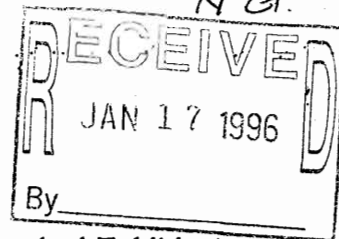


169747

N.G.



COLUMBIA SOUTH SHORE SLOUGH TRAIL EASEMENT

"Grantor" is the owner in fee simple of the real property described in the attached Exhibit A ("Property") in the City of Portland, Multnomah County, Oregon.

THE CITY OF PORTLAND ("City") is a municipal corporation.

1. Easement. The Grantor hereby grants to the City for the benefit of the public a perpetual, nonexclusive, affirmative easement to use a strip of land 25' wide across the Property for a Slough Trail ("Easement Area"). The location of the Easement Area is the Northerly most 25' of the 50' E-zone adjacent to the Columbia Slough.
2. Purpose. The purpose of this easement is provide public access to and along the Columbia South Shore Slough by creating a public path over and across the Property.
3. Scope of Public Use. The public shall have the right to use the Easement Area for public access to the Columbia South Shore Slough and related natural resources. To this end, the public shall have the right to use the Easement Area in the same manner as a public park.
 - 3.1 The public's right of use as set forth above, including the types and hours of use described therein, constitute the minimum rights granted to the public under this agreement. The City, at its option, may expand these rights, provided that the City shall bear the increased costs for policing the area and for noise, trash, and people control resulting from such expanded uses, and provided further that such expanded uses do not unreasonably interfere with the Grantor's use and enjoyment of the remainder of the Property. Nothing herein, however, authorizes the City to expand the Easement Area.
 - 3.2 In accordance with Section 33.630.300-320 of the City Code of Portland, the Easement Area will be open to the public for park use as provided in Chapter 20.12 of the City of Portland Code, except that public use and access shall be limited to the daylight hours.
 - 3.3 Daylight hours shall be 5 a.m. to 10 p.m. during the period May through October, and 6 a.m. to 7 p.m. for the months of November through April.
 - 3.4 Grantor shall have the right to restrict access to the Easement Area during hours when the public does not have rights of use.
4. Scope of Grantor's Use. The Grantor shall have the right to use the Easement Area for all purposes consistent with the exercise by the public of the rights granted herein. No commercial activities shall be conducted in the Easement Area by any party.

5. Maintenance and Repair.

- 5.1 The Grantor, its successors and assigns, shall be responsible for maintenance and repair of the Easement Area except as provided for in Section 33.272.070 of the City Code. The Grantor shall maintain the Easement Area at a level equal to the Slough Trail segments maintained by the City.
- 5.2 The Grantor, its successors or assignees, shall be responsible for patrolling the Easement Area to ensure ongoing maintenance unless the City has agreed to assume responsibility for maintenance as provided for in Section 33.272.070 of the City Code. In connection with such patrolling action, the Grantor agrees to hold the City, and its officers, agents, and employees harmless from all claims, suits or actions of whatsoever nature, caused by or arising out of the acts or omissions of the Grantor's subcontractors, agents, or employees who patrol the Easement Area.

6. Alterations and Enhancements.

- 6.1 The Grantor or the City shall be permitted to construct any minor structure intended for public use and enhancement of the Slough Trail, such as shelters, benches, water fountains, and Slough Trail signage, which is coordinated with the landscaping and approved by the City's Bureau of Parks and Recreation and Bureau of Planning through the environmental review process.
- 6.2 Except as permitted by Section 6.1, Grantor shall not construct any improvement in the Easement Area without first obtaining the approval of the Bureau of Parks and Recreation and the Bureau of Buildings.

7. Hazardous Substances.

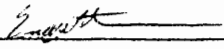
- 7.1 Grantor represents that to the best of its knowledge the subject property is in compliance with all local, State and Federal environmental laws and regulations.
- 7.2 Grantor represents that it has disclosed all results of any report, investigations, survey, or environmental assessment regarding the subject property. The City makes no representations or warranties concerning such reports, investigations or assessments, or any information contained therein.
- 7.3 Grantor warrants that there are no underground storage tanks, as defined at ORS 466.705 (19), presently on or under the subject property.
- 7.4 It is understood and agreed that the Grantor, its successors, and assigns, retains financial responsibility for complying with existing and future regulatory actions concerning environmental conditions of the subject property, including Oregon Department of Environmental Quality and United States Environmental Protection Agency orders and consent agreements. This provision shall not apply to a release of hazardous substances onto or from the property caused by the officers, agents or employees of the City.

- 7.5 It is understood and agreed that the City, by accepting this dedication, is not accepting any liability for any release of hazardous substances onto or from the subject property, and that the Grantor is not attempting to convey any such liability.
- 7.6 The Grantor agrees to defend, indemnify and hold harmless the City, its officers, agents, and employees against all liabilities, damages, losses, claims, demands, actions, and suits (including attorney fees and costs) resulting from the presence of, or suspected presence of, hazardous substances in containers or in the soil, groundwater, or soil vapor or any other medium, on or from the property. This provision shall not apply to a release of hazardous substances onto or from the property caused by the officers, agents or employees of the City.
8. Effective Date. The rights of the public under this agreement shall become effective on the date hereof.
9. Successor Interests. This easement is appurtenant to the Property. However, in the event of any partition, subdivision or sale of any portion of the Property, this easement shall remain appurtenant to the parcel(s) across which the easement lies. Owners of the other parcels into which the Property may be divided shall have no right to use the Easement Area beyond their rights as members of the general public or as may be negotiated with the City for landscaping and utility services.
10. Duration. This easement shall remain in effect perpetually. However, it shall terminate automatically in the event that the City Council by ordinance declares that the easement no longer is needed for public use or access to the Columbia South Shore Slough, in which case the City shall execute a recordable document evidencing such termination.
11. Encumbrances. This easement is granted subject to all prior easements or encumbrances of record.
12. Consideration. The consideration for this agreement shall consist of the mutual covenants and agreements of the parties contained herein, and the execution of this agreement as a condition of the City's approval of the Grantor's development of the Property.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed the day and year first written above.

TimBerLand Development Co.

By:

 Jan 16, 1996
 Timothy S. Leatherman

By:


 Steven B. Berliner

THE CITY OF PORTLAND

By: _____
Commissioner of Public Affairs

By: _____
Auditor

APPROVED AS TO LEGAL SUFFICIENCY

By: _____
City Attorney

STATE OF OREGON)
)
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____,
1992, by _____ of _____

Notary Public for Oregon
My Commission Expires:

STATE OF OREGON)
)
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____,
1992, by _____, Commissioner of Public Affairs, and
_____, Auditor for the City of Portland, on its
behalf.

Notary Public for Oregon
My Commission Expires:

MEGA PACIFIC

3377 S.E. 21ST AVENUE
P.O. BOX 82186
PORTLAND, OREGON 97282-0186
(503) 238-3772
FAX 238-1858

169747

EXHIBIT "A"

to the

COLUMBIA SOUTH SHORE TRAIL EASEMENT

by

TimBerLand Development Co.

LEGAL DESCRIPTION:

Lot 2, and Lot 3

Leatherman

Subdivision of Sivers Industrial Park

City of Portland, Oregon

STREET ADDRESS:

LEATHERMAN TOOL GROUP, INC.
12106 NE Ainsworth Circle
Portland, Oregon 97220

December 28, 1995

MEGA PACIFIC

3377 S.E. 21ST AVENUE
P.O. BOX 82186
PORTLAND, OREGON 97282-0186
(503) 238-3772
FAX 238-1858

169747

EXHIBIT "B"

to the

COLUMBIA SOUTH SHORE TRAIL EASEMENT

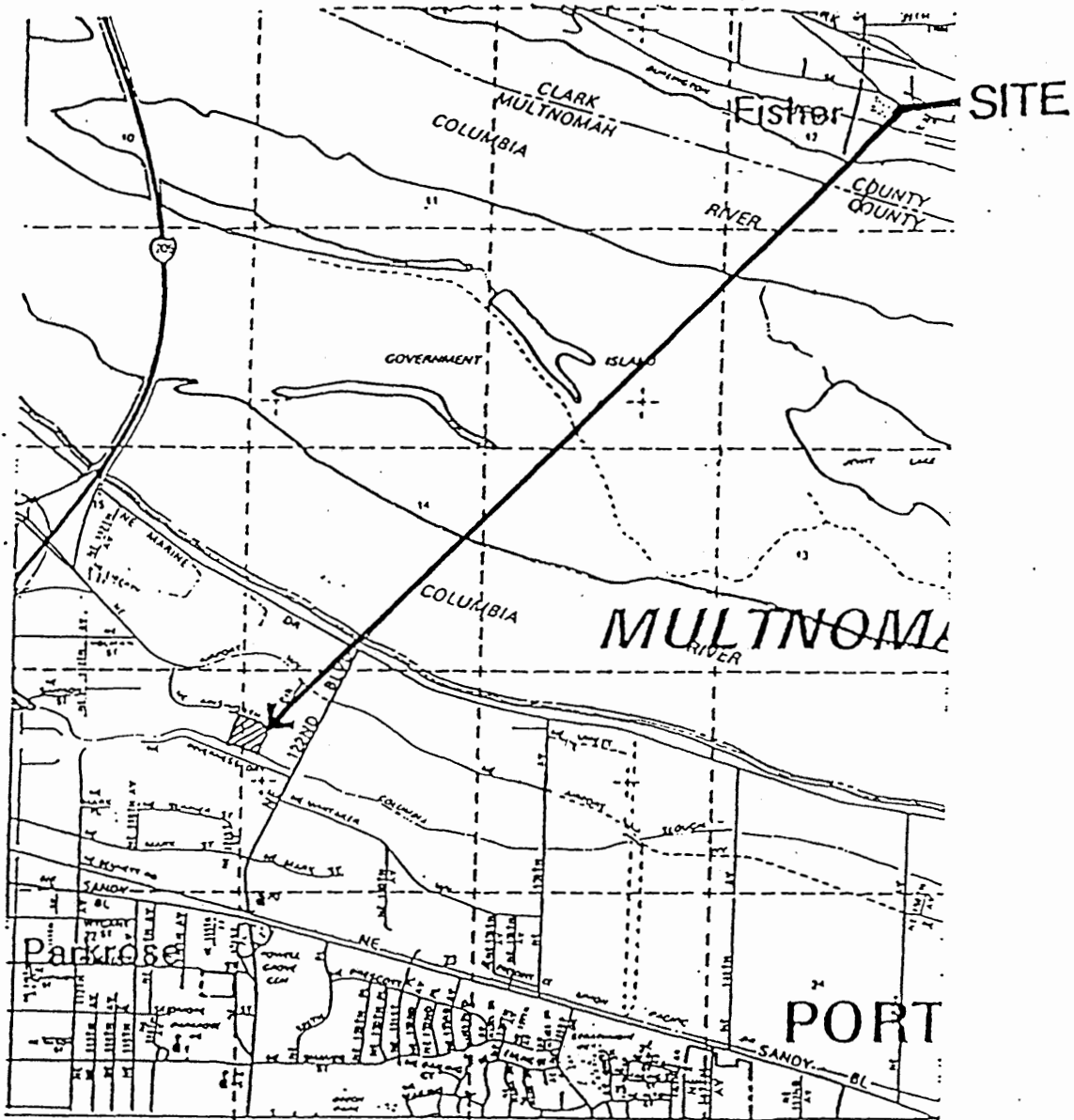
by

TimBerLand Development Co.

B-1 Vicinity Map

B-2 Site Plan with easement location designated

December 28, 1995



VICINITY MAP

NO SCALE

LEATHERMAN TOOL GROUP, INC.
FACILITY

PART OF EXHIBIT "B"
TRAIL EASEMENT

DATE:	SHEET
DRAFTER: ANT.	- 1 -
CHECKER:	
REVISIONS:	
JOB 718	



North

169747

TENTATIVE PLAN MINOR LAND DIVISION
 OF BLOCK 6 AND A PORTION OF BLOCK 7, OF
 THE SUBDIVISION OF SIVERS INDUSTRIAL PARK
 LOCATED IN THE SW 1/4 OF SECTION 14 AND THE SE 1/4
 SECTION 15, T.1N., R.2E., W.M., MULTNOMAH COUNTY, OREGON

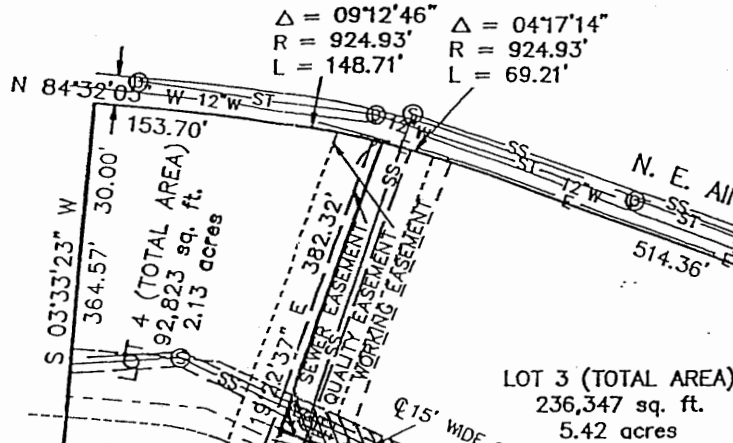
AREA ENTIRE PARCEL

696,771 Sq.Ft
15.996 acres

OWNER:
 STEVE BERLINER
 TIM LEATHERMAN
 TimberLand DEVELOPMENT CO.
 12106 NE Ainsworth Circle
 Portland, OR 97220

DESIGNER:
 MEGA PACIFIC
 3377 SE 21ST AVE
 PORTLAND, OR 97202
 PHONE 238-3772

$\Delta = 23^{\circ}04'01''$
 $R = 316.48'$ $\Delta = 09^{\circ}31'40''$
 $L = 127.41'$ $R = 316.48'$
 $L = 52.63'$



$\Delta = 14^{\circ}36'17''$
 $R = 781.20'$
 $L = 199.13'$

$\Delta = 05^{\circ}09'13''$
 $R = 781.20'$
 $L = 70.27'$

RETURN EASEMENTS OF ORDINANCES 106323 A 16724 FOR 25' CLOSEST TO SLOUGH

INDICATES TRAIL EASEMENT LOCATION ON LOTS 2 & 3 (NORTH 25' OF 50' E-ZONE)

- LEGEND**
- EDGE OF SLOUGH
 - ⊙ STORM DRAIN MANHOLE
 - ⊙ SANITARY SEWER MANHOLE
 - ST— STORM SEWER LINE
 - SS— SANITARY SEWER LINE
 - WATER QUALITY EASEMENT
 - SANITARY SEWER EASEMENT
 - WORKING EASEMENT
 - NORTHERLY LIMIT OF "E ZONE"
 - TOP OF BANK
 - 12"W— WATER LINE
 - P— POWER LINE
 - E— UNDERGROUND ELECTRICAL

SCALE 1"=150'
 NOV 25, 1991

REGISTERED
**PROFESSIONAL
 LAND SURVEYOR**

B. A. Sutton
 OREGON
 JULY 13, 1979
BERNARD A. SUTTON
 #1848

SURVEYOR:
 B. A. SUTTON SURVEY CO.
 15215 SE HAWTHORNE CT.
 PORTLAND, OREGON 97233
 PHONE: 254-8779

LOT 1 (TOTAL AREA)
 219,169 sq. ft.
 5.03 acres

TRAIL EASEMENT LOCATION - PART OF EXHIBIT B

DATE:
 12-1-95

SHEET
B-2
 JOB 641

ORDINANCE 169747

* Authorize acceptance of a 25 foot recreational trail easement on the Columbia South Shore Slough (Ordinance)

The City of Portland ordains:

Section 1. Council finds:

1. That there is a need for a recreational trail running along the northernmost 25' of the 50' E-zone through Lot 2, Block 6 and 7, and Lot 3, Block 6, Leatherman Subdivision of Sivers Industrial Park on the Columbia South Shore Slough area.
2. That Recreational Trail Easements on this property were given by ordinance prior to the adoption of the Columbia Slough South Shore Trail Master Plan. These easements were in the 25' closest to the Slough. The Columbia Slough South Shore Trail Master Plan stipulates that trail easements be located in the 25' farthest from the Slough in order to better protect the resource. The return of the original easements and the acceptance of the new easement will accomplish this.
3. That the 25' Recreational Trail Easement along the southernmost 25' of the 50' E-zone through Lot 2, Block 6 and 7, and Lot 3, Block 6, Leatherman Subdivision of Sivers Industrial Park on the Columbia South Shore Slough area was given by Ordinances 166323 and 167241.
4. Mega Pacific, the Owner of said Lots 2 and 3, has executed and delivered to the City an easement which allows for the future construction, operation, and use as a recreational trail, in the northernmost 25' of the E-zone, over a portion of said Lots 2 and 3, at a cost to the City of one (\$1) dollar.
5. That the northernmost Recreational Trail Easements should now be accepted by the City and that the previously recorded easements for the southernmost Recreational Trail Easements should now be returned to Mega Pacific.

NOW, THEREFORE, the Council directs:

- a. The parcel of land shown on the attached Exhibit is hereby accepted for recreational trail purposes.
- b. The parcel of land shown on the attached Exhibit is hereby returned to Mega Pacific.
- c. The Auditor shall record in the appropriate deed records, documents of title as

necessary for acquisition of these easements, and return one copy of each document to Portland Parks and Recreation.

Section 2. Council declares that an emergency exists because a delay in acceptance of the Recreational Trail Easements might result in confusion as to the City's rights in the property; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council, **JAN 31 1996**

BARBARA CLARK
Auditor of the City of Portland

By

Britta Olson

Deputy

Commissioner Hales
Nancy Gronowski
January 19, 1996

149

Agenda No.

ORDINANCE NO.

169747

Title

* Authorize acceptance of a 25 foot recreational trail easement on the Columbia South Shore Slough (Ordinance)

INTRODUCED BY	Filed: JAN 20 1996
Commissioner Hales	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	
Finance and Administration	By: <u>Cay Kenshmer</u> Deputy
Safety <i>Ch. Hales</i>	For Meeting of: _____
Utilities	
Works	ACTION TAKEN:
BUREAU APPROVAL	
Bureau: PARKS	
Prepared by Date January 19, 1996	
Nancy Gronowski	
Budget Impact Review:	
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not Required	
Bureau Head: Charles Jordan <i>Charles Jordan</i>	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
		YEAS	NAYS
Consent <input checked="" type="checkbox"/> Regular	Blumenauer	1	
NOTED BY	Hales		
City Attorney	Kafoury		
City Auditor	Lindberg		
City Engineer	Katz		