

P/W
After recording return to:
Portland Parks and Recreation
Attn: Property Manager
1120 SW 5th Ave., Ste 1302
Portland, OR 97204

Multnomah County Official Records
R. Weidon, Deputy Clerk

2011-068538



\$66.00

00845937201100685380070072

06/16/2011 10:49:36 AM

18-EASEMT

Cnt=1 Stn=11 RECCASH2

\$5.00 \$11.00 \$15.00 \$5.00

NON-EXCLUSIVE UTILITY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Portland, a municipal corporation of the State of Oregon, acting through its Bureau of Parks and Recreation, Grantor, in consideration of the sum of Eighty Nine Thousand Seven Hundred Seventy-Seven (\$89,777.00) and no/100 Dollars, and other good and valuable consideration to it paid by City of Gresham, a municipal corporation of the State of Oregon, Grantee, does hereby grant unto Grantee, subject to the terms recited herein, nonexclusive perpetual easement rights (the Easement) on and over a portion of the Northeast ¼ of Section 18 and the Northwest ¼ of Section 17, T1S R3E, W.M in the County of Multnomah, State of Oregon, said easement areas more particularly described and depicted in Exhibit A and B hereto.

TERMS, CONDITIONS and COVENANTS

1. The Easement is granted to Grantee and its successors in title, in accordance with authority provided by City Council Ordinance No. 184645 solely for the operation and authorized maintenance of wastewater facilities (the Facilities). All other rights are reserved to Grantor, its successors or assigns.
2. This Easement is subject to all prior existing rights or interests within the Easement area, including those held by the Portland General Electric Company, as of the date of this Easement. Grantor makes no representations or warranties, express or implied, as to suitability, title, access, or quiet enjoyment of the Easement area, or any portion thereof.
3. The Easement shall run with the Grantor's land in perpetuity unless terminated or relocated as provided for herein. In the event of an abandonment of this Easement by Grantee or upon termination, Grantee shall promptly execute and deliver to Grantor documents sufficient to record and remove this Easement as an encumbrance against the property.
4. Grantee hereby acknowledges the paramount use of Springwater Corridor is for the public's use and enjoyment and hereby agrees to conduct all activities approved under this easement in strict accordance with the administrative rules adopted by the City of Portland for the Springwater Corridor, as those rules may change over time.
5. All construction work was completed in strict accordance with the Bureau of Parks and Recreation (PPR) permit number 2008-08 (the Permit) and all other applicable provisions of law and regulation.
6. The Facilities shall be operated and maintained in accordance with all applicable federal, state, municipal and county laws, orders, rules, and regulations existing on the date of this Easement or enacted thereafter and Grantee shall assume all costs, expense, and responsibility in connection therewith. Grantee shall perform maintenance in a manner and at such frequency as necessary to keep

the Easement area in good order and safe condition, and to protect against damage to the Easement area and adjoining properties of Grantor. Grantee shall maintain all landscaping planted pursuant to the Permit, regardless of whether it is located in the Easement Area.

7. Grantee, its successors and assigns, may not terminate this Easement without Grantor's written approval. If this Easement is a condition of the approval of a division or development of Grantee's property which the Easement is appurtenant to, Grantor will require that such condition be modified to the full satisfaction of Grantor before permitting this Easement to be terminated.
8. In the event that Grantee should be found in breach of the Easement by Grantor, and said breach is not remedied by Grantee in accordance with the Easement, Grantor, after providing Grantee with reasonable notice in the case of an emergency, or thirty (30) days written notice in the case of a non-emergency, may make reasonable and necessary repairs to the Facilities, including repairs that are deemed necessary to portions of the Facilities on Grantee's adjacent property, and charge Grantee for the actual costs incurred. In the event that Grantor is required to enter Grantee's adjacent property to complete necessary repairs, this Easement will serve as Grantor's authority to do so, with no other approvals from Grantee being necessary, written or otherwise. Furthermore, in the event that Grantor is required to complete repairs to the Facilities, Grantee, its successors and assigns hereby indemnify, defend and hold harmless the Grantor, its officers, directors, agents and employees from any and all liability, damages, expenses, attorneys fees, causes of action, suits, claims or judgments, arising out of or connected with Grantors repairs to the Facilities.
9. Except in the case of emergency repairs, maintenance work will be completed in accordance with the written approval of Grantor, which will not be unreasonably withheld. Requests to complete maintenance work will be submitted to Grantor in writing not less than Thirty (30) calendar days prior to the planned maintenance. At a minimum, written requests will address timing, public use impacts, access routes and other matters relevant to the goal of minimizing impacts to Grantor's property and the public's use and enjoyment of the Springwater Corridor. Grantee, if requested, will reimburse Grantor for reasonable administrative costs incurred in association with the maintenance work, including time spent reviewing the request for permission to conduct maintenance and Grantor inspections of said work.
10. Unless otherwise agreed in writing, all areas affected by maintenance work will be restored to a condition that is as good or better than existed prior to the commencement of said maintenance work, with the restoration to be finished within seven (7) days of the maintenance work being completed. Should Grantee fail to complete the restoration work to the satisfaction of Grantor, Grantor, at its sole discretion, may complete said work on behalf of Grantee, in which case Grantee shall reimburse Grantor for said work within fifteen (15) days of receiving a written invoice from Grantor.
11. Grantee, its contractors and its subcontractors, if any, shall maintain, through self insurance or an insurance policy, public liability and property damage insurance that protects the Grantor and its officers, agents and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from work under this Easement. The insurance shall provide coverage for not less than \$500,000 for personal injury to each person, \$1,000,000 for each occurrence, and \$1,000,000 for each occurrence involving property damage; or a single limit policy of not less than \$2,000,000 covering all claims per occurrence. Required levels of insurance are subject to reasonable increases at the sole discretion of Grantor.

The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the Grantor and its officers, agents and employees. Notwithstanding the naming of

additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

The insurance shall provide that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the Property Manager, Portland Parks and Recreation. If the insurance is canceled or terminated prior to completion of the Easement, the Grantee or its contractors, if any, shall provide a new policy with the same coverage. The Grantee and its contractors shall maintain continuous, uninterrupted coverage for the duration of the Easement. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motorized vehicles by the Grantee and its contractors, if any.

12. Grantee shall indemnify, defend and hold harmless the Grantor, its officers, directors, agents and employees from any and all liability, damages, expenses, attorneys fees, causes of action, suits, claims or judgments, arising out of or connected with Grantee's use or occupancy of the easement. In addition to the indemnity provided above, Grantee agrees to indemnify, defend and hold harmless Grantor, its officers, directors, agents and employees from and against all damages, costs, liabilities, and expenses caused by, arising out of, or in connection with, the handling, storage, discharge, transportation or disposal of hazardous or toxic wastes or substances, pollutants, oils, materials or contaminants, as those terms are defined by federal, state or local law or regulation, as amended from time to time, by or on behalf of Grantee on or about the easement. Damages, costs, liabilities and expenses shall include any amounts claimed to be owed by any regulating and administering agency. Grantee shall not be required to indemnify, hold harmless or defend Grantor from any claim, damage, loss, liability, cost or expense arising solely out of Grantor's gross negligence or willful misconduct. The obligations of this paragraph are subject to the conditions and limitations of the Oregon Tort Claims Act and the Oregon Constitution.
13. Grantee acknowledges Grantor's obligation to maintain the Easement area in such a way as to accommodate construction and operation of a rail line in the future. In the event that this obligation requires relocation and/or reconstruction of the Facilities, said relocation and/or reconstruction will be completed at Grantee's sole expense and liability. Grantee shall not be required to construct any part of the rail line and shall not be responsible for signals or crossings for the line. Grantee and Grantor shall make a good faith effort to agree on the most economical design to permit relocation and/or reconstruction of the Facilities, but Grantor shall not be liable for any harm or costs to Grantee, including harm or cost incurred in the event that no reasonable alternative exists for relocating and/or reconstructing the Facilities on Grantor's property. In the event of no reasonable relocation alternative on Grantor's property, the Easement will terminate and the Facilities will be removed at Grantee's cost from Grantor's property in full compliance with Section 18 herein.
14. Grantee's privileges issued under this Easement shall not limit the Grantor's authority to grant additional rights, privileges or interests within the Easement area. Should the Grantor grant additional rights, privileges or interests within the Easement area to some other individual or entity, the Grantor will require any interference with Grantee's privileges to be minimized, and if damaged, will require that Grantee's Facilities be restored, at no expense to Grantee, to as good or better condition as they were in before any permitted construction occurred.

15. Grantee shall fully pay for all materials joined or affixed to and labor performed by Grantee upon the Easement area, and shall pay all taxes, if any, including but not limited to leasehold interest taxes, assessments, use and occupancy taxes, charges for public utilities, excesses and levies, levied on the Easement area that arise out of easement rights granted herein.
16. Grantee shall keep the Easement area free from any liens arising from any work performed, materials furnished, or obligations incurred by or at the request of Grantee.
17. Grantor shall not be deemed to have waived any breach of this Easement except by an express waiver in writing. Any express waiver by the Grantor of the breach of any condition, covenant, or agreement herein contained to be kept, observed and performed by the Grantee shall in no way impair the right of the Grantor to avail itself of any subsequent breach thereof not expressly identified, even though the other breach may be of the same nature as that waived .
18. Upon abandonment or termination of this Easement for cause, Grantee shall, at Grantee's sole expense, remove the Facilities from the Easement area and restore the Easement area to as good or better condition as they were in at the time of the construction of the Facilities and, if the Grantee fails to do so, Grantor may do such work of removal and restoration at the cost and expense of the Grantee. In the event of the removal by the Grantor of the property of the Grantee and of the restoration of the Easement area as herein provided, the Grantor shall in no manner be liable to the Grantee for any damage sustained by the Grantee for or on account thereof and such removal and restoration shall in no manner prejudice or impair any right of action for damages, or otherwise, that the Grantor may have against the Grantee. Grantor may, at its sole discretion, allow the Facilities to remain on the Easement area, in which event Grantee shall be deemed to have relinquished all right, title, and interest thereto and the Facilities shall be and become the property of Grantor.
19. Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, however, this consideration does not include damages resulting from any use or activity by the Grantee, its officers, agents and employees beyond or outside of those uses expressed herein, or damages arising from any negligence, and does not include damages, if any, to Grantor's remaining property, which may result from the acquisition or use of said property or property rights.
20. All notices under this Permit shall be in writing and shall be deemed validly given if sent by first class or certified mail, nationally recognized courier or facsimile transmission, and shall be effective upon receipt. Notices should be addressed as follows:

GRANTOR

Portland Parks and Recreation
1120 SW 5th Ave, Suite 1302
Portland, OR 97204
Attention: Property Manager

GRANTEE

City of Gresham
Department of Environmental Services
1333 NW Eastman Parkway
Gresham, OR 97030
Attention: Wastewater Services Manager

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto execute this easement.

CITY OF GRESHAM

By: [Signature]
Erik Kvarsten, City Manager

Date: 5.12.11

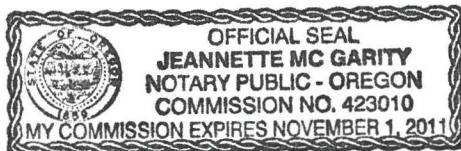
Approved as to Form

[Signature]
City Attorney's Office

STATE OF OREGON

County of Multnomah

This instrument was acknowledged before me on May 12 2011, by Erik Kvarsten,
City Manager of the City of Gresham



[Signature]
Notary Public for Oregon (state)
My Commission expires 11.1.11

CITY OF PORTLAND, PARKS AND RECREATION BUREAU

By: [Signature]
Nick Fish, Commissioner in Charge

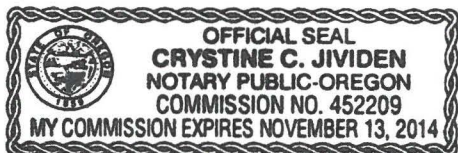
Date: 6/15/11

STATE OF OREGON

County of Multnomah

This instrument was acknowledged before me on June 15, 2011, by Nick Fish,
Commissioner in Charge, City of Portland Bureau of Parks and Recreation.

[Signature]
Notary Public for Oregon
My Commission expires 11/13/14



Approved as to Form

APPROVED AS TO FORM

[Signature]
City Attorney
CITY ATTORNEY

Ex. A

bluedot

group

Land Surveying and Mapping

11700 SW 67th Avenue • Portland, OR 97223 • t. 503.624.0108 • f. 503.624.9058Sanitary Sewer Easement
May 5, 2009

A strip of land in the NE 1/4 of Section 18, and the NW 1/4 of Section 17, Township 1 south, Range 3 East of the Willamette Meridian, in the City of Gresham, Multnomah County, Oregon, said tract being that portion of that land described in Deed recorded April 11, 1990 in Book 2291, Page 1761, Multnomah County Record of Deeds included in a strip 15 feet in width lying 7.5 feet on each side of the following described centerline:

Beginning at a sanitary sewer manhole in the right of way of SE Jenne Road which bears S01°28'31"E, 329.59 feet from a 4" diameter brass disk monument marking the NE corner of the Lemuel S. Jenne DLC No. 56; thence along the following fourteen (14) courses:

- 1) N76°39'51"E, 345.42 to a sanitary sewer manhole;
- 2) N76°31'24"E, 498.91 to a sanitary sewer manhole;
- 3) N76°47'39"E, 506.06 to a sanitary sewer manhole which bears N84°46'12"E, 168.08 feet from a 4" diameter brass disk monument marking the westerly NW corner of the Ernest Glese DLC No.71;
- 4) N76°28'15"E 193.54 to a sanitary sewer manhole;
- 5) N54°15'23"E, 46.18 to a sanitary sewer vault;
- 6) N76°52'48"E, 203.45 to a sanitary sewer vault;
- 7) S81°11'08"E, 45.62 to a sanitary sewer manhole;
- 8) N76°26'44"E, 313.61 to a sanitary sewer manhole;
- 9) N76°36'41"E, 499.38 to a sanitary sewer manhole;
- 10) N76°46'24"E, 142.33 to a sanitary sewer manhole;
- 11) N75°40'34"E, 508.87 to a sanitary sewer manhole;
- 12) N76°59'22"E, 549.07 to a sanitary sewer manhole;
- 13) N78°02'15"E, 349.22 to a sanitary sewer manhole;
- 14) N81°13'00"E, 450.66 to a sanitary sewer manhole in the right of way of SW Pleasant View Drive and the terminus of the herein described centerline.

Basis of Bearings is the Oregon Coordinate System of 1983, North Zone.

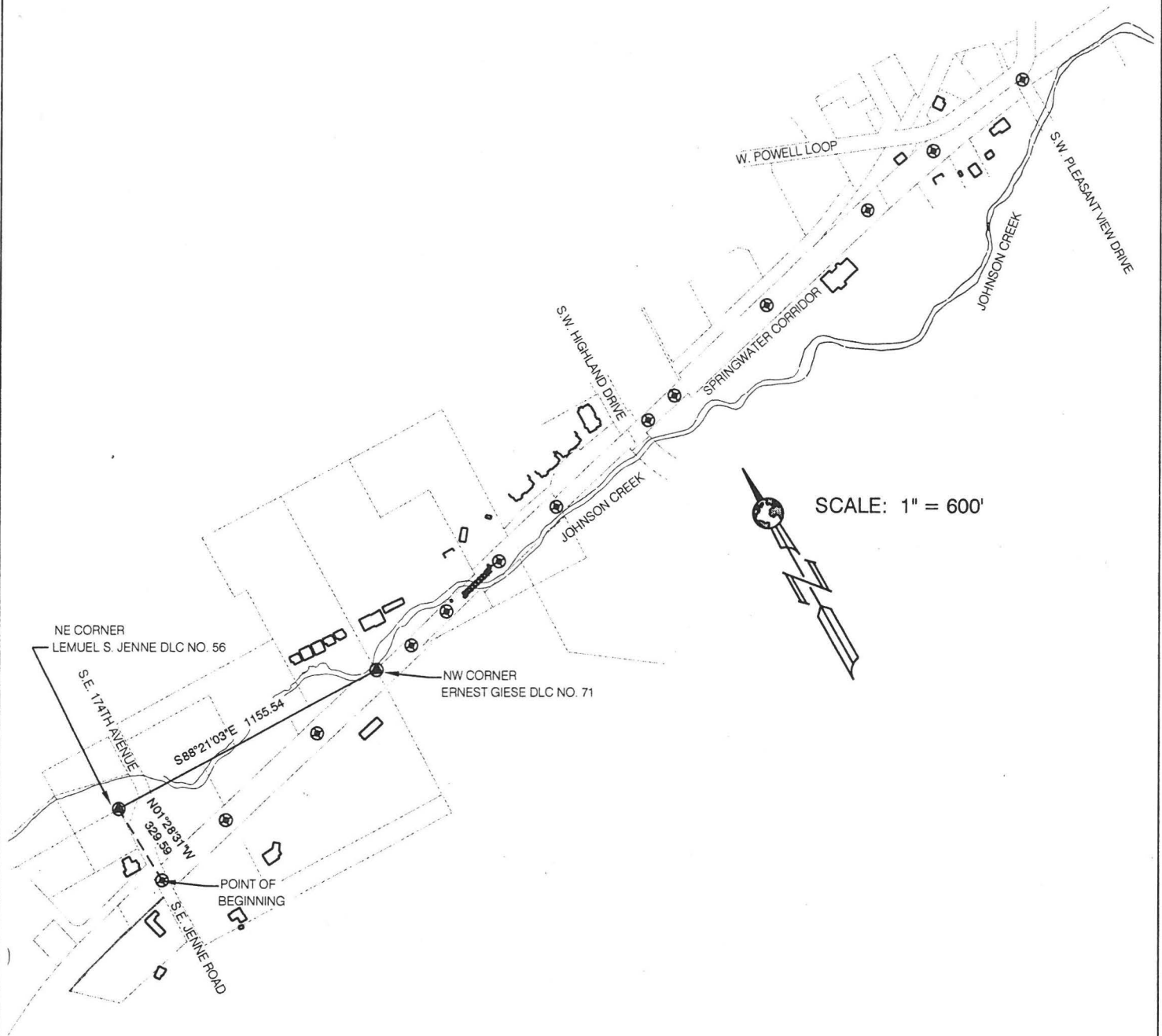
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Mark J. Mayer

OREGON
JULY 14, 1998
MARK J. MAYER
2887

Revised 12/31/10

Ex. B



bluedot
group

land surveying & mapping
11700 sw 67th ave
portland, or 97223
v. 503.624.0108
f. 503.624.9058

DATE MAY 5, 2009

JOB NO. 2009005

EXHIBIT MAP
SPRINGWATER CORRIDOR
SANITARY SEWER EASEMENT
GRESHAM, OREGON

NE 1/4 SECTION 18, NW 1/4 SECTION 17,
T1S, R3E, W.M.
MULTNOMAH COUNTY, OREGON