

After recording return to:

Portland Parks & Recreation  
1120 SW 5<sup>th</sup> Ave., Rm. 1302  
Portland, OR 97223

Multnomah County Official Records  
R Weldon, Deputy Clerk

**2017-020872**

02/15/2017 03:13:26 PM

1R-EASEMT Pgs=8 Stn=0 ABELLER  
\$6.00 \$40.00 \$11.00 \$20.00

**\$77.00**

## ACCESS EASEMENT

This Access Easement (this "Easement") is made and entered by and between Tami Monroe, owner of the property at 10607 NW 4<sup>th</sup> Place in Portland, Oregon ("Grantor") and the City of Portland, by and through its Bureau of Parks & Recreation, an Oregon municipal corporation ("Holder") located at 1120 SW 5<sup>th</sup> Ave. #1302, Portland, OR.

## RECITALS

A. Grantor is the owner of the real property commonly known as Tax Parcel 6200, Township 1 North, Range 1 West, Section 03 of the Willamette Meridian, in the City of Portland, County of Multnomah, State of Oregon, and legally described as Lot 6, Block 1, CLARK TERRACES (the "Property").

B. Holder is an Oregon municipal government whose purpose, among other things, is to build, operate, and maintain recreational trails, parks, and natural areas for the benefit of the public.

C. Holder has purchased or soon will purchase 12 acres of real property, described as R323835 (Park Property) that is across the street from Property and will be added to Forest Park. In order to access the Park Property, it is necessary to use a private road that crosses a portion of the Grantor's Property.

D. Grantor desires to grant to Holder, and Holder desires to accept from Grantor, an easement over the Property for the purpose of allowing Holder and the public to access the Park Property and Holder to maintain and improve the road that crosses the Property in accordance with the terms and conditions set forth below.

## AGREEMENT

1. Grant of Easement. Grantor hereby grants to Holder a nonexclusive, perpetual easement in gross, on, over, across, and along a portion of the Property (the "Easement

Area"). The Easement Area is more particularly described and depicted on Exhibit A attached hereto.

2. Consideration. In addition to the mutual benefits contained herein, Holder pays to Grantor the amount of One Thousand Dollars (1,000.00) as consideration for the granting of this Easement.

3. Purposes. The purposes of this Easement are to give Holder the right to (a) enter the Easement Area at any time to improve, maintain, and repair a road, which road shall be up to 12 feet in width (the "Road"), and (b) permit the Holder and the public to access and use the Road.

4. Maintenance.  
Holder will be responsible for maintaining the Road in a condition that is equal to its current condition. Holder will have no responsibility to keep Road clear of snow, ice, leaves, or other weather related hazards. Holder may, but is not required, to improve the road so that it is better than its current condition.

5. Permitted Easement Uses. Both Holder and the public shall have the right to use the Road to access the Park Property. This access includes, but is not limited to access for vehicles. This Easement does not grant the Holder or the public the right to park in the Easement Area.

Grantor shall retain the right to access, use, and enjoy the Easement Area for its purposes consistent with the rights granted herein. Grantor is prohibited, however, from engaging in any activity on, or use of, the Easement Area that (i) is inconsistent with the terms of this Easement, or (ii) materially interferes with or impairs the use of the Road by Holder or the public.

6. Enforcement. In addition to any other remedies available at law or in equity, Holder may compel Grantor to make the Easement Area available for the purposes set forth above in Section 3 by exercising any one or more of the following remedies:

(a) Holder may seek injunctive relief to specifically enforce the terms of this Easement, to restrain present or future violations of this Easement, or to compel restoration of the Road destroyed or altered as a result of Grantor's violation of this Easement; and

(b) Holder may enter the Property to remove any barrier obstructing Holder's ability to access the Easement Area, and may take other self-help measures or actions reasonably necessary to protect and preserve the rights of Holder under this Easement.

7. Hazardous Substances. Grantor represents and warrants to the best of its knowledge that it has disclosed to Holder the results of any and all Phase I Environmental Assessments, Phase II Environmental Investigations, surveys, sampling, and testing regarding the Property, and any information contained therein. It is understood and agreed that Holder, by accepting this grant of easement, is not accepting any liability for any release of Hazardous

Substances, as that term is defined in ORS Chapter 465, on, to, or from the Property, unless resulting directly from an intentional or negligent act of Holder or Holder's employees, or agents, and that Grantor is not attempting to convey, transfer, or assign any such liability herein.

8. Taxes. Grantor shall pay when due all real property taxes, assessments, and other charges against the Property, including the Easement Area. There shall be no right to contribution from Holder for such items.

9. Liability and Indemnity. The parties to this Easement acknowledge that, to the extent so provided in ORS 105.672 to ORS 105.696, both Grantor and Holder are immune from liability for injuries incurred on the property by members of the public who access the Easement Area under authority of this Easement. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30, and the Oregon Constitution, Holder shall indemnify, defend, and hold harmless Grantor against all losses and litigation expenses resulting from property damage and/or personal injuries that occur or are alleged to occur as a result of Holder's installation or maintenance of the Road, except to the extent caused by the negligent or wrongful acts or omissions of Grantor. Grantor agrees to indemnify, defend, and hold harmless Holder from any loss or litigation expense arising from, related to, or associated with (a) personal injury or property damage occurring prior to the Effective Date of this Easement, (b) activities or uses engaged in by Grantor, or Grantor's contractors, agents, employees, tenants, guests, invitees, or anyone else entering the Property by, through, or under the express or implied invitation of Grantor, or (c) structures, facilities, or improvements within the Easement Area, other than the Road installed by Holder. As used in this Section, the word "losses" means any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees, and penalties or other charge other than a litigation expense. As used in this Section, the term "litigation expenses" means any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this Agreement including in each case, attorneys' fees, other professionals' fees, and disbursements.

10. Notice and Addresses. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, return receipt requested, postage prepaid, to the address set forth below. Any party may change the address to which its notices are to be sent by duly giving notice pursuant to this Section.

To Grantor:                      Tami Monroe  
   10543 NW 4TH PL  
   Portland, OR 97231

To Holder: Portland Parks & Recreation  
1120 SW 5<sup>th</sup> Ave., #1302  
Portland, OR 97204  
Attn: Property Manager

With a copy to: Office of the City Attorney  
1221 SW 4<sup>th</sup> Ave.  
Portland, OR 97204  
Attn: Harry Auerbach

11. Title Warranty.

Grantor represents and warrants that Grantor owns the entire fee simple interest in the Property, and has the full power and lawful authority to grant this Easement. Any and all financial liens or financial encumbrances existing as of the date of the execution of this Easement have been subordinated. Grantor further represents and warrants that the Property is not subject to any other liens and encumbrances except as otherwise set forth herein.

12. Entire Agreement. This Easement is the final and complete agreement between the parties concerning the rights granted herein, and supersedes all prior understandings with respect to it. This Easement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by all parties to the Easement.

13. Further Cooperation. Each of the parties agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this Easement.

14. Covenants Running With the Land. The parties acknowledge and agree that the grant conferred by this Easement is intended to, and does, constitute an encumbrance that runs with the Property and inures to the benefit of and is binding upon the parties and their respective grantees, heirs, successors, and assigns. Without limiting the forgoing, Grantor acknowledges that Holder's rights under this Easement are assignable and that Grantor hereby consents to Holder's assignment of all of its right, title, and interest and its delegation of all of its obligations created under this Easement. Upon any such assignment, Holder shall be forever released and discharged from any and all claims, demands, and damages which Grantor may have, make, or suffer as a result of any thing done or occurring after the date of such assignment. Nothing contained in this Section, however, shall in any way be construed as releasing Holder's successors and assigns from any obligations to Grantor created by this Easement.

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first set forth above.

GRANTOR

CITY OF PORTLAND

By: Tami Monroe  
Name: Tami D. Monroe  
Title: \_\_\_\_\_

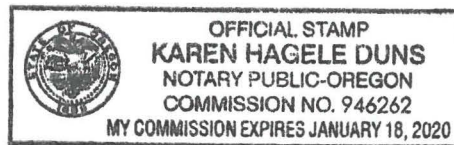
\_\_\_\_\_  
Director, Portland Parks & Recreation

State of OREGON

County of Multnomah

This instrument was acknowledged before me on February 14,, 2017, by  
TAMI MONROE, as the \_\_\_\_\_ of \_\_\_\_\_, an  
Oregon \_\_\_\_\_ LD

[Signature]  
\_\_\_\_\_  
Notary Public - State of Oregon



State of OREGON

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by  
\_\_\_\_\_ as the Director of Portland Parks & Recreation, City of  
Portland, an Oregon municipal corporation.

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first set forth above.

GRANTOR

CITY OF PORTLAND

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Mike Abbott  
Director, Portland Parks & Recreation

APPROVED AS TO FORM

State of OREGON

County of \_\_\_\_\_

[Signature] 2/9/17  
CITY ATTORNEY

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by \_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_, an Oregon \_\_\_\_\_.

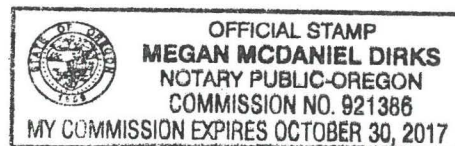
\_\_\_\_\_  
Notary Public - State of Oregon

State of OREGON

County of Multnomah

This instrument was acknowledged before me on February 14, 2017, by Mike Abbott as the Director of Portland Parks & Recreation, City of Portland, an Oregon municipal corporation.

Megan McDaniel Dirks  
Notary Public - State of Oregon





Civil Engineering  
Land Survey  
Land Use Planning  
Construction Management

EXHIBIT A  
SHEET 1 OF 2  
TAX LOT 6200  
TAX MAP 1N 1W 03DA

A tract of land being a ingress / egress easement over and across a portion of Lot 6 of Block 1, "Clark Terraces", Multnomah County Plat Records, situated in the Southeast  $\frac{1}{4}$  of Section 3, Township 1 North, Range 1 West, W.M., City of Portland, Multnomah County, Oregon, being more particularly described as follows:

Beginning at a point on the southerly line of Lot 7, said Block 1 that bears  $S61^{\circ}50'02''W$ , 6.02 feet from the southeasterly corner of said Lot 7; thence  $S44^{\circ}09'49''E$ , 21.84 feet to the westerly right of way line of N.W. 4<sup>th</sup> Place; thence along said right of way line,  $S28^{\circ}10'00''E$ , 29.00 feet to the northeast corner of Lot 5, said Block 1; thence along the northerly line of said Lot 5,  $S61^{\circ}50'02''W$ , 7.07 feet; thence leaving said line,  $N44^{\circ}04'13''W$ , 30.36 feet; thence  $N37^{\circ}30'54''W$ , 21.08 feet to the southerly line of said Lot 7; thence along said southerly line,  $N61^{\circ}50'02''E$ , 12.80 feet to the Point of Beginning.

Basis of Bearings for this survey is  $S28^{\circ}10'00''E$  along the westerly right of way line of N.W. 4<sup>th</sup> Place per Survey Number 56303, Multnomah County Survey Records.

The Boundary Determination is per Survey Number 52799, Multnomah County Survey Records.

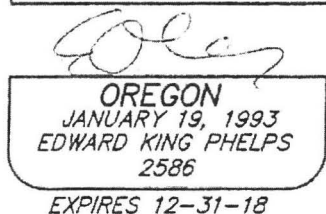
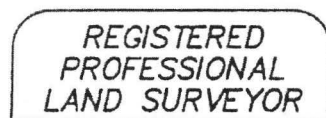


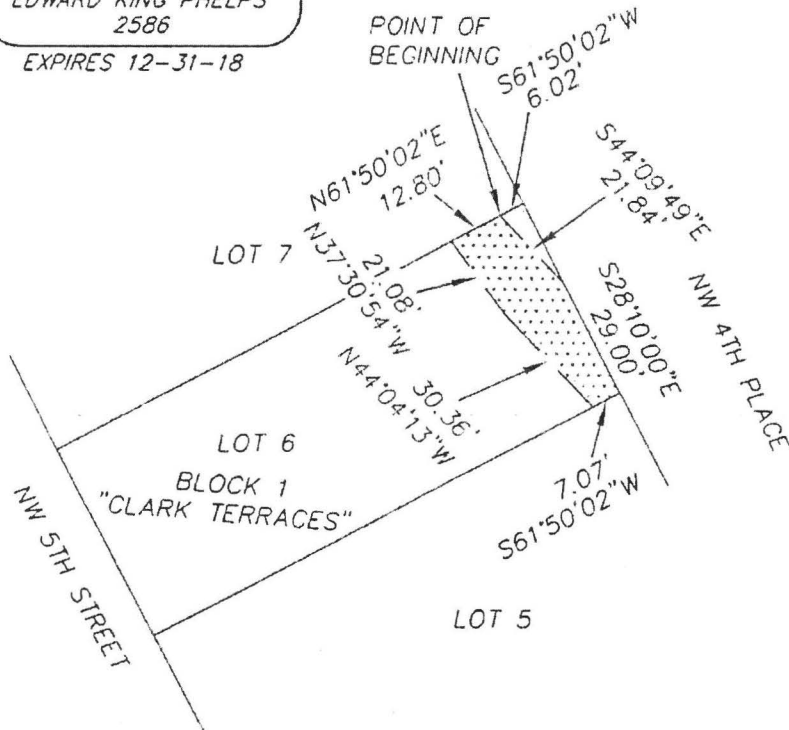
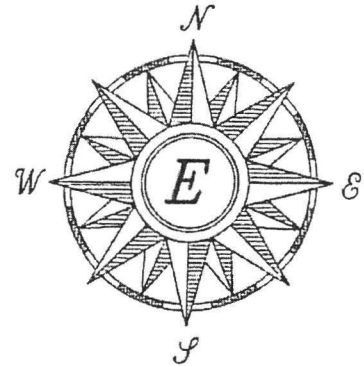


EXHIBIT A  
SHEET 2 OF 2

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

  
OREGON  
JANUARY 19, 1993  
EDWARD KING PHELPS  
2586

EXPIRES 12-31-18



TAX LOT 06200  
TAX MAP 1N 1W 03DA

**EMERIO**  
*Design*

8285 SW NIMBUS AVE, SUITE 180  
BEAVERTON, OREGON 97008  
(503) 746-8812

**ACCESS EASEMENT  
10607 NW 4TH PLACE**

PORTLAND PARKS & RECREATION  
PORTLAND, OREGON

PROJECT NO. 363-002

DATE: 1-16-2017

BY: EKP

SCALE: 1"=40'

SHEET NO. 2 OF 2