

179065

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick, Deputy Clerk
A49 11 ATKLM
Total : 71.00
2005-048743 03/21/2005 04:46:42pm

AFTER RECORDING RETURN TO:
Portland Bureau of Parks and Recreation
Property Acquisition Manager
1120 SW Fifth Avenue, Room 1302
Portland, OR 97204

Plu 3/21/04

**ASSIGNMENT AND ASSUMPTION
OF PEDESTRIAN EASEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF PEDESTRIAN EASEMENT (this "Agreement") is made this ___ day of February 2005, by and between the City of Portland, a municipal corporation acting by and through the Portland Development Commission ("Assignor"), and the City of Portland acting by and through the Portland Bureau of Parks and Recreation ("Assignee").

RECITALS

- A. Whereas on or about July 31, 2003, Assignor and McCormick Pier, LLC ("MPL") entered into a Development Agreement pursuant to which: 1) MPL would grant an easement to Assignor on property owned by MPL (the "Easement Area"); 2) Assignor would pay for and would construct a pedestrian walkway on the Easement Area to connect a sidewalk along NW Naito Parkway to the Willamette Greenway; and 3) Assignor would have the right to assign its rights in the Easement to the City of Portland in its sole discretion.
- B. On January 26, 2004, in anticipation of its assignment to Assignee, the City Attorney approved the form of easement between Assignor and MPL for the Easement Area which was subsequently recorded on January 30, 2004 in the records of Multnomah County as recorder's number 2004-014326 (the "Easement Agreement").
- C. Assignor wishes to assign its rights and obligations under and to the Easement Agreement to Assignee and Assignee wishes to accept such assignment and wishes to assume Assignor's rights and obligations under and to the Easement Agreement.

AGREEMENT

In consideration of the mutual covenants contained herein, and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, the parties herby agree as follows:

- 1. The Recitals set forth above are hereby incorporated herein by this reference.
- 2. Assignor hereby assigns to Assignee all of its right, title and interest in and to the pedestrian Easement Agreement recorded in the records of Multnomah County

//

Oregon on January 30, 2004 as recorder's number 2004-014326 and attached hereto and incorporated herein by this reference as Exhibit A and the Easement as depicted in Exhibit B and Assignee hereby assumes all of the obligations of Assignor as "Grantee" under the Easement.

IN WITNESS WHEREOF, the City of Portland, through Portland Parks and Recreation (as Assignee) and the City of Portland through the Portland Development Commission (as Assignor) have executed this Agreement as of the date first written above.

ASSIGNOR

ASSIGNEE





Donald F. Mazziotti, Executive Director
Portland Development Commission


Zari Santner, Director
Portland Parks & Recreation

Date: 1/21/05

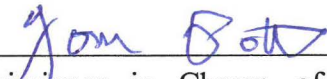
Date: 2/10/05

APPROVED AS TO FORM:

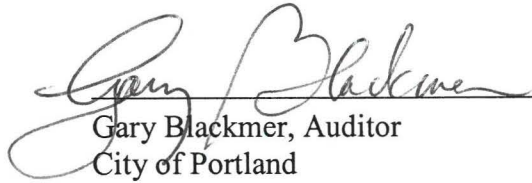
APPROVED:



Wendy Hain
PDC Legal Counsel

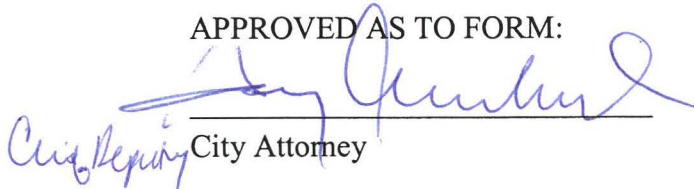


Commissioner in Charge of Portland Parks and
Recreation, City of Portland



Gary Blackmer, Auditor
City of Portland

APPROVED AS TO FORM:

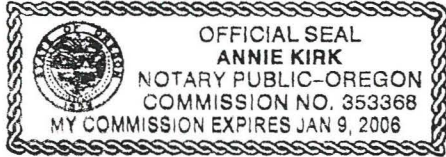


Craig Ripley
City Attorney

STATE OF OREGON)
) ss.
County of Multnomah)

JANUARY 21, 2005

This instrument was acknowledged before me by Donald F. Mazziotti, Executive Director of the Portland Development Commission.

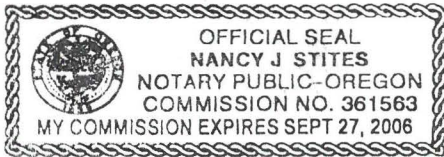


Annie Kirk
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Multnomah)

Feb. 10, 2005

This instrument was acknowledged before me by Zari Santner, Director of Portland Parks and Recreation.

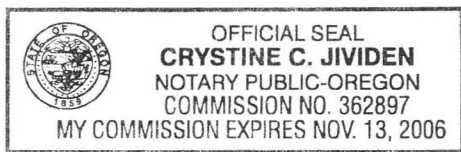


Nancy J. Stites
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Multnomah)

March 14,, 2005

This instrument was acknowledged before me by Tom Potter, Commissioner in Charge of Portland Parks and Recreation.



Crystine C. Jividen
Notary Public for Oregon

AFTER RECORDING RETURN TO:
 Landye Bennett Blumstein LLP
 3500 Wells Fargo Center
 1300 SW Fifth Avenue
 Portland, OR 97201

Recorded in MULTNOMAH COUNTY, OREGON
 C. Swick, Deputy Clerk
 A49 5 ATKLM
 Total : 41.00
 2004-014326 01/30/2004 09:43:24am

PEDESTRIAN EASEMENT

"Grantor" is McCormick Pier, LLC ("MPL") and 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. **Trail Easement.** The Grantor hereby grants to the City by and through the Portland Development Commission for the benefit of the public a perpetual, nonexclusive, affirmative easement to use a strip of land across the Property for a Pedestrian Walkway ("Walkway Easement Area"). The location of the Walkway Easement Area is described in the attached Exhibit "A." In addition to the scope of public use permitted under Section 3, the City may enter and use the Walkway Easement Area for the purpose of constructing, repairing, patrolling and maintaining the walkway.

2. **Purpose.** The purpose of this Pedestrian Easement is to provide non-motorized public access to and from the Willamette River Greenway and NW Naito Parkway by creating a public path over and across the Property.

3. **Scope of Public Use.** The public shall have the right to use the Walkway Easement Area for public access as a pedestrian/bike trail. No other uses shall be allowed, including without limitation, skateboards, roller blades and scooters which shall be specifically prohibited. No motorized devices except for electrically powered wheelchairs and similar devices shall be allowed to use the Walkway Easement Area.

3.1 The public's right of uses as set forth above constitutes the maximum rights granted to the public under this Agreement.

3.2 The Walkway Easement Area shall be open to the public for use as provided in Title 20 and in Chapter 33.272 Public Recreation Trails of the City of Portland Code, except that public use and access may be limited to 6 a.m. to 10 p.m. daily.

3.3 Grantor shall have the right to restrict access to the Walkway Easement Area during hours when the public does not have right of use. Grantor may remove persons using the Walkway Easement Area in violation of the restrictions contained herein, or persons who are creating a nuisance.

4. **Scope of Grantor's Use.** The Grantor shall have the right to use the Walkway 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 Walkway Easement Area by any party.

5. **Maintenance and Repair.** The parties acknowledge that the City, through the Portland Development Commission, will be constructing the walkway within the Walkway Easement Area in accordance with applicable PDC specifications. The property owner hereby agrees to assume responsibility for maintenance of the walkway within the Walkway Easement Area. MPL shall accept the improvements constructed thereon except for any warranty items during the warranty period, and shall be responsible for all maintenance and repair in perpetuity. The obligation to maintain the Central Walkway shall run with the land and inure to MPL's successors or assignees. The property owner may suspend the public's right to use the Walkway Easement Area when reasonably necessary for maintenance and repair work.

6. **Standard of Maintenance.** Grantor agrees to keep the Walkway Easement Area free of debris, rubbish, ice and snow. Grantor further agrees to make any repairs necessary to maintain the safety and appearance of the Walkway Easement Area. Such maintenance and repairs include but are not limited to painting, replacement of landscaping and lighting as necessary, removal of graffiti and providing the cost of all related utilities, materials or services.

7. **Alterations and Enhancements.** Grantor shall not construct any structures in the Walkway Easement Area or improvements that would materially interfere with the public's exercise of the right set forth in Section 3 without first obtaining the written approval of PDC, Portland Parks and Recreation and the City's Office of Planning and Development Review.

8. **Effective Date.** The rights of the public under this Agreement shall become effective on the date hereof.

9. **Successor Interests.** This Pedestrian Easement is appurtenant to the Property. However, in the event of any partition, subdivision or sale of any portion of the Property, this Walkway Easement Area shall continue to burden the parcel(s) across which the Pedestrian Easement lies. Owners of the parcels into which the Property may be divided shall have no right to use the Pedestrian Easement Area beyond their rights as members of the general public or as may be negotiated with the City for utility services.

10. **Duration.** This Pedestrian Easement shall remain in effect perpetually. However, it shall terminate automatically in the event that the City Council, by ordinance, declares that the Pedestrian Easement no longer is needed for public use or access to the Willamette River Greenway, in which case the City shall execute a recordable document evidencing such termination.

11. **Encumbrances.** This Pedestrian Easement is granted subject to all prior easements or encumbrances of record.

12. Statutory Protection For Public Use of Lands. The Grantor and its successors in interest, including without limitation, the McCormick Pier Condominium Association and all owners of units at McCormick Pier Condominium, shall be entitled to all of the immunities from liability provided by ORS 105.672 through ORS 105.700.

13. Consideration. The consideration for this Pedestrian Easement shall consist of payment in the amount of \$240,000 unless otherwise increased per the Development Agreement between the Grantor and the City of Portland by and through the Portland Development Commission dated July 31, 2003, and for the mutual covenants and agreements of the parties contained herein.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the dates next to their signatures below.

McCORMICK PIER, LLC,
an Arizona limited liability company

By: McCormick Pier I, LLC
an Arizona limited liability company
as authorized signatory

By: PCM
Phil Carroll, Member

DATED: 1-28-04

STATE OF Arizona)
County of Maricopa) ss.

January 28, 2004

Personally appeared before me the above-named Phil Carroll, who, being duly sworn, did say that he is a Member of McCormick Pier I, LLC, and that the foregoing instrument was signed in behalf of said company by authority of its members; and they acknowledged said instrument to be its voluntary act and deed.



Brenda L. Michael
Notary Public for Arizona
My Commission Expires: Nov. 4, 2006

THE CITY OF PORTLAND, by and through ~~the~~
the Portland Development Commission

DATED: 1-27-04

By: 
Donald F. Mazziotti, Executive Director
Portland Development Commission

STATE OF OREGON)
County of Multnomah) ss.

1-27, 2004

This instrument was acknowledged before me by Donald F. Mazziotti, Executive Director of the Portland Development Commission.

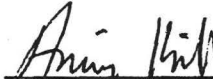

Notary Public for Oregon
My Commission Expires: 1-9-06



EXHIBIT "A"

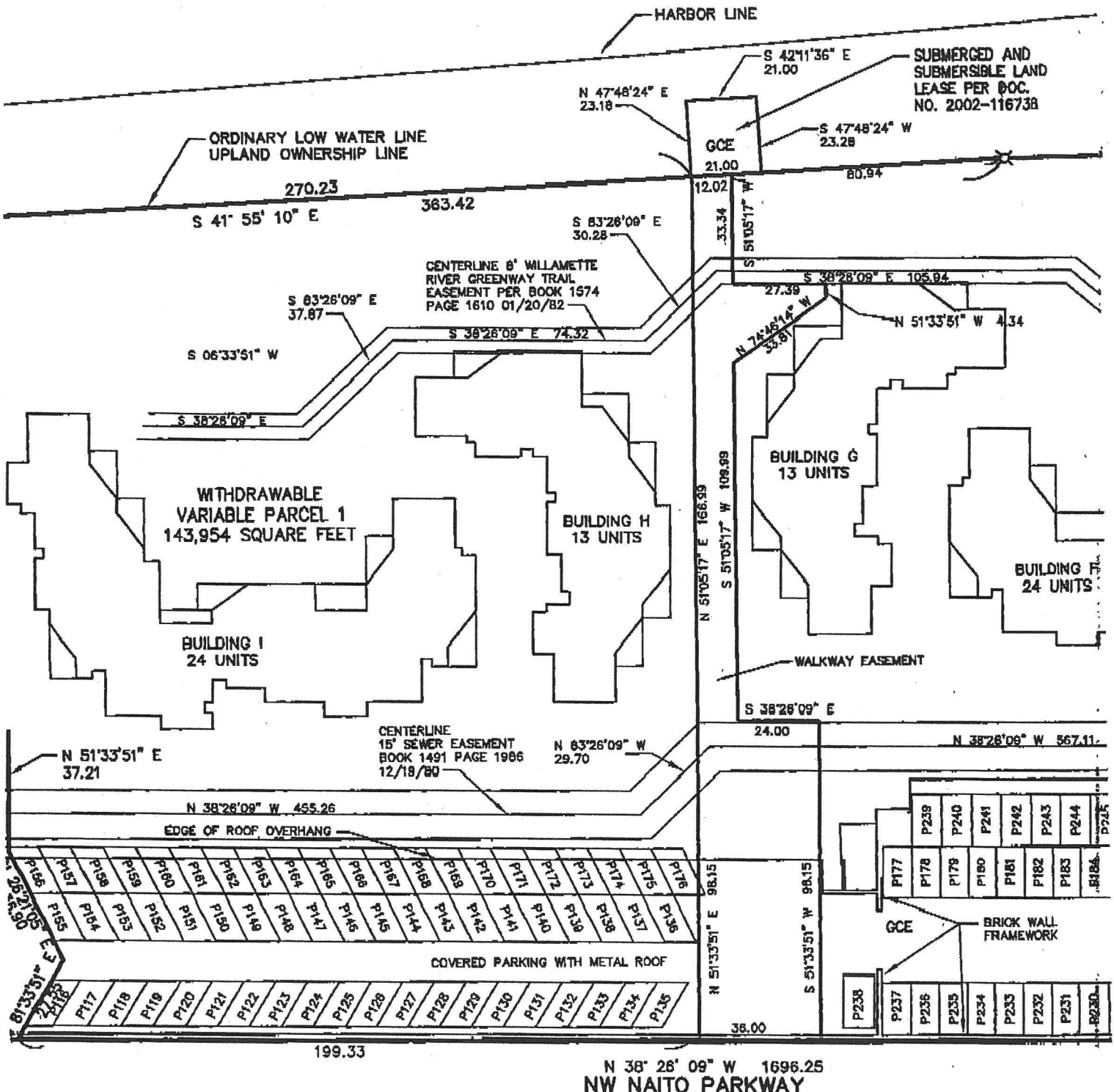
**LEGAL DESCRIPTION
WALKWAY EASEMENT**

A portion of Withdrawable Variable Parcel 1 of McCormick Pier Condominium, a duly recorded plat recorded in Book 1258, Pages 45-63, Multnomah County Survey Records, situated in the northwest one-quarter of Section 34, Township 1 North and Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of NW Naito Parkway, said point being South 38° 26' 09" East, a distance of 201.79 feet from the most westerly northwest corner of said Withdrawable Variable Parcel 1 and running thence North 51° 33' 51" East leaving said easterly right-of-way line, a distance 98.15 feet; thence North 51° 05' 17" East 166.97 feet to ordinary low water line of the Willamette River as shown on said McCormick Pier Condominium; thence tracing said ordinary low water line South 41° 55' 10" East 12.07 feet; thence leaving said ordinary low water line South 51° 05' 17" West 33.34 feet to the west line of the River Greenway Trail Easement as recorded January 20, 1982 in Book 1574, Page 1610, Multnomah County Deed Records; thence tracing said west line South 38° 26' 09" East 27.39 feet; thence leaving said west line South 51° 33' 51" West 4.34 feet; thence North 74° 46' 14" West 33.81 feet; thence South 51° 05' 17" West 109.99 feet; thence South 38° 26' 09" East 24.00 feet; thence South 51° 33' 51" West 98.15 feet to said easterly right-of-way line; thence tracing said easterly right-of-way line North 38° 26' 09" West 36.00 feet to the point of beginning.

Containing an area of 5936 square feet, more or less.

Based on the plat of McCormick Pier Condominium.



PROJECT		McCormick Pier Condominium		SHEET	
TITLE		Supplemental Plat			
		Walkway Easement			
DWG. REF.	PROJECT	SCALE	AMENDMENT NO.		
1	MCRE0000-0003	1" = 40'	0.0		
DRAWN BY	DESIGN BY	APPROVED BY	DATE		
JSW	JSW		10-27-2003		

ORDINANCE No. 179065

- * Authorize acceptance of Pedestrian Easement from Portland Development Commission across McCormick Pier property to assure public access. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. In January, 2004, McCormick Pier, LLC (Grantor) agreed to allow the Portland Development Commission (PDC) to construct public walkway improvements over and across their property from NW Naito Parkway to provide public access to the Willamette River Greenway; and granted to the City of Portland through the PDC a Pedestrian Easement (Exhibit A) in the walkway easement area.
2. Acceptance of the Pedestrian Easement provides a perpetual, nonexclusive, affirmative easement for public use across the Grantor's property at no cost to the City.
3. The Grantor remains solely responsible for maintenance of the walkway easement area and has the right to restrict public access outside hours allowed by City of Portland Code Chapter 33.272 Public Recreation Trails and to remove persons from the easement area in violation of Code restrictions or persons creating a nuisance.
4. PDC now wishes to assign and Portland Parks desires to accept the Pedestrian Easement to provide public access from NW Naito Parkway to the Willamette River Greenway trail for bike and pedestrian use.
5. Director of Parks requests that the easement be added to the Parks Trail inventory. Maintenance of the easement and trail improvements therein will be the responsibility of the Grantor or successors.
6. That the Recreational Trail Easement should now be accepted by the City.

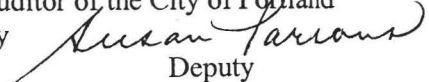
NOW, THEREFORE, The Council directs that:

- a. The Mayor is authorized to execute the acceptance of the easement, substantially represented by Exhibit B attached to this Ordinance, and all other documents necessary to complete the transaction once approved as to form by the City Attorney;
- b. The Director of Parks shall add the Property to the City's Park Trail inventory; and
- c. The Auditor shall record in the appropriate deed records, documents of title as necessary for acceptance of this easement, and return one copy of all documents to the Bureau of Parks and Recreation.

179065

Section 2. The Council declares that an emergency exists because a delay in acceptance of the Pedestrian Easement 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: FEB 16 2005
Mayor Potter
Prepared by: Riley Whitcomb
January 19, 2005

GARY BLACKMER
Auditor of the City of Portland
By 
Deputy

P/u 3/27/06

AFTER RECORDING RETURN TO:
Portland Bureau of Parks and Recreation
Property Acquisition Manager
1120 SW Fifth Avenue, Room 1302
Portland, OR 97204

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick Deputy Clerk
205 13
ATKRH

2005 FEB 27 5:53pm

ORIGINAL

**ASSIGNMENT AND ASSUMPTION
OF PEDESTRIAN EASEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF PEDESTRIAN EASEMENT (this "Agreement") is made this ___ day of February 2005, by and between the City of Portland, a municipal corporation acting by and through the Portland Development Commission ("Assignor"), and the City of Portland acting by and through the Portland Bureau of Parks and Recreation ("Assignee").

RECITALS

- A. Whereas on or about July 31, 2003, Assignor and McCormick Pier, LLC ("MPL") entered into a Development Agreement pursuant to which: 1) MPL would grant an easement to Assignor on property owned by MPL (the "Easement Area"); 2) Assignor would pay for and would construct a pedestrian walkway on the Easement Area to connect a sidewalk along NW Naito Parkway to the Willamette Greenway; and 3) Assignor would have the right to assign its rights in the Easement to the City of Portland in its sole discretion.
- B. On January 26, 2004, in anticipation of its assignment to Assignee, the City Attorney approved the form of easement between Assignor and MPL for the Easement Area which was subsequently recorded on January 30, 2004 in the records of Multnomah County as recorder's number 2004-014326 (the "Easement Agreement").
- C. Assignor wishes to assign its rights and obligations under and to the Easement Agreement to Assignee and Assignee wishes to accept such assignment and wishes to assume Assignor's rights and obligations under and to the Easement Agreement.

AGREEMENT

In consideration of the mutual covenants contained herein, and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, the parties hereby agree as follows:

- 1. The Recitals set forth above are hereby incorporated herein by this reference.
- 2. Assignor hereby assigns to Assignee all of its right, title and interest in and to the pedestrian Easement Agreement recorded in the records of Multnomah County

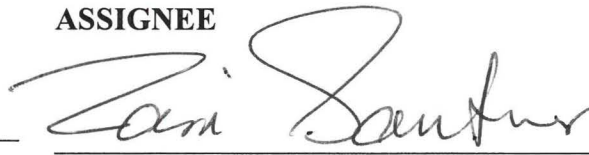
Oregon on January 30, 2004 as recorder's number 2004-014326 and attached hereto and incorporated herein by this reference as Exhibit A and the Easement as depicted in Exhibit B and Assignee hereby assumes all of the obligations of Assignor as "Grantee" under the Easement.

IN WITNESS WHEREOF, the City of Portland, through Portland Parks and Recreation (as Assignee) and the City of Portland through the Portland Development Commission (as Assignor) have executed this Agreement as of the date first written above.

ASSIGNOR

ASSIGNEE





Donald F. Mazziotti, Executive Director
Portland Development Commission

Zari Santner, Director
Portland Parks & Recreation

Date: 1/21/05

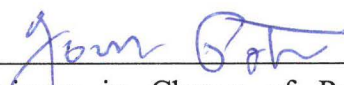
Date: 2/10/05

APPROVED AS TO FORM:

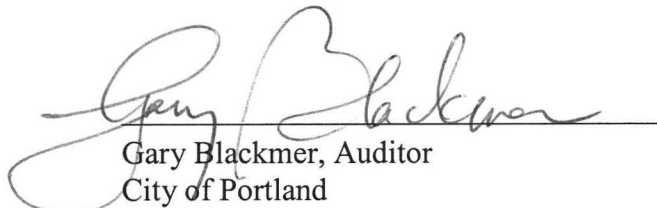
APPROVED:



Wendy Hain
PDC Legal Counsel

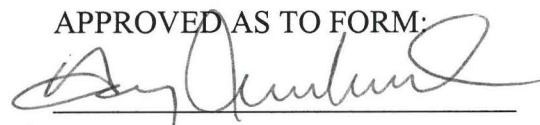


Commissioner in Charge of Portland Parks and
Recreation, City of Portland



Gary Blackmer, Auditor
City of Portland

APPROVED AS TO FORM:

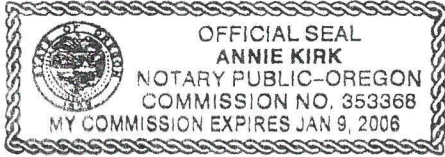


Chief Deputy City Attorney

STATE OF OREGON)
) ss.
County of Multnomah)

JANUARY 21, 2005

This instrument was acknowledged before me by Donald F. Mazziotti, Executive Director of the Portland Development Commission.

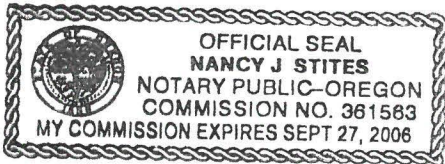


Annie Kirk
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Multnomah)

Feb. 10, 2005

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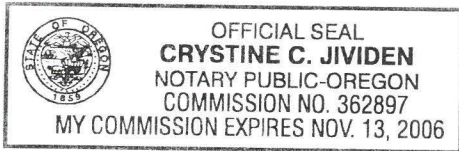


Nancy J. Stites
Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Multnomah)

March 14, 2005

This instrument was acknowledged before me by Tom Potter, Commissioner in Charge of Portland Parks and Recreation.



Crystine C. Jividen
Notary Public for Oregon

AFTER RECORDING RETURN TO:
 Landye Bennett Blumstein LLP
 3500 Wells Fargo Center
 1300 SW Fifth Avenue
 Portland, OR 97201

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12. Statutory Protection For Public Use of Lands. The Grantor and its successors in interest, including without limitation, the McCormick Pier Condominium Association and all owners of units at McCormick Pier Condominium, shall be entitled to all of the immunities from liability provided by ORS 105.672 through ORS 105.700.

13. Consideration. The consideration for this Pedestrian Easement shall consist of payment in the amount of \$240,000 unless otherwise increased per the Development Agreement between the Grantor and the City of Portland by and through the Portland Development Commission dated July 31, 2003, and for the mutual covenants and agreements of the parties contained herein.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the dates next to their signatures below.

McCORMICK PIER, LLC,
an Arizona limited liability company

By: McCormick Pier I, LLC
an Arizona limited liability company
as authorized signatory

By: Phil Carroll
Phil Carroll, Member

DATED: 1-28-04

STATE OF Arizona)
County of Maricopa) ss.

January 28, 2004

Personally appeared before me the above-named Phil Carroll, who, being duly sworn, did say that he is a Member of McCormick Pier I, LLC, and that the foregoing instrument was signed in behalf of said company by authority of its members; and they acknowledged said instrument to be its voluntary act and deed.



Brenda L. Michael
Notary Public for Arizona
My Commission Expires: Nov. 4, 2006

THE CITY OF PORTLAND, by and through ~~the~~
the Portland Development Commission

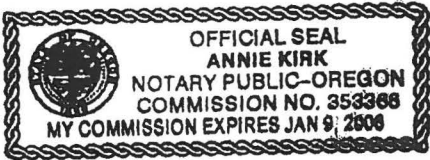
DATED: 1-27-04

By: 
Donald F. Mazziotti, Executive Director
Portland Development Commission

STATE OF OREGON)
County of Multnomah) ss.
)

1-27, 2004

This instrument was acknowledged before me by Donald F. Mazziotti, Executive Director of the Portland Development Commission.



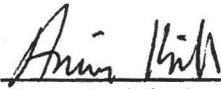

Notary Public for Oregon
My Commission Expires: 1-9-06

EXHIBIT "A"

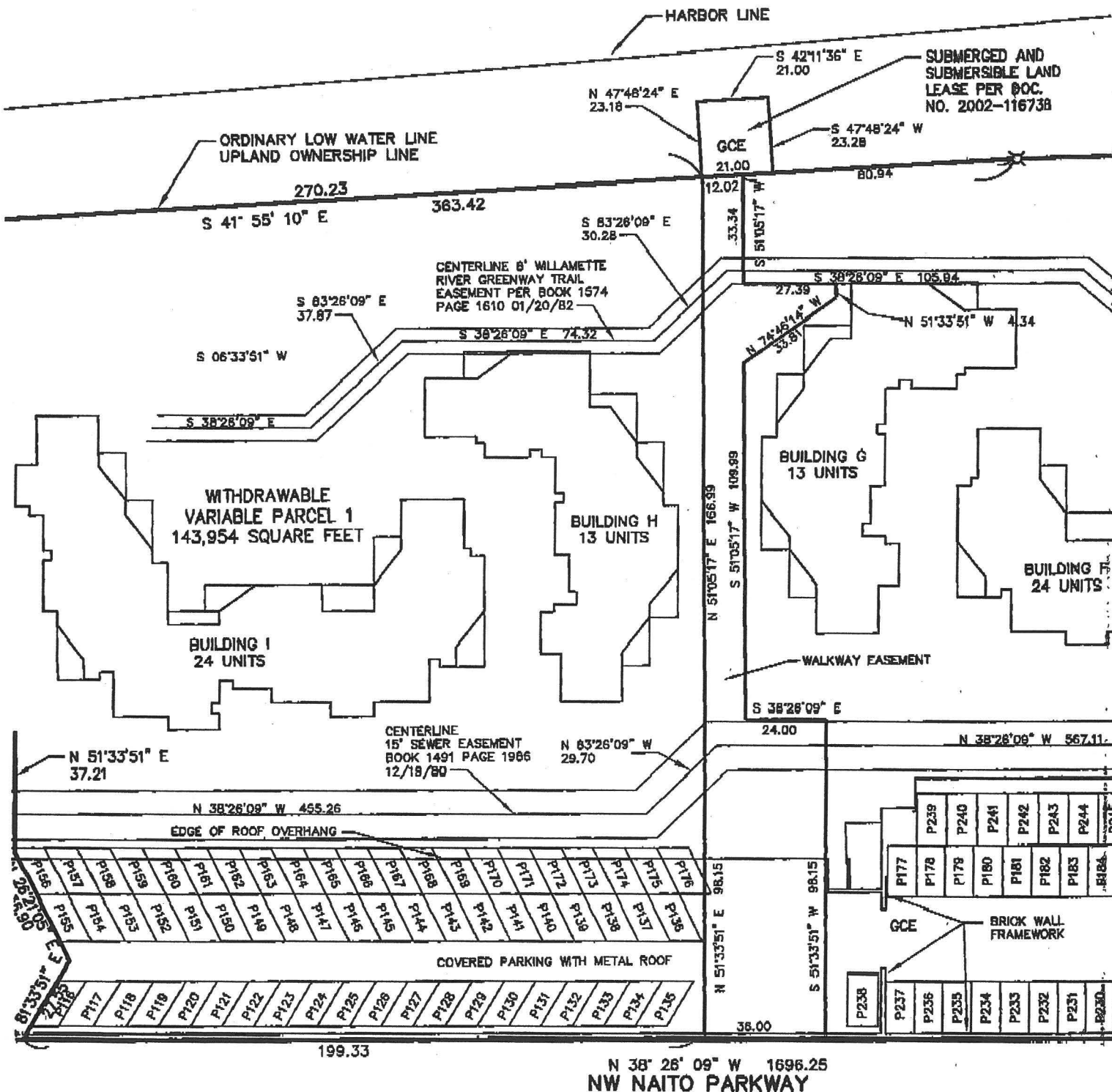
**LEGAL DESCRIPTION
WALKWAY EASEMENT**

A portion of Withdrawable Variable Parcel 1 of McCormick Pier Condominium, a duly recorded plat recorded in Book 1258, Pages 45-63, Multnomah County Survey Records, situated in the northwest one-quarter of Section 34, Township 1 North and Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of NW Naito Parkway, said point being South 38° 26' 09" East, a distance of 201.79 feet from the most westerly northwest corner of said Withdrawable Variable Parcel 1 and running thence North 51° 33' 51" East leaving said easterly right-of-way line, a distance 98.15 feet; thence North 51° 05' 17" East 166.97 feet to ordinary low water line of the Willamette River as shown on said McCormick Pier Condominium; thence tracing said ordinary low water line South 41° 55' 10" East 12.07 feet; thence leaving said ordinary low water line South 51° 05' 17" West 33.34 feet to the west line of the River Greenway Trail Easement as recorded January 20, 1982 in Book 1574, Page 1610, Multnomah County Deed Records; thence tracing said west line South 38° 26' 09" East 27.39 feet; thence leaving said west line South 51° 33' 51" West 4.34 feet; thence North 74° 46' 14" West 33.81 feet; thence South 51° 05' 17" West 109.99 feet; thence South 38° 26' 09" East 24.00 feet; thence South 51° 33' 51" West 98.15 feet to said easterly right-of-way line; thence tracing said easterly right-of-way line North 38° 26' 09" West 36.00 feet to the point of beginning.

Containing an area of 5936 square feet, more or less.

Based on the plat of McCormick Pier Condominium.



PROJECT	McCormick Pier Condominium			SHEET
TITLE	Supplemental Plat Walkway Easement			1
DWG. REF.	PROJECT	SCALE	AMENDMENT NO.	
1	MCRE0000-0003	1" = 40'	0.0	
DRAWN BY	DESIGN BY	APPROVED BY	DATE	
JSW	JSW		10-27-2003	

ORDINANCE No. 179065

- * Authorize acceptance of Pedestrian Easement from Portland Development Commission across McCormick Pier property to assure public access. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. In January, 2004, McCormick Pier, LLC (Grantor) agreed to allow the Portland Development Commission (PDC) to construct public walkway improvements over and across their property from NW Naito Parkway to provide public access to the Willamette River Greenway; and granted to the City of Portland through the PDC a Pedestrian Easement (Exhibit A) in the walkway easement area.
2. Acceptance of the Pedestrian Easement provides a perpetual, nonexclusive, affirmative easement for public use across the Grantor's property at no cost to the City.
3. The Grantor remains solely responsible for maintenance of the walkway easement area and has the right to restrict public access outside hours allowed by City of Portland Code Chapter 33.272 Public Recreation Trails and to remove persons from the easement area in violation of Code restrictions or persons creating a nuisance.
4. PDC now wishes to assign and Portland Parks desires to accept the Pedestrian Easement to provide public access from NW Naito Parkway to the Willamette River Greenway trail for bike and pedestrian use.
5. Director of Parks requests that the easement be added to the Parks Trail inventory. Maintenance of the easement and trail improvements therein will be the responsibility of the Grantor or successors.
6. That the Recreational Trail Easement should now be accepted by the City.

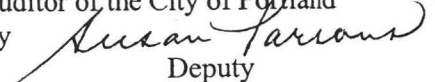
NOW, THEREFORE, The Council directs that:

- a. The Mayor is authorized to execute the acceptance of the easement, substantially represented by Exhibit B attached to this Ordinance, and all other documents necessary to complete the transaction once approved as to form by the City Attorney;
- b. The Director of Parks shall add the Property to the City's Park Trail inventory; and
- c. The Auditor shall record in the appropriate deed records, documents of title as necessary for acceptance of this easement, and return one copy of all documents to the Bureau of Parks and Recreation.

179065

Section 2. The Council declares that an emergency exists because a delay in acceptance of the Pedestrian Easement 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: FEB 16 2005
Mayor Potter
Prepared by: Riley Whitcomb
January 19, 2005

GARY BLACKMER
Auditor of the City of Portland
By 
Deputy