary Public for Oregon

Commission Expires: 5-19-2010

(seal)



CERTIFICATE OF GRANTEE

Accepted by the City of Troutdale, via Resolution No. 1977, on the 9th day of December, 2008.

Debbie Stickney
Debbie Stickney, City Recorder

(seal)

APPROVED AS TO FORM

By: [Signature]
City Attorney

After recording, return to:
City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement ("AGREEMENT") is entered into by Patricia Diaz ("GRANTOR"), and the CITY OF TROUTDALE, an Oregon municipal corporation ("GRANTEE"), as of the date the GRANTOR signs the Certificate of Grantor.

RECITALS

- A. GRANTOR owns the property described in this Agreement under paragraph 9 (the "Easement Area").
- B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities, including its contracted agents and assigns.
- C. The purpose of this Agreement is to grant a temporary construction easement to GRANTEE for access and use of the Easement Area.

EASEMENT GRANTED

1. **Grant.** For no money, but for other good and valuable consideration that is acknowledged and received, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a temporary, nonexclusive easement for the Easement Area so that GRANTEE may reconstruct an existing retaining wall on the northern boundary of the Easement Area.
2. **Use and Access.** GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly reconstruct the retaining wall. Any loss, damage, or destruction caused by GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions shall be restored in kind by GRANTEE at no expense to GRANTOR.
3. **Term.** The term of this temporary easement shall expire upon completion of the work or on December 31, 2008, whichever occurs first.
4. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.
5. **Integration.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this temporary construction easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein.

6. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon. The parties agree to venue in Multnomah County, state of Oregon.
7. **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.
8. **Easement Area.**

Tax Lot 1N3E25CA 4800, legally described as the western 90' of Lots 5&7, Block 11, of "Troutdale 1st Addition".

CERTIFICATE OF GRANTOR

I, Patricia Diaz, owner of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

Dated this 26TH day of November, 2008.

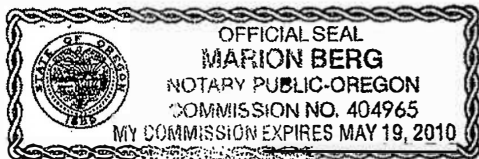
Patricia M. Diaz
Patricia Diaz

346 SE Harlow St.
Troutdale, OR 97060

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

Personally appeared the above named Patricia Diaz and acknowledged the foregoing instrument to be her voluntary act and deed.

BEFORE ME Marion Berg
Notary Public for Oregon
Commission Expires: 5-19-2010



(seal)

CERTIFICATE OF GRANTEE

Accepted by the City of Troutdale, via Resolution No. 1977, on the 9th day of December, 2008.

Debbie Stickney
Debbie Stickney, City Recorder

(seal)

APPROVED AS TO FORM

By: _____
City Attorney