

## EXHIBIT "A"

Easement No. III-11  
Section 26  
Tax Lot No. 2300  
97± Lineal Feet

Leroy F. Chimienti  
1506 South Hattan Rd.  
Oregon City, OR 97045

## A PERMANENT EASEMENT

A portion of that tract of land in Section 26, Township 1 South, Range 4 East, of the Willamette Meridian, Clackamas County, Oregon conveyed to Leroy F. Chimienti described in Recorder's Fee No. 80-39734, deed records of said Clackamas County, more particularly described as follows:

Beginning at the Southwest corner of said Chimienti tract; thence North 15°18'50" East along the westerly boundary of said tract a distance of 104.74 feet; thence North 88°1' East a distance of 37.25 feet; thence South 45°46'37" East a distance of 134.16 feet to a point on the southerly boundary of said tract; thence South 88°1' West along the southerly boundary of said tract a distance of 157.84 feet to the point of beginning.

Said permanent easement containing 0.224 acres, more or less.

APPROVED AS TO DESCRIPTION:

*Fred M. Whipple*  
PLS 1380

## ORDINANCE No.

- b. The progress payments may continue to be made to the Contractor subsequent to April 9, 1982, said date being the extended contract completion date, and further providing that the payments that are made subsequent to April 9, 1982, will not be held to have waived any rights that the City has, or may have, under the contract to declare the Contractor in default and to insist upon liquidated damages, and that the fact that said payments are authorized and/or made shall not be used by Contractor or Surety as a defense to any action or suit at law that City or Contractor or Surety may hereafter institute in a court of law or equity involving the contract between the parties.
- c. The Bureau of Water Works, with the approval of the Commissioner in Charge, is hereby authorized to continue progress payments to the Contractor if in their combined discretion such payments should continue.
- d. The Mayor and Auditor hereby are authorized to draw and deliver warrants for progress payments to R.J. Strasser Drilling Co., in such amounts as are requested by and approved by the Chief Engineer of the Bureau of Water Works and the Commissioner in Charge.
- e. This Ordinance shall have no force and effect until the acceptance by R.J. Strasser Drilling Co., and its surety has been filed with the Auditor of the City, in the form of acceptance to be substantially in accordance with the terms and conditions of the form of acceptance which is attached to the original only hereof, marked Exhibit "B", and by reference made part hereof.

Section 2. The Council declares that an emergency exists because further progress payments are necessary to insure that payment is made for labor and material expended by R.J. Strasser Drilling Co., and to enable it to meet its commitments to its suppliers and sub-contractors under the contract; therefore, this Ordinance shall, subject to acceptance as set forth in Item 6 of Section 1 hereinabove, be in force and effect from and after its passage by the Council.

Passed by the Council, FEB 24 1982

Mayor Francis J. Ivancie  
February 17, 1982  
W.F. Hoffstetter:ls  
BUC No. 18600374

Attest:

  
Auditor of the City of Portland

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Said permanent easement containing 0.224 acres, more or less.

APPROVED AS TO DESCRIPTION:

*Fred W. [Signature]*  
PLS 1380

WATER LINE EASEMENT

9/5 1981

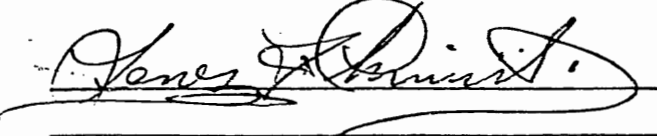
In consideration of the sum of One Thousand Five Hundred Forty and no/100 ths. Dollars ----- ( \$1,540.00 ),

Leroy F. Chimienti (Grantor) conveys to the City of Portland, a municipal corporation of the State of Oregon, a perpetual easement to use a strip of land for the purpose of constructing, reconstructing, inspecting and maintaining water lines and necessary appurtenances, which is located across the Grantor's property as described in Exhibit "A", which is attached hereto.

The terms of this easement are as follows:

- 1. No surface or underground structures, permanent or temporary, shall be constructed upon the easement without the written consent of the Chief Engineer of the City's Bureau of Water Works.
- 2. No grade change in excess of one (1) foot in elevation shall be allowed without the written consent of the Chief Engineer of the City's Bureau of Water Works.
- 3. No trees shall be planted on the easement without the written consent of the Chief Engineer of the City's Bureau of Water Works.
- 4. No materials storage shall be permitted upon the easement without the written consent of the Chief Engineer of the City's Bureau of Water Works.
- 5. Grantor may place fences upon and across the easement; however, such fences shall have gates or removable panels so as to allow a minimum opening of nine (9) feet in width to permit equipment access for the purpose of maintaining and repairing the water line.
- 6. The Grantor retains the right to use the easement area for all agricultural purposes excepting the cultivation of trees.
- 7. The City will restore as nearly as practicable the surface of the easement within a reasonable time after completion of construction or maintenance work.
- 8. The City shall reimburse the Grantor for any merchantable timber which the City removes from the easement area. The City shall pay the fair market value for the timber removed. As an alternative, the Grantor, at his option and without reimbursement, may remove all timber within the easement area. The City shall notify the Grantor one year prior to construction of the Grantor's right to exercise the option. If the Grantor has not notified the City of his intent to exercise the option within 30 days of the City's notice, or has not removed the timber within the one-year period following the City's notice, then the Grantor shall be deemed to have waived his right to exercise the option.

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



Grantors

## CONSENT TO WATER LINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That Whereas LEROY F. CHIMIENI has executed an easement to the City of Portland, dated September 5, 19 81, for the purpose of granting unto the City of Portland the right to lay down, construct and perpetually maintain a water line through, under and along a tract of land described as follows:

A portion of that tract of land in Section 26, Township 1 South, Range 4 East, of the Willamette Meridian, Clackamas County, Oregon, conveyed to Leroy F. Chimienti as described in Recorder's Fee No. 80-39734, deed records of said Clackamas County, more particularly described as follows:

Beginning at the Southwest corner of said Chimienti tract; thence North 15°18'50" East along the westerly boundary of said tract a distance of 104.74 feet; thence North 88°1' East a distance of 37.25 feet; thence South 45°46'37" East a distance of 134.16 feet to a point on the southerly boundary of said tract; thence South 88°1' West along the southerly boundary of said tract a distance of 157.84 feet to the point of beginning.

WHEREAS said above described property is subject to A MORTGAGE executed by LEROY F. CHIMIENI to and in favor of STATE OF OREGON DEPARTMENT OF VETERANS AFFAIRS dated March 19, 1981, recorded March 19, 1981, in Recorders Fee No. 81-9666, Clackamas County, Oregon

NOW, THEREFORE, In consideration of the sum of ONE AND no/100th Dollars to them paid, STATE OF OREGON DEPARTMENT OF VETERANS AFFAIRS hereby consent to the aforesaid water line easement and waive priority of the above mentioned mortgage and hereby agreed that all their rights shall be subordinate to the rights granted to the City of Portland under said water line easement, as though said easement had been both executed and recorded prior to the execution and recording of said mortgage.

IN WITNESS WHEREOF, The State of Oregon, represented and acting by the Director of Veterans' Affairs, has caused these presents to be executed this 12th day of November, 1981, at Salem, Oregon.

STATE OF OREGON  
By: [Signature]  
Director of Veterans' Affairs

STATE OF OREGON  
County of Marion ss.

Before me, a Notary Public, personally appeared the above-named STARYL C. AUSTIN, JR., the duly appointed, qualified and acting Director of Veterans' Affairs, and acknowledged the foregoing instrument to be his voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 12th day of November, 1981

[Signature]  
Notary Public for Oregon  
My commission expires: 6-9-84

LOAN NO. P-52542

APPROVED:

\_\_\_\_\_  
City Attorney

2 - CONSENT TO WATER LINE EASEMENT

## ORDINANCE No. 152878

An Ordinance accepting a permanent easement for a water supply line for proposed Conduit No. 5 from Leroy F. Chimienti, grantor, authorizing the drawing and delivery of a warrant for \$1,540.00, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Water Works requires a permanent easement for a proposed water supply line lying within a portion of Tax Lot 2300, Section 26, T1S, R4E, W.M., Clackamas County, Oregon as described in the form of easement attached to the original only and marked Exhibit "A".
2. The owner of the land, Leroy F. Chimienti, has agreed to grant the City an easement on 0.224 acres for the sum of \$1,540.00. The Mayor has approved payment in that amount.
3. Consent to easement has been granted by the property owner mortgagee, and is attached hereto.

NOW, THEREFORE, The Council directs:

- a. A permanent easement for Conduit No. 5 from Leroy F. Chimienti, as described in the attached Exhibit "A" is accepted.
- b. A warrant is authorized in the amount of \$1540.00, in favor of Leroy F. Chimienti and State of Oregon Department of Veterans' Affairs, 37336 S.E. Lusted Road, Boring, Oregon 97009, to be charged to the 1981-82 Budget, Water Fund, BUC 18600374, Object Code 610 (Land), Project 3201, (Conduit No. 5 Right-of-Way).
- c. The Auditor shall record in the appropriate Deed Records document of title necessary for conveyance of the easement.

Section 2. The Council further directs that an emergency exists because any delay in proceeding with this purchase may result in additional expense to the City and will unnecessarily deprive the Bureau of Water Works of the benefit of completion of the easement at an early date; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **FEB 24 1982**

Mayor Ivancie  
February 12, 1982  
M. Anoushiravani:ls  
BUC 18600374

Attest:

  
Auditor of the City of Portland

Calendar No. 413

ORDINANCE No. 152878

Title

An Ordinance accepting a permanent easement for a water supply line for proposed Conduit No. 5 from Leroy F. Chimienti, grantor, authorizing the drawing and delivery of a warrant for \$1,540.00, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	/	
LINDBERG	/	
SCHWAB	/	
STRACHAN	/	
IVANCIE	/	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

Filed FEB 19 1982

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By *Gordon Croell*  
Deputy

INTRODUCED BY
MAYOR IVANCIE

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration <i>FJ</i>
Safety
Utilities
Works

BUREAU APPROVAL
Bureau: WATER WORKS
Prepared By: M. Anoushiravani:ls Date: 2/12/82
Budget Impact Review:
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: <i>Carl Goebel</i> Administrator

CALENDAR	
Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer