

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 13-4430
CHIEF OPERATING OFFICER TO GRANT)
AN EASMENT TO THE BURLINGTON) Introduced by Kathleen Brennan-Hunter
WATER DISTRICT)

WHEREAS, pursuant to the Metro Open Spaces, Parks and Streams 1995 Ballot Measure 26-26 (“Metro Open Spaces Bond Measure”) on January 20, 2000, Metro purchased approximately 332 acres of real property in the Forest Park Connections Target Area; and

WHEREAS, the property, now referred to as Burlington Creek Forest, has panoramic views of Burlington Bottom, Multnomah Channel, Sauvie Island and the Willamette River, protects fish bearing streams, and someday may serve as a critical link in a trail running from Portland to the Oregon Coast; and

WHEREAS, for nearly a century, the Burlington Water District (the “District”) has operated and maintained a 200,000 gallon concrete tank for the storage of potable water on property that is now surrounded by Metro ownership; and

WHEREAS, the tank is in poor condition, is smaller than needed and must be replaced with a 350,000 gallon tank within the next year to provide safe, potable drinking water within and adjacent to the District, in accord with state rules and regulations; and

WHEREAS, access to the Burlington Water District tank by the District for maintenance and inspections has historically been over Metro property without a formal agreement; and

WHEREAS, the existing property owned by the Burlington Water District is not large enough to provide for the construction and maintenance of the new, larger tank; and

WHEREAS, the Burlington Water District requests permanent easements to access, construct, and maintain the new tank; and

WHEREAS, the Metro Sustainability Center has determined that this easement request meets the criteria in Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department,” adopted by Metro Council on November 6, 1997 (the “Easement Policy”), as further set forth in Attachment 1 to the Staff Report to this Resolution, and can be accommodated with minimal impact to natural resources, cultural resources, recreational resources, recreational facilities, recreational opportunities and their operation and management, and therefore recommends approval; and

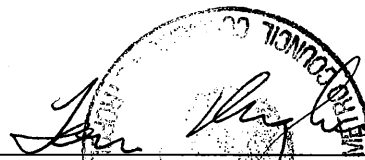
WHEREAS, as a small local government entity with limited resources, the Burlington Water District requests that the Metro Council waive the requirement that the Burlington Water District pay for Metro’s staff time to process the easement request, obtain an appraisal and pay fair market value for the easements, and

WHEREAS, the Metro Council wishes to grant Burlington Water District a waiver of said requirements; and

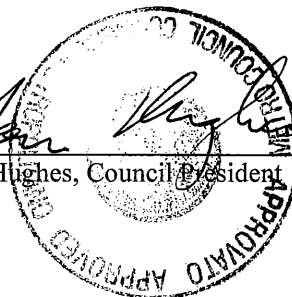
WHEREAS, the Easement Policy requires review of all easement requests by the Metro Council, now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to grant access, construction and maintenance easement to the Burlington Water District in the locations described on the attached Exhibit A, on terms satisfying the Easement Policy and approved by the Office of Metro Attorney, and to waive the requirements for reimbursement for Metro staff time, appraisal and payment of fair market value for the easements.

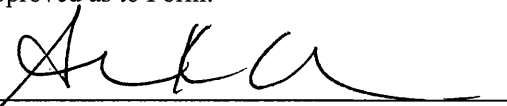
ADOPTED by the Metro Council this 16 day of May 2013.



Tom Hughes, Council President



Approved as to Form:



Alison Kean Campbell, Metro Attorney

EASEMENT DESCRIPTION – BURLINGTON RESERVOIR SITE AND ACCESS

In the Northwest 1/4 of Section 20, T.2.N., R.1.W., W.M., Multnomah County, Oregon:

EASEMENT I

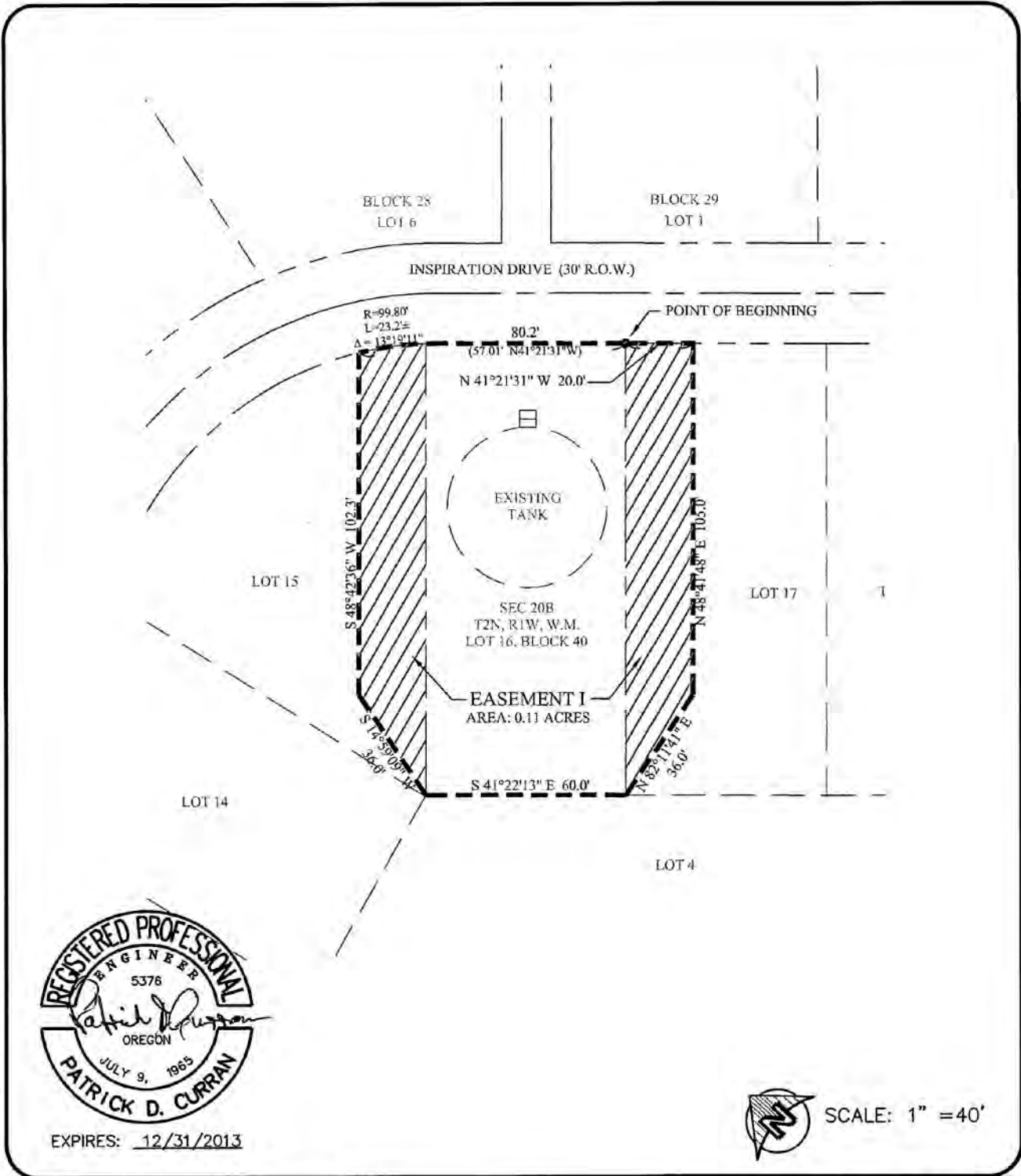
Beginning at the most easterly corner of Lot 16, Block 40, Burlington Plat; thence Northerly along the west right-of-way of Inspiration Drive, a distance of 80.2 feet to a point on said right-of-way; thence, S 48° 42' 36" W, parallel with and 20 feet from the most northerly boundary of said Lot 16, a distance of 102.3 feet to a point; thence S 14° 59' 09" W, a distance of 36.0 feet to the most westerly corner of said Lot 16; thence, S 41° 22' 13" E, a distance of 60.0 feet to the most southerly corner of said Lot 16; thence N 82° 11' 41" E, a distance of 36.0 feet to a point; thence, N 48° 41' 48" E, parallel with and 20 feet from the most southerly boundary of said Lot 16, a distance of 105 feet more or less to a point on the westerly right-of-way of NW Inspiration Drive; thence, N 41° 21' 31" W, a distance of 20 feet to the Point of Beginning; and excluding Lot 16, Block 40, Burlington Plat.

The area encompassed within Easement I is 0.11 acres.

EASEMENT II

Beginning at the most easterly corner of Lot 16, Block 40, Burlington Plat; thence S 48° 41' 48" W, a distance of 76.5 feet to a point on the south line of said lot 16; said point being the True Point of Beginning of the centerline of a 16-foot Roadway Easement for access / egress from said lot 16. Thence S 41° 22' 13" E, a distance of 30 feet to a point of curve right; radius of 160.0 feet, intersecting angle 49° 43' 47" and length of 138.87 feet to a point; thence N 72° 17' 49" E, a distance of 45.21 feet to a point of curve left; radius of 90.0 feet, intersecting angle of 60° 23' 49" and a distance of 95 feet more or less to the west right-of-way line of NW Inspiration Drive; and excepting the area within the right-of-way of NW Inspiration Drive.

The area encompassed within Easement II is 0.08 acres.



EXPIRES: 12/31/2013

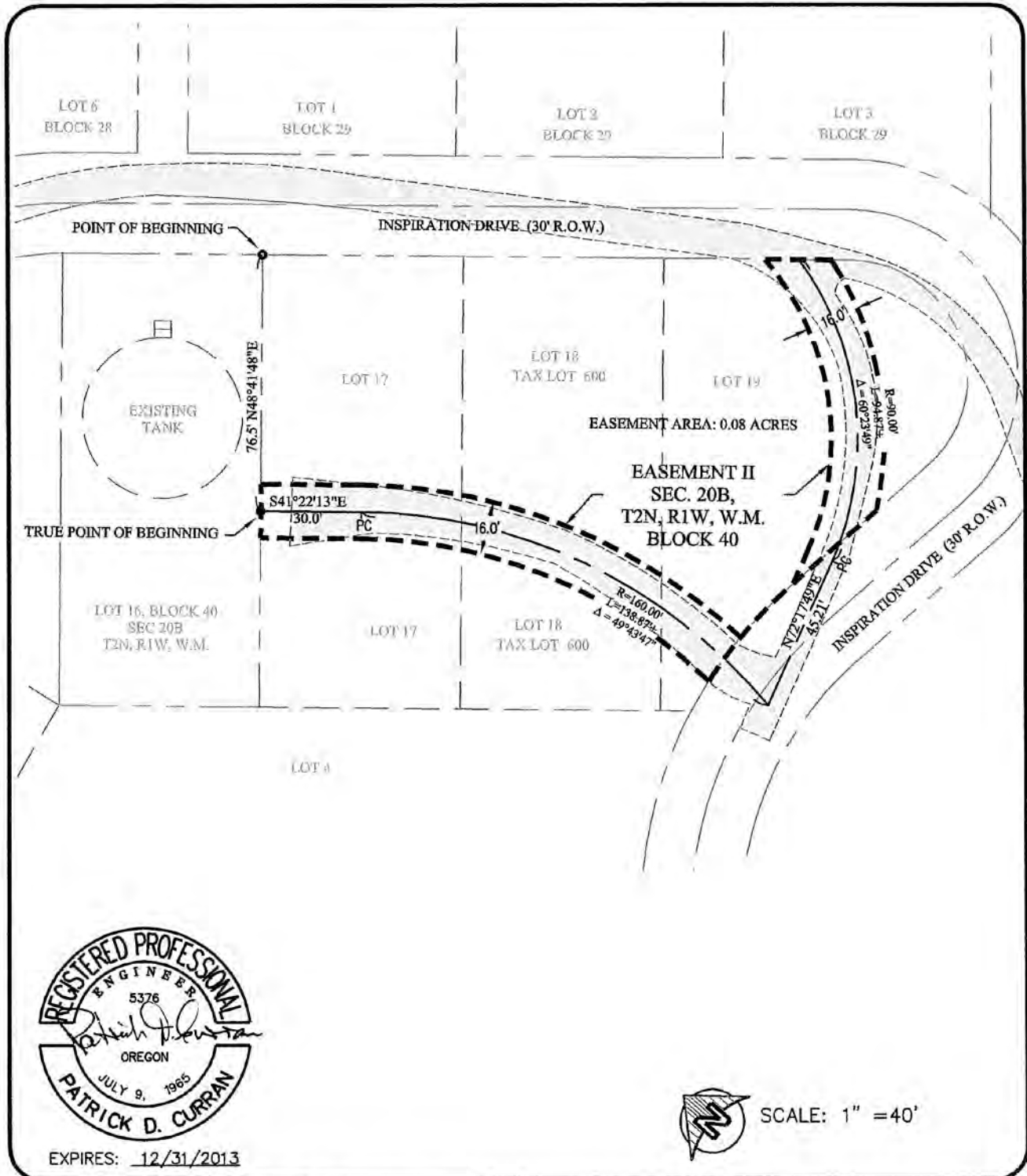


SCALE: 1" = 40'

BURLINGTON WATER DISTRICT
RESERVOIR EASEMENT I
 SEC. 20 B, T2N, R1W, W.M.
 BLOCK 40
 MULTNOMAH COUNTY, OREGON

CURRAN-McLEOD, INC.
 CONSULTING ENGINEERS

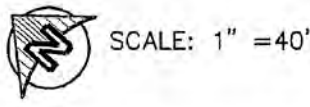
6655 SW. HAMPTON ST., SUITE 210
 PORTLAND, OREGON 97223
 PHONE (503) 684-3478



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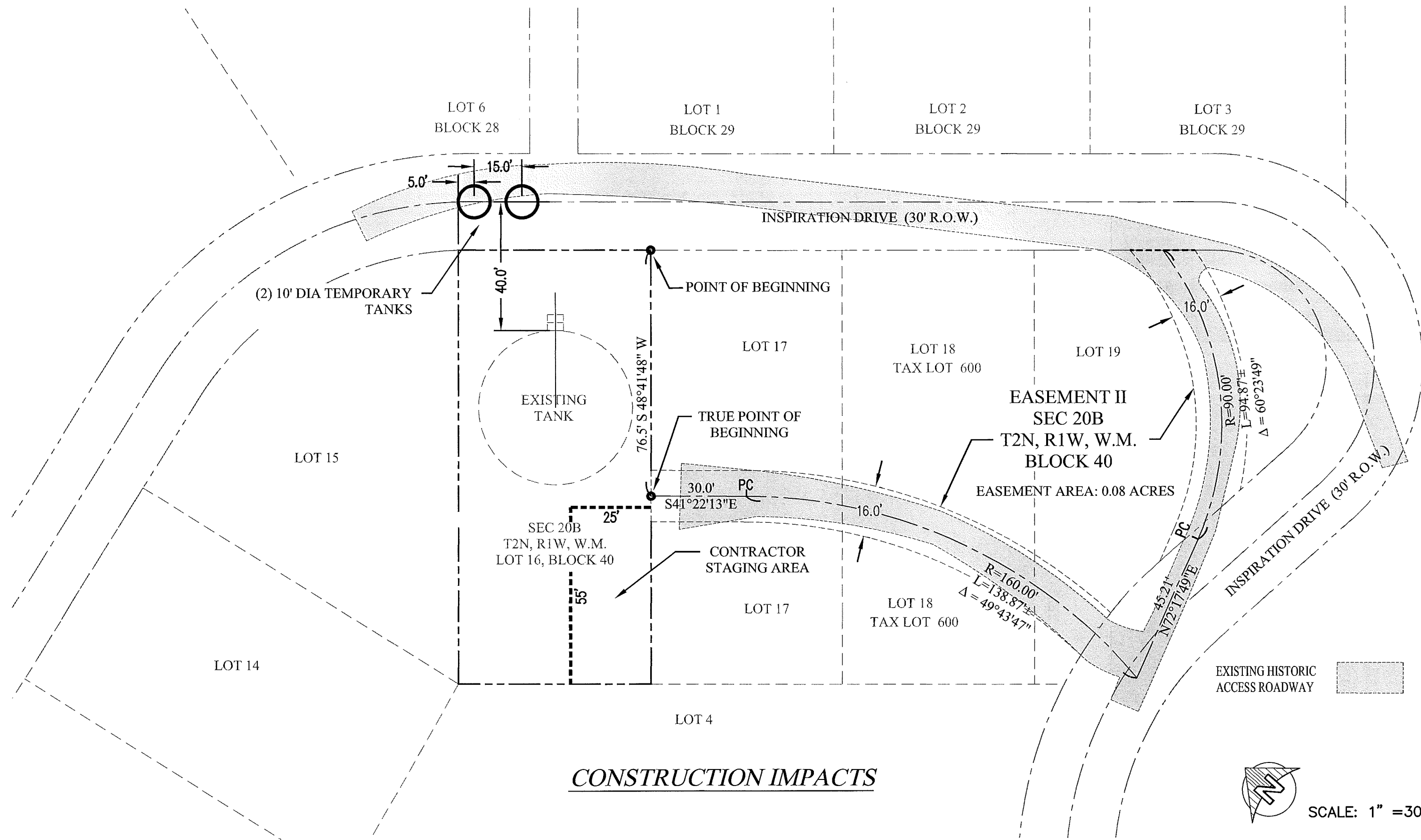


EXPIRES: 12/31/2013



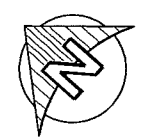
BURLINGTON WATER DISTRICT
RESERVOIR EASEMENT II
 SEC. 20 B, T2N, R1W, W.M.
 BLOCK 40
 MULTNOMAH COUNTY, OREGON

CURRAN-McLEOD, INC.
 CONSULTING ENGINEERS
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 PHONE (503) 684-3476



CONSTRUCTION IMPACTS

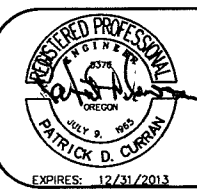
EXISTING HISTORIC ACCESS ROADWAY



SCALE: 1" = 30'

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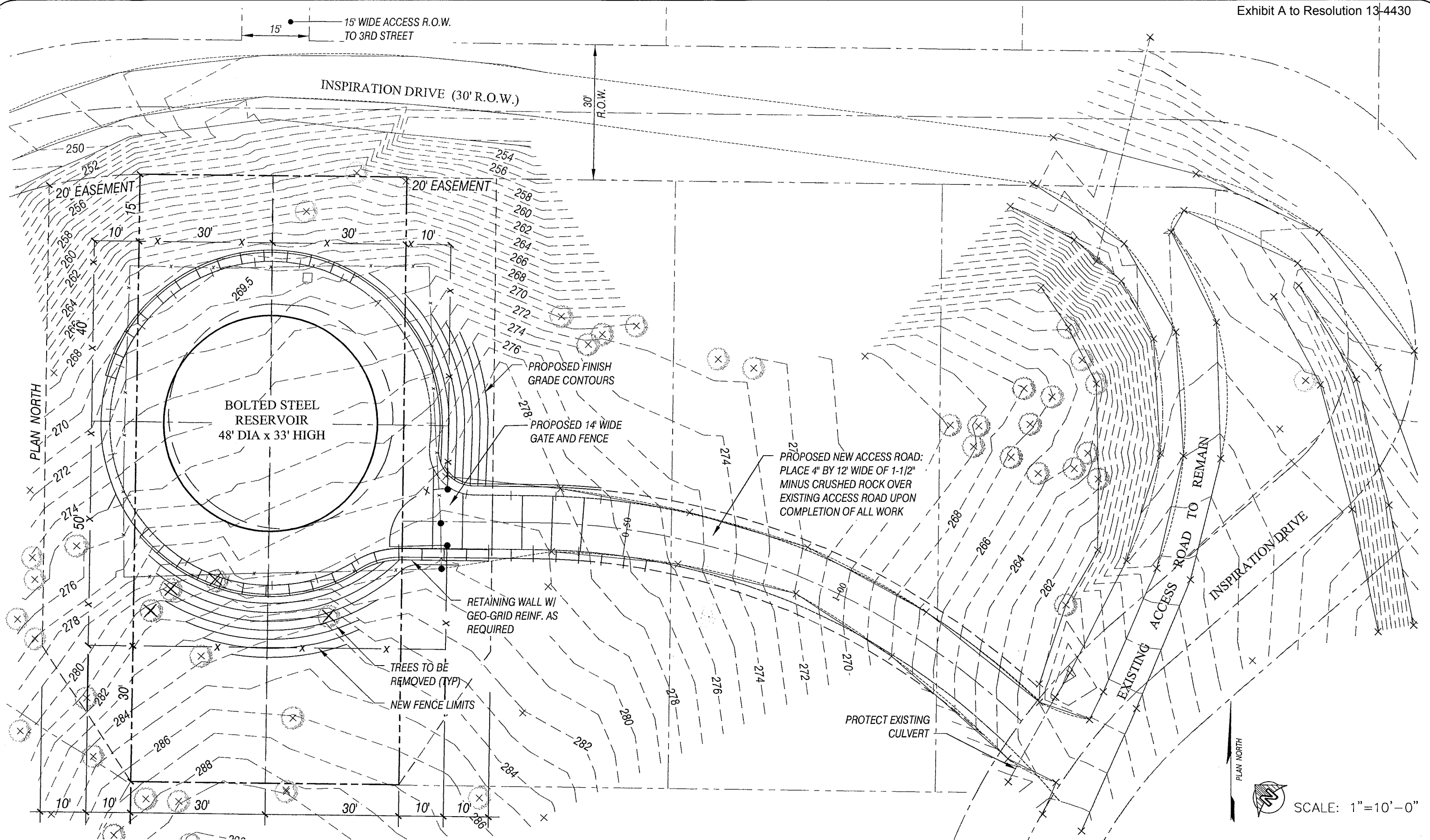
REV.	DESCRIPTION	REVISED BY	DATE



CURRAN-McLEOD, INC.
CONSULTING ENGINEERS
6655 SW HAMPTON ST, SUITE 210
PORTLAND, OREGON 97223
PHONE (503) 684-3478

BURLINGTON WATER DISTRICT
RESERVOIR SITE
WATER RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

DATE	JAN 2013	1 OF 1
PN	1554	
DR	PDH	
DS	JMF	
CD	B-EASEMENT II	



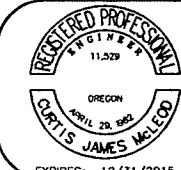
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1 STEEL RESERVOIR GRADING PLAN
 #/# SCALE: 1"=10'-0"

BAR IS ONE INCH ON ORIGINAL DRAWING.
 ADJUST SCALE AS SHOWN ACCORDINGLY.

REV.	DESCRIPTION	REVISED BY	DATE

REVISIONS

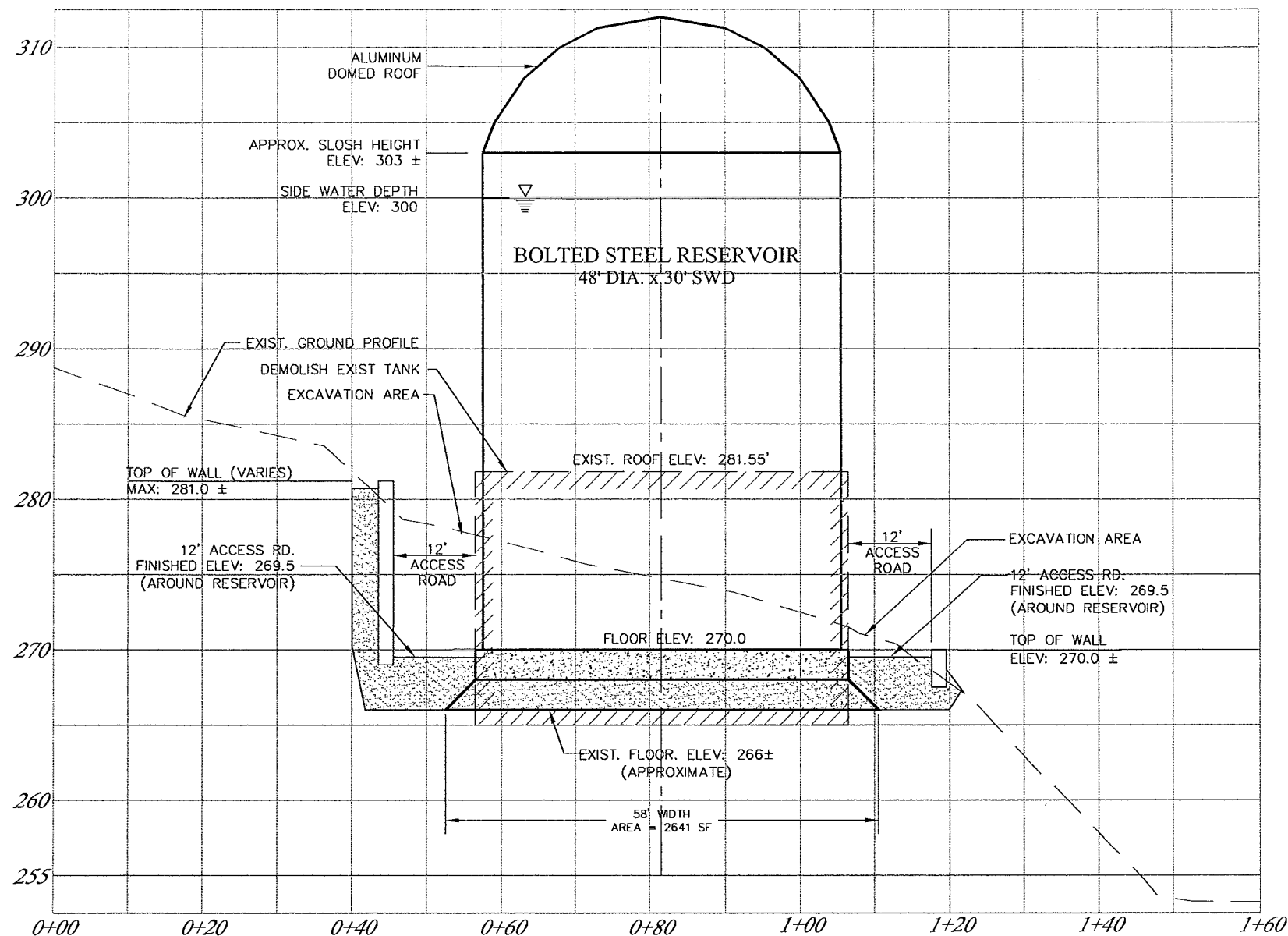


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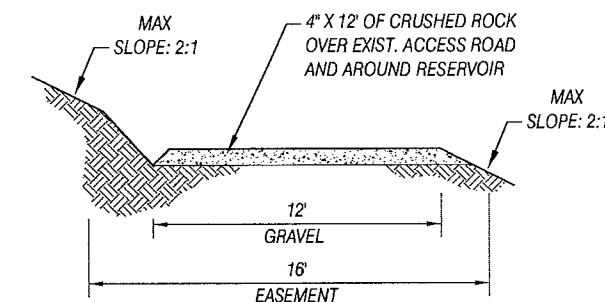
BURLINGTON WATER DISTRICT
STEEL RESERVOIR OPTION
SITE GRADING PLAN
 2013 RESERVOIR IMPROVEMENTS
 MULTNOMAH COUNTY, OREGON

DATE	MAR. 2013
BY	1554
CHK	CJM
APP	DCA
CAD	

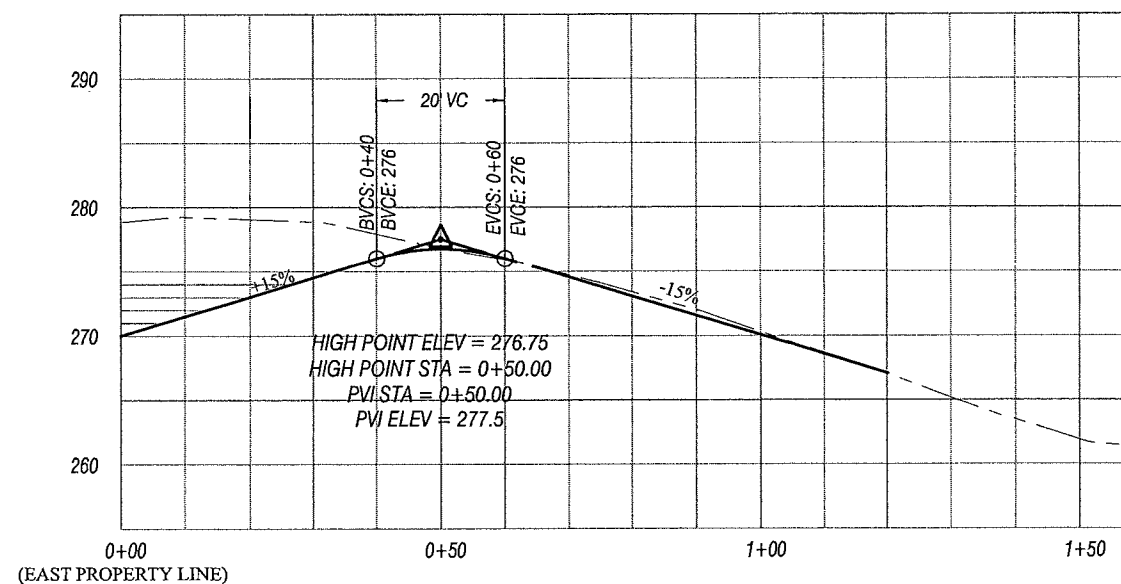
SCALE: 1"=10'-0"



1 STEEL RESEVOIR OPTION CROSS SECTION
SCALE: VERT 1"=10'-0"
HORZ 1"=20'-0"



2 ACCESS ROAD: TYPICAL SECTION
SCALE: N.T.S.

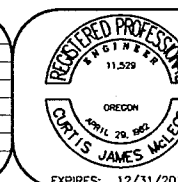


3 ACCESS ROAD PROFILE
SCALE: VERT 1"=15'
HORZ 1"=30'

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BAR IS ONE INCH ON ORIGINAL DRAWING.
ADJUST SCALE AS SHOWN ACCORDINGLY.

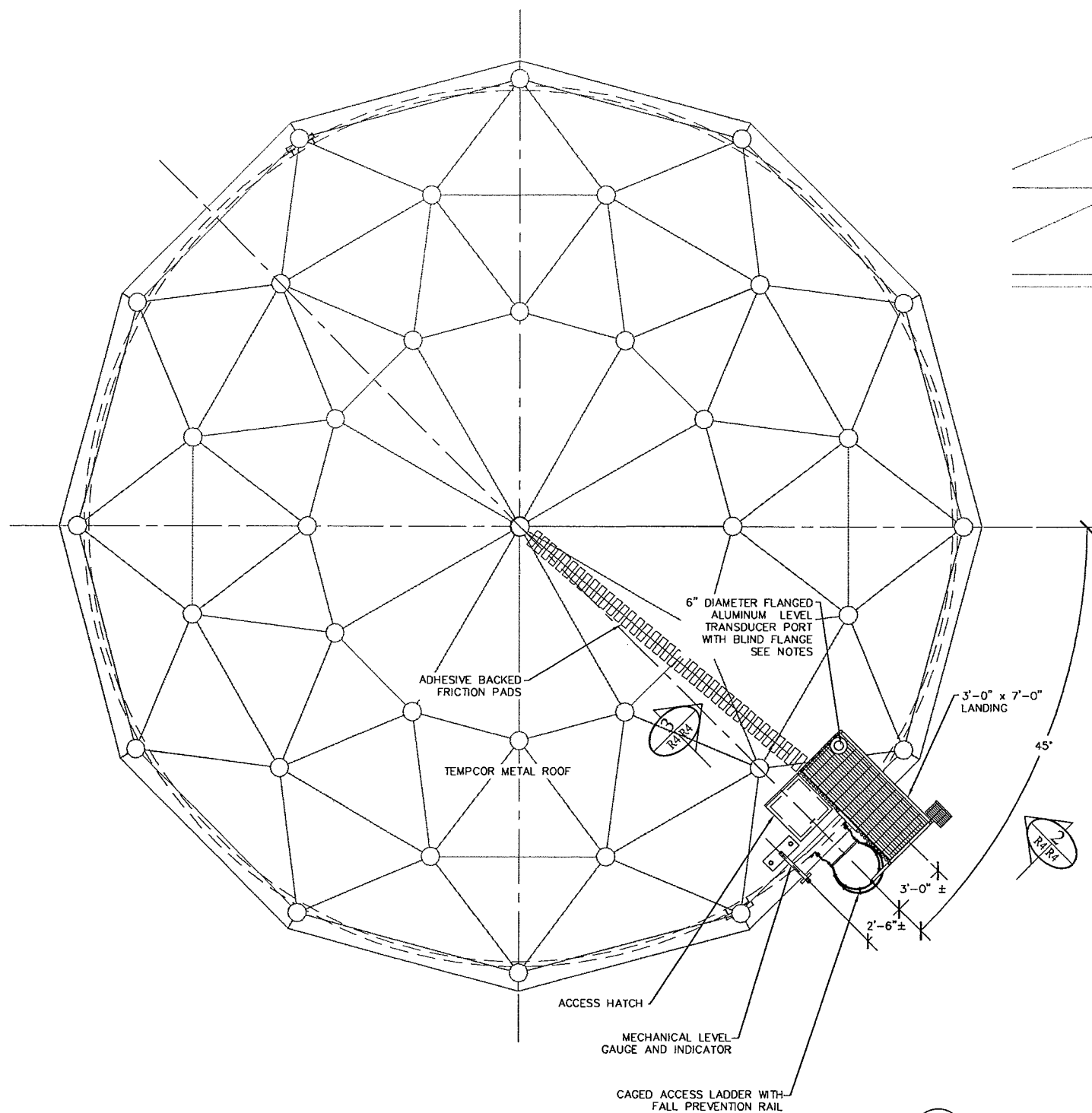
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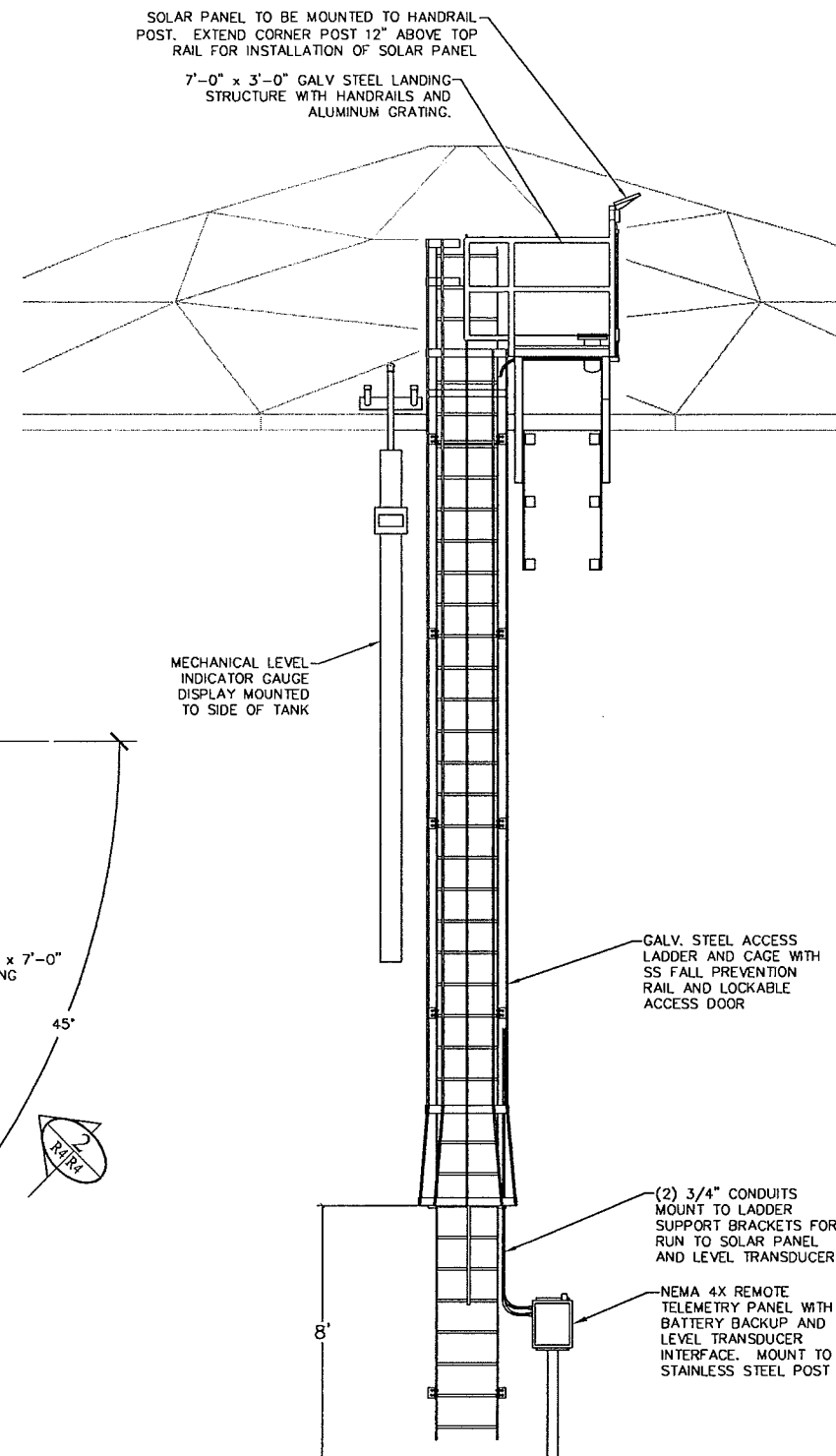
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PHONE (503) 684-3478

BURLINGTON WATER DISTRICT
STEEL RESERVOIR OPTION SECTION
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

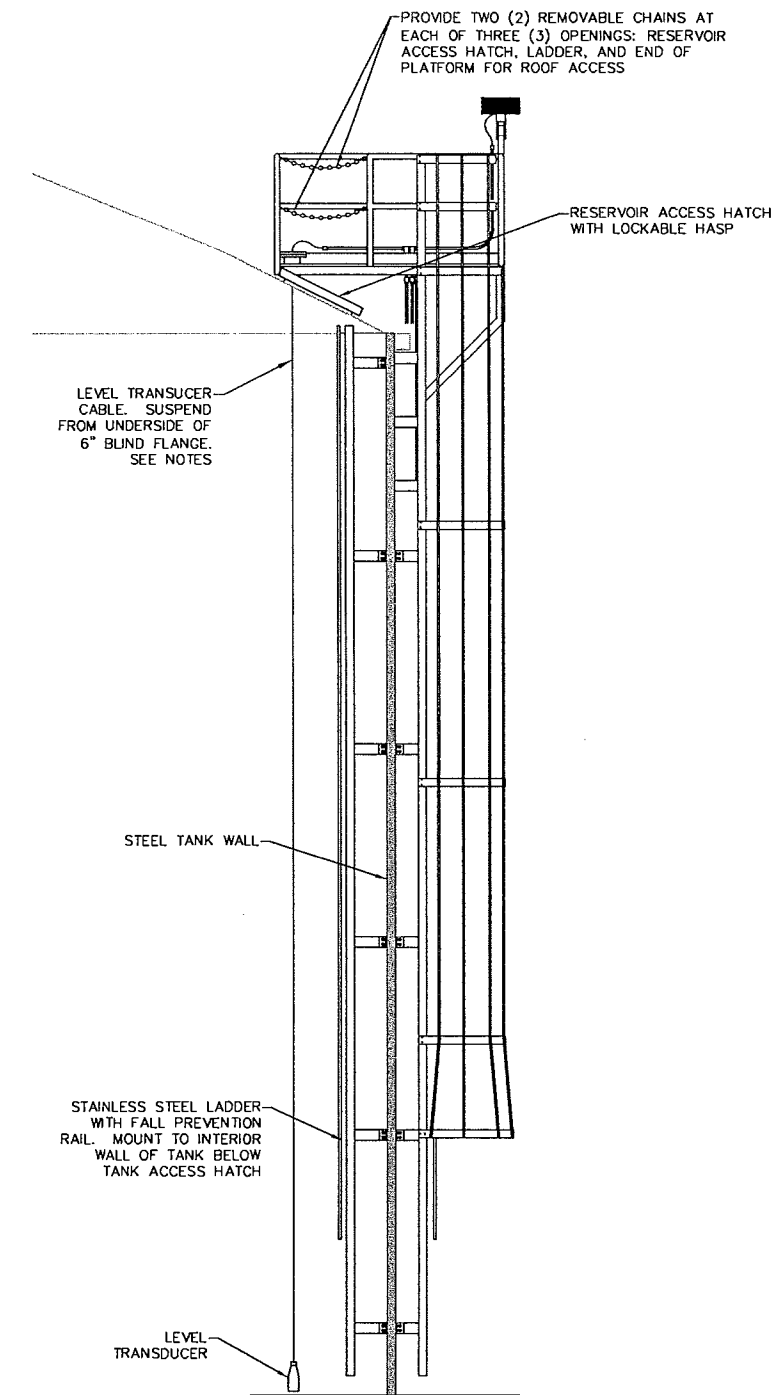
DATE	MAR. 2013
BY	1554
CHK	CJM
APP	DCA



1 STEEL TANK ROOF PLAN VIEW
SCALE: 1"=4' (STEEL RESERVOIR OPTION)



2 ELEVATION VIEW
SCALE 1" = 6'



3 ELEVATION VIEW
SCALE 1" = 6'

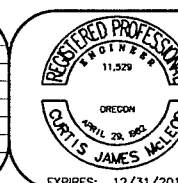
1. DRILL THROUGH BLIND FLANGE. TAP FLANGE FOR 1" DIAMETER NPT THREADS. HOLE TO BE CENTERED IN FLANGE.

DRILL AND TAP UNDERSIDE OF FLANGE FOR 3/8"-16 THREADS AND INSTALL 3/8" SS EYE BOLT WITH STAINLESS STEEL SPRING CLEAVES FOR INSTALLATION OF LEVEL TRANSDUCER CABLE SUPPORT. OFFSET TAP TO ONE SIDE OF FLANGE.

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ADJUST SCALE AS SHOWN ACCORDINGLY.

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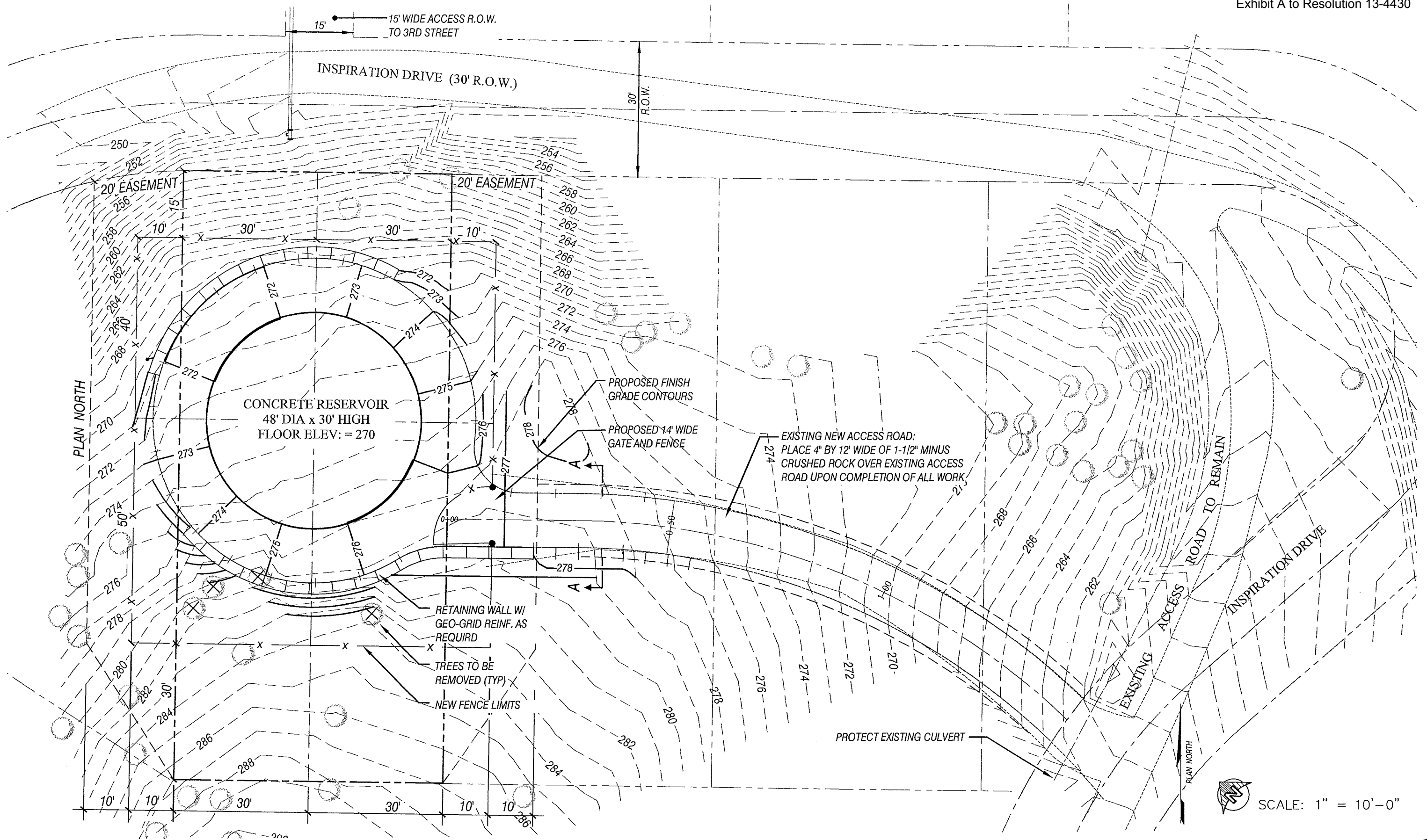
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BURLINGTON WATER DISTRICT
APPURTENANCE PLANS
STEEL TANK OPTIONS
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

DATE	MAR. 2013
DRAWN	1554
CHECKED	CJM
DESIGNED	DCA
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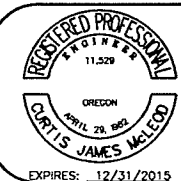
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CONCRETE RESERVOIR GRADING PLAN
SCALE: 1"=10'-0"

BAR IS ONE INCH ON ORIGINAL DRAWING.
ADJUST SCALE AS SHOWN ACCORDINGLY.

REV.	DESCRIPTION	REVIEWED BY	DATE

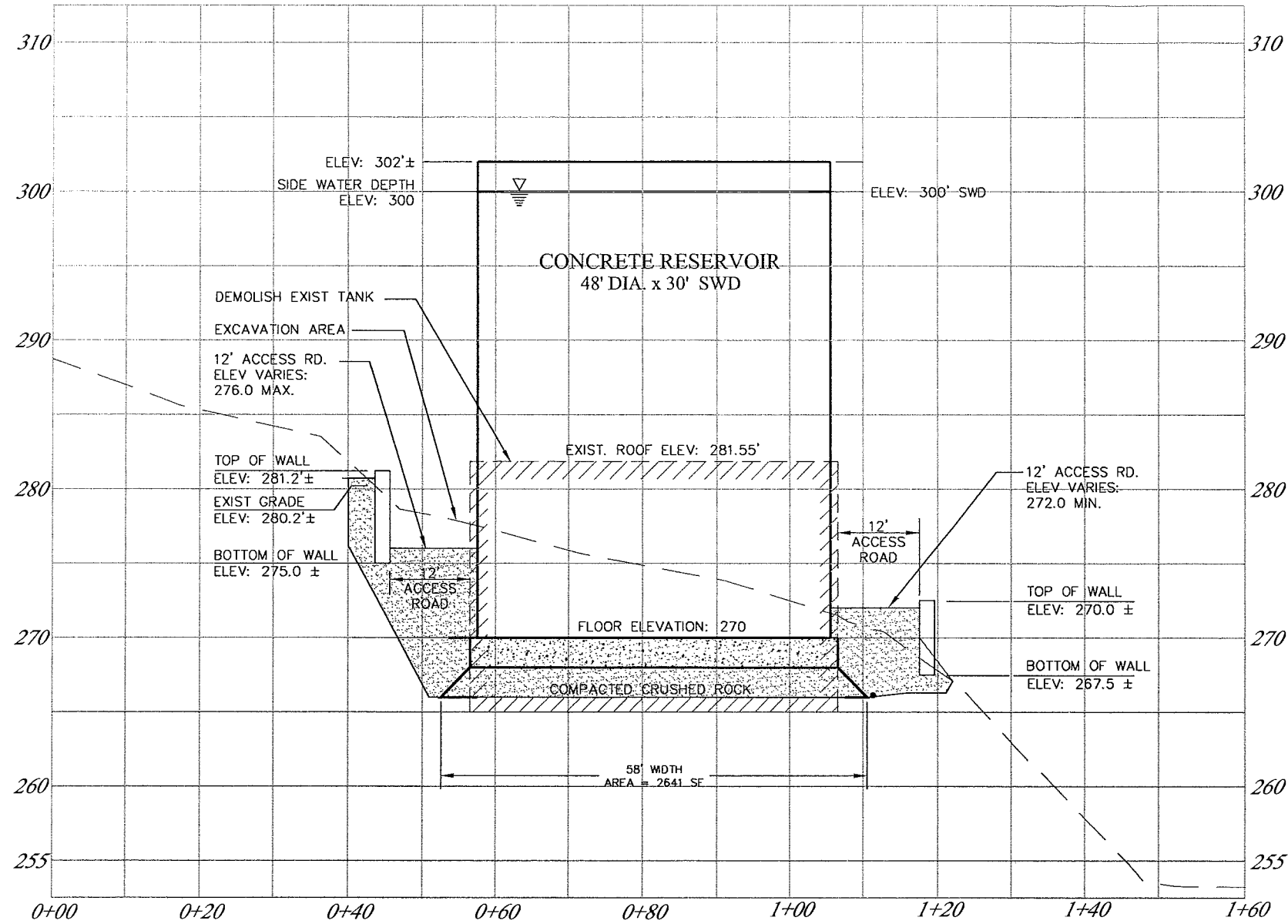
REVISIONS



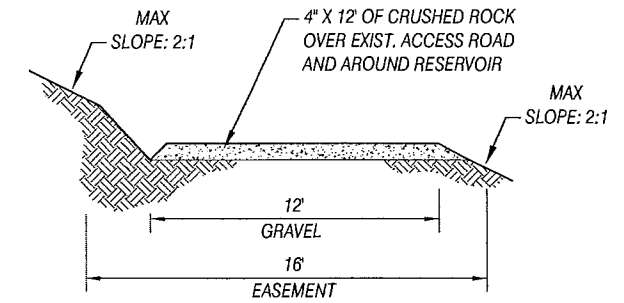
CURRAN-McLEOD, INC.
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PORTLAND, OREGON 97223
PHONE (503) 684-3478

BURLINGTON WATER DISTRICT
CONCRETE RESERVOIR OPTION
SITE GRADING PLAN
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

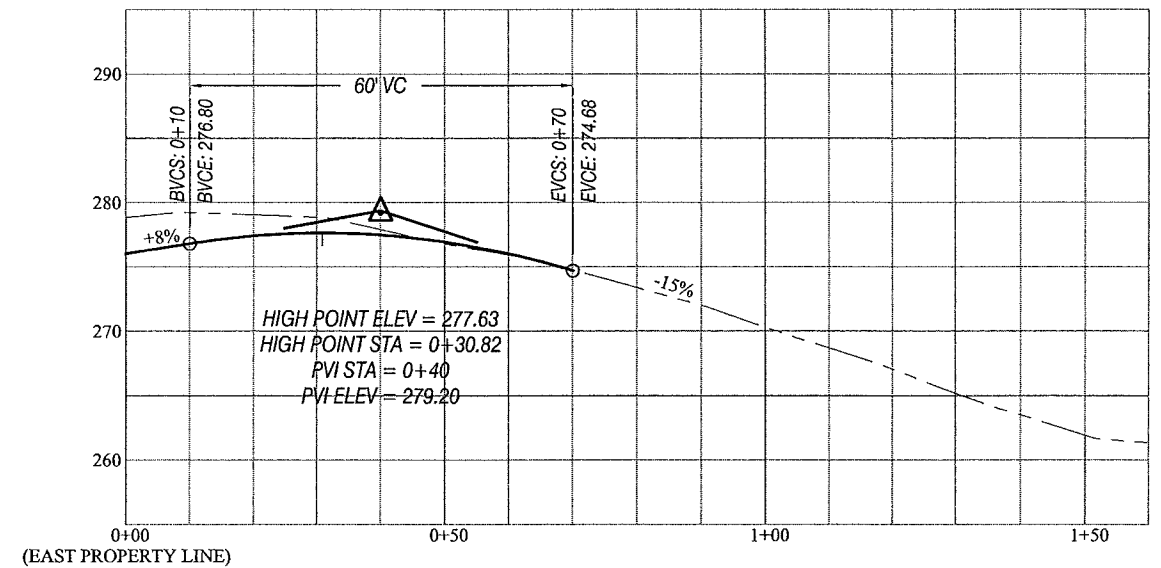
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PAN	1554	
D/S	CJM	
CAD	DCA	



1 CONCRETE RESEVOIR OPTION CROSS SECTION
 SCALE: VERT 1"=10'-0"
 HORZ 1"=20'-0"



2 ACCESS ROAD: TYPICAL SECTION
 SCALE: N.T.S.



3 ACCESS ROAD PROFILE
 SCALE: VERT 1"=15'
 HORZ 1"=30'

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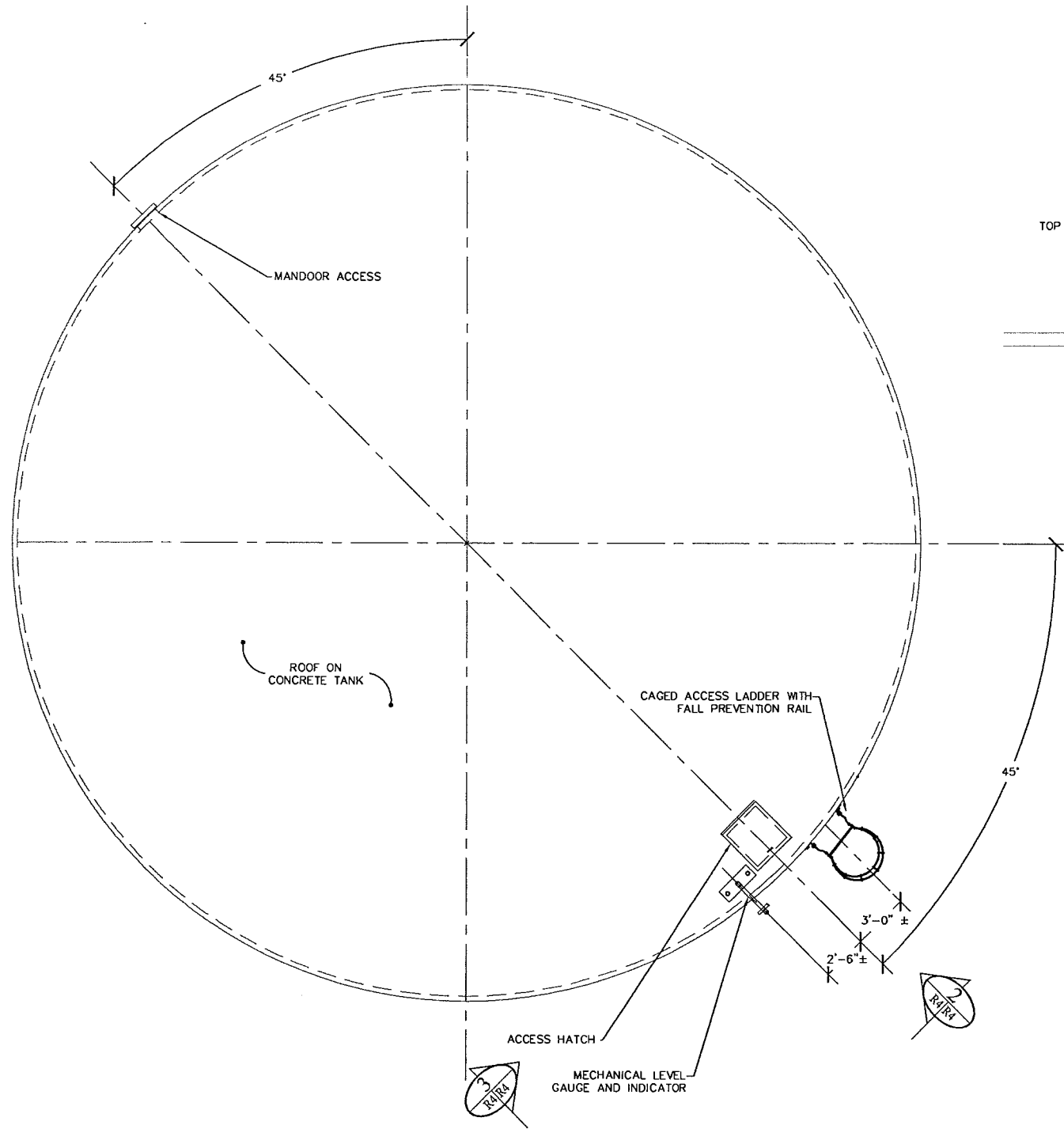
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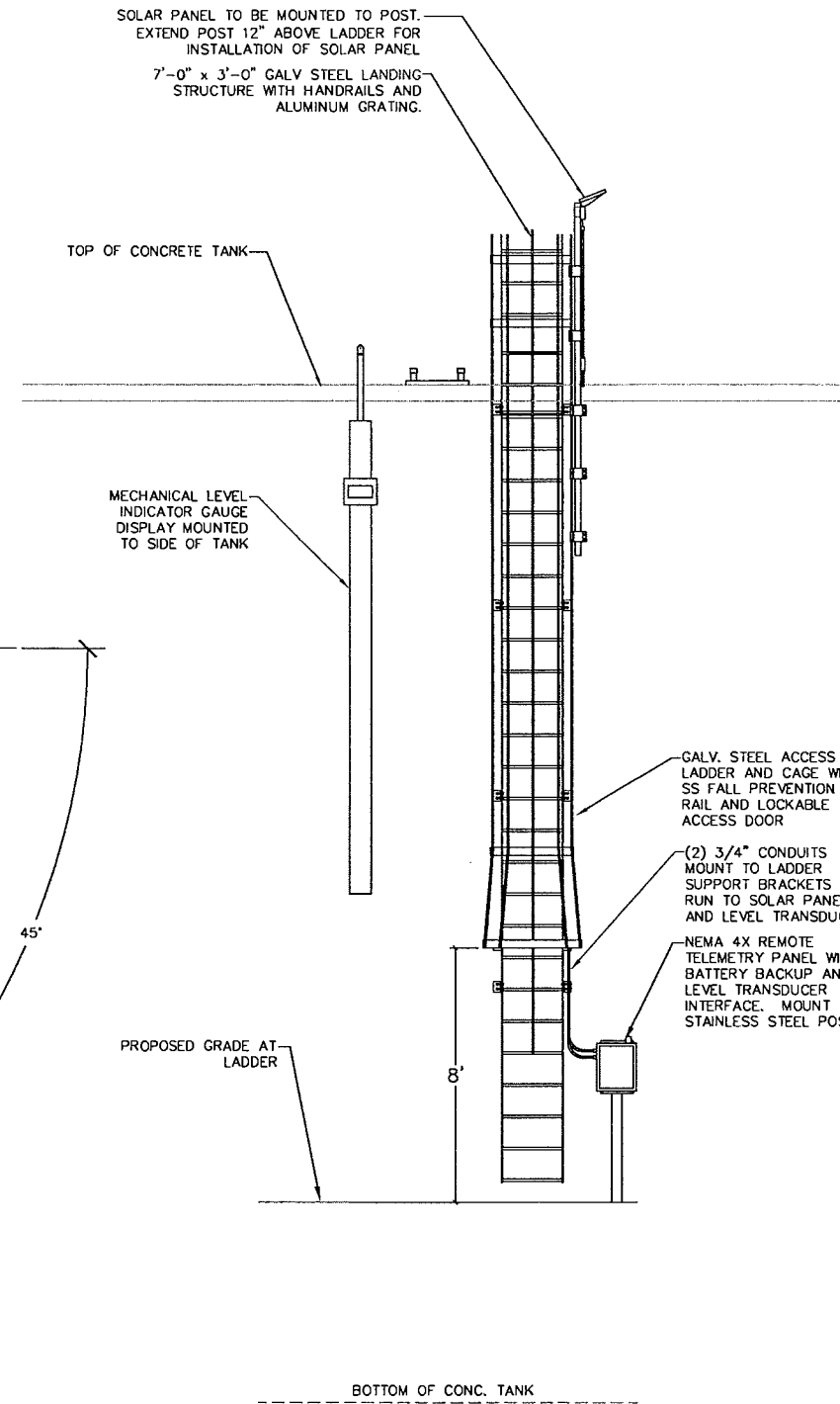
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BURLINGTON WATER DISTRICT
 CONCRETE RESERVOIR OPTION
 CROSS SECTION
 2013 RESERVOIR IMPROVEMENTS
 MULTNOMAH COUNTY, OREGON

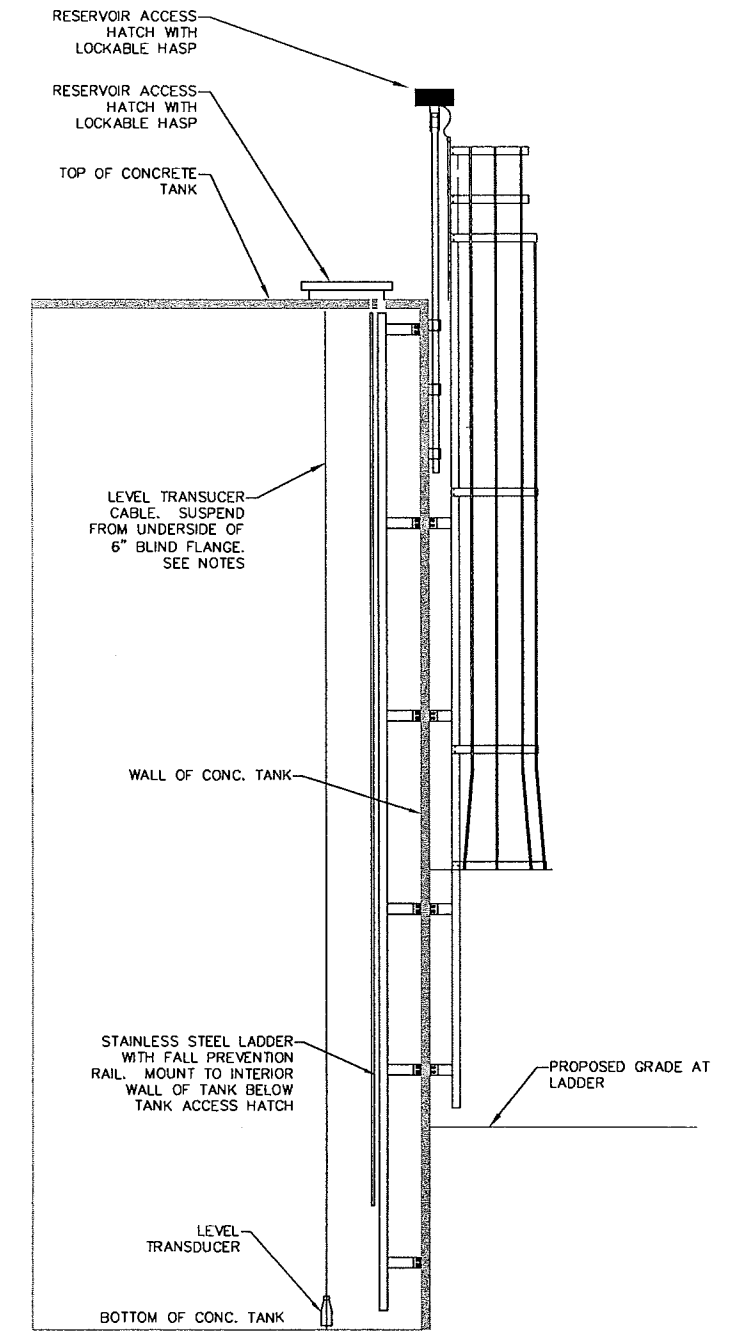
DATE	MAR. 2013
PAV	1554
DES	CJM
CHK	DCA
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1 STEEL TANK ROOF PLAN VIEW
SCALE: 1"=4' (CONCRETE RESERVOIR OPTION)



2 ELEVATION VIEW
SCALE 1" = 6'



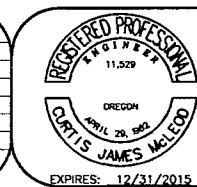
3 ELEVATION VIEW
SCALE 1" = 6'

1. DRILL THROUGH BLIND FLANGE. TAP FLANGE FOR 1" DIAMETER NPT THREADS. HOLE TO BE CENTERED IN FLANGE.
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REVISIONS



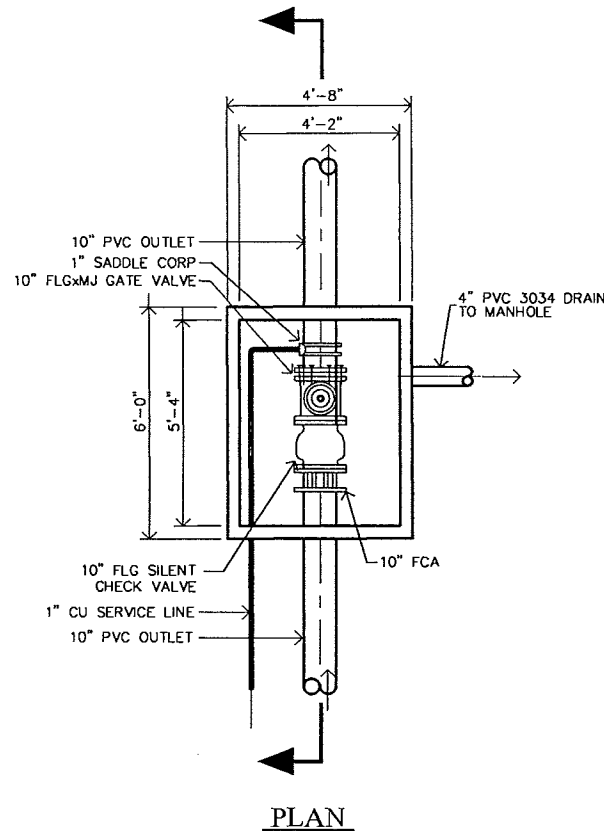
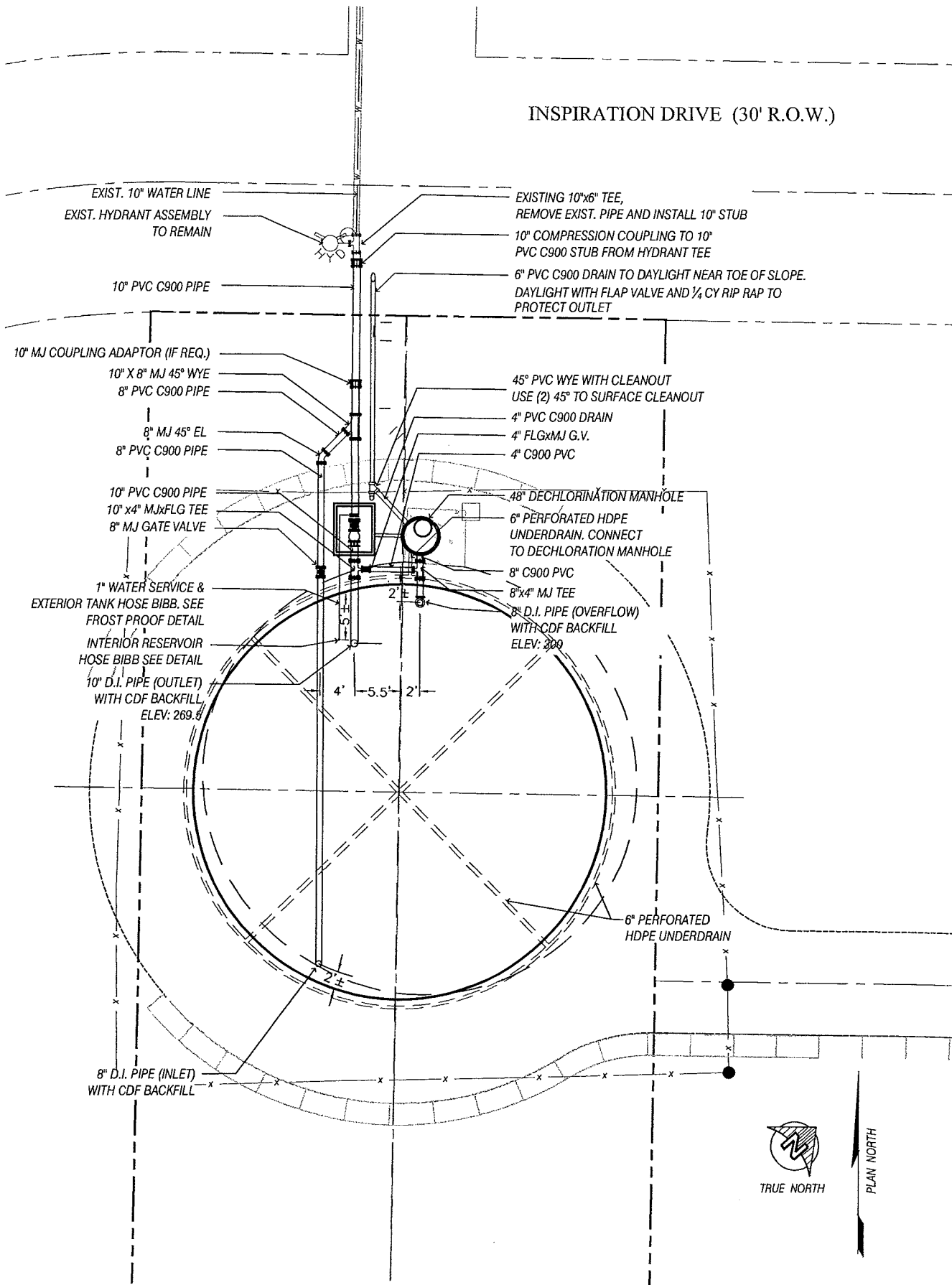
CURRAN-McLEOD, INC.
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PHONE (503) 684-3478

BURLINGTON WATER DISTRICT
APPURTENANCE PLANS
CONCRETE TANK OPTION
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

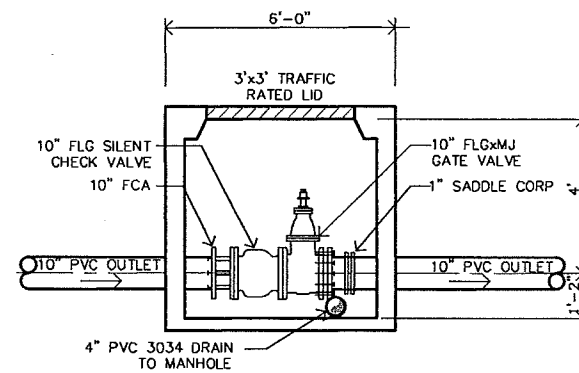
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PN	1554
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INSPIRATION DRIVE (30' R.O.W.)

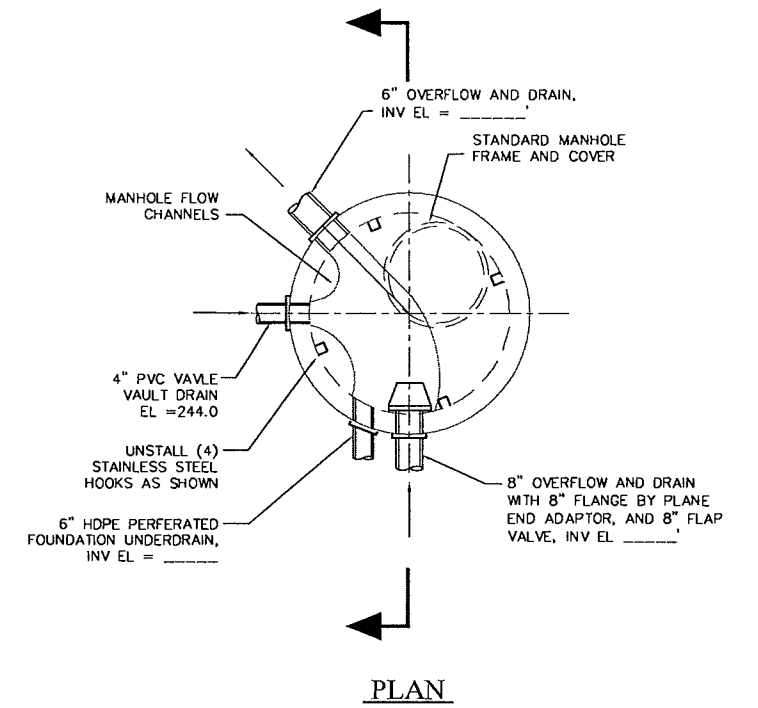


PLAN

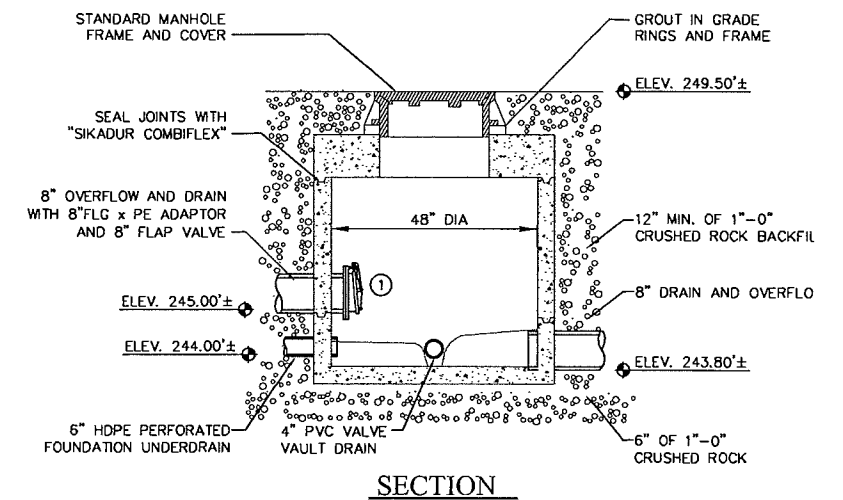


SECTION

2 VALVE VAULT DETAIL N.T.S.



PLAN



SECTION

1 WATERMAIN PF-25 CAST IRON FLANGED CHECK FLAP VALVE OR EQUAL

NOTE: MANHOLE BASES, BARREL SECTIONS, AND GRADE RINGS SHALL BE CONSTRUCTED OF PRECAST REINFORCED CONCRETE.

3 DECHLORINATION MANHOLE N.T.S.

1 RESERVOIR PIPING PLAN SCALE: 1"=8'

BAR IS ONE INCH ON ORIGINAL DRAWING. ADJUST SCALE AS SHOWN ACCORDINGLY.

REV	DESCRIPTION	REVISED BY	DATE

REVISIONS



CURRAN-McLEOD, INC. CONSULTING ENGINEERS

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PORTLAND, OREGON 97223
PHONE (503) 684-3478

EXPIRES: 12/31/2015

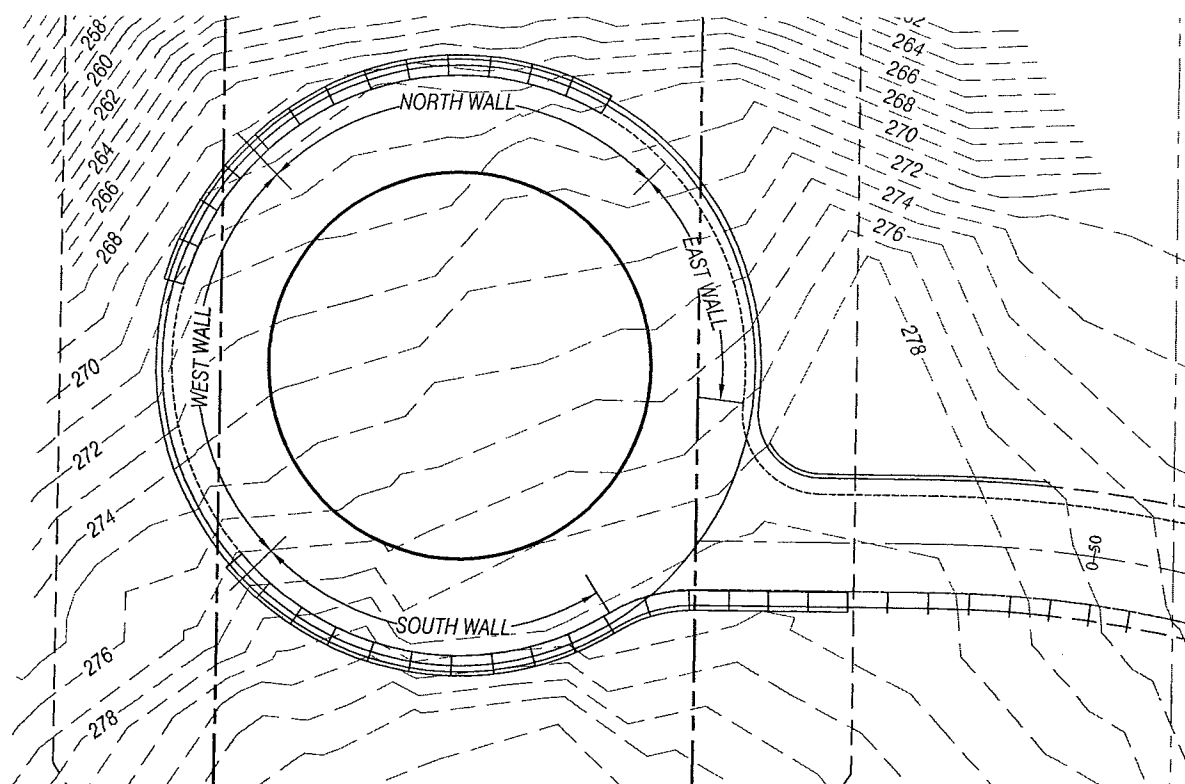
BURLINGTON WATER DISTRICT

PIPING PLAN

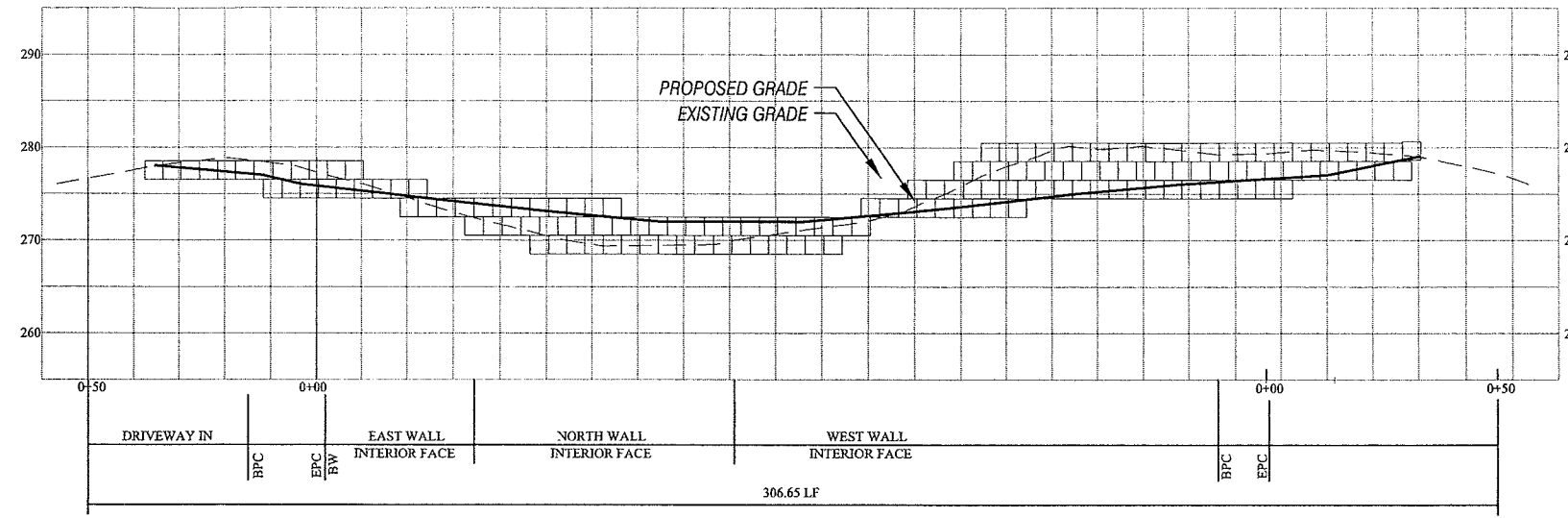
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

DATE	MAR. 2013
DESIGN	1554
DRAWN	CJM
CHECKED	DCA
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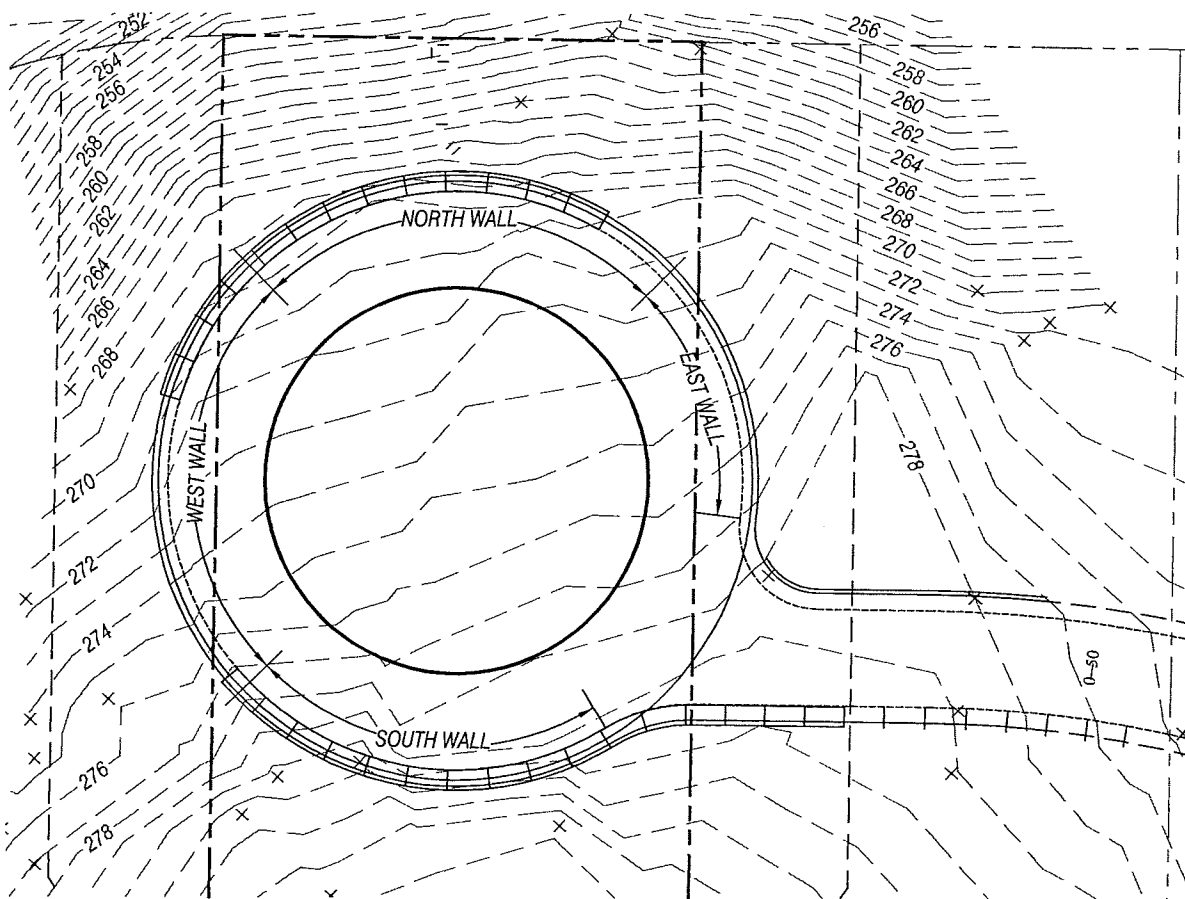
R8 OF 10



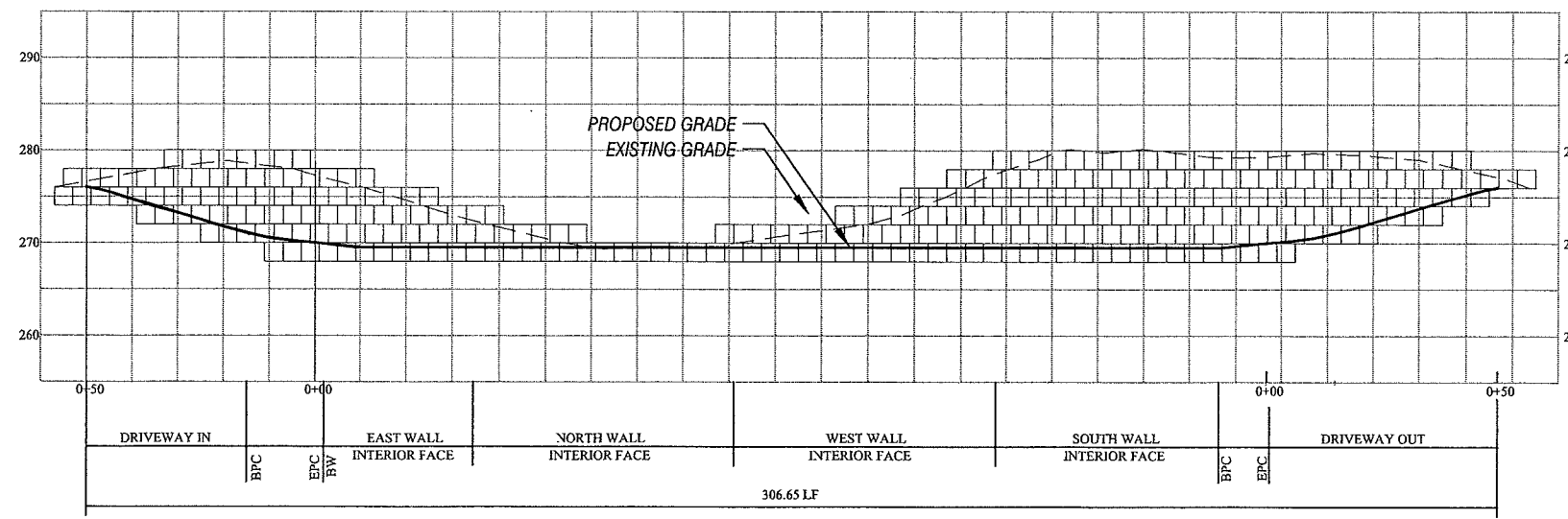
1 GRADING PLAN: CONCRETE OPTION
SCALE: 1"=12'



1 ECOLOGY BLOCK PROFILE: CONCRETE OPTION
INSIDE FACE OF WALL
SCALE: HORZ 1"=20'-0"
VERT 1"=10'-0"



1 GRADING PLAN: STEEL OPTION
SCALE: 1"=12'

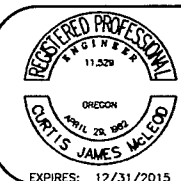


2 ECOLOGY BLOCK PROFILE: STEEL OPTION
INSIDE FACE OF WALL
SCALE: HORZ 1"=20'-0"
VERT 1"=10'-0"

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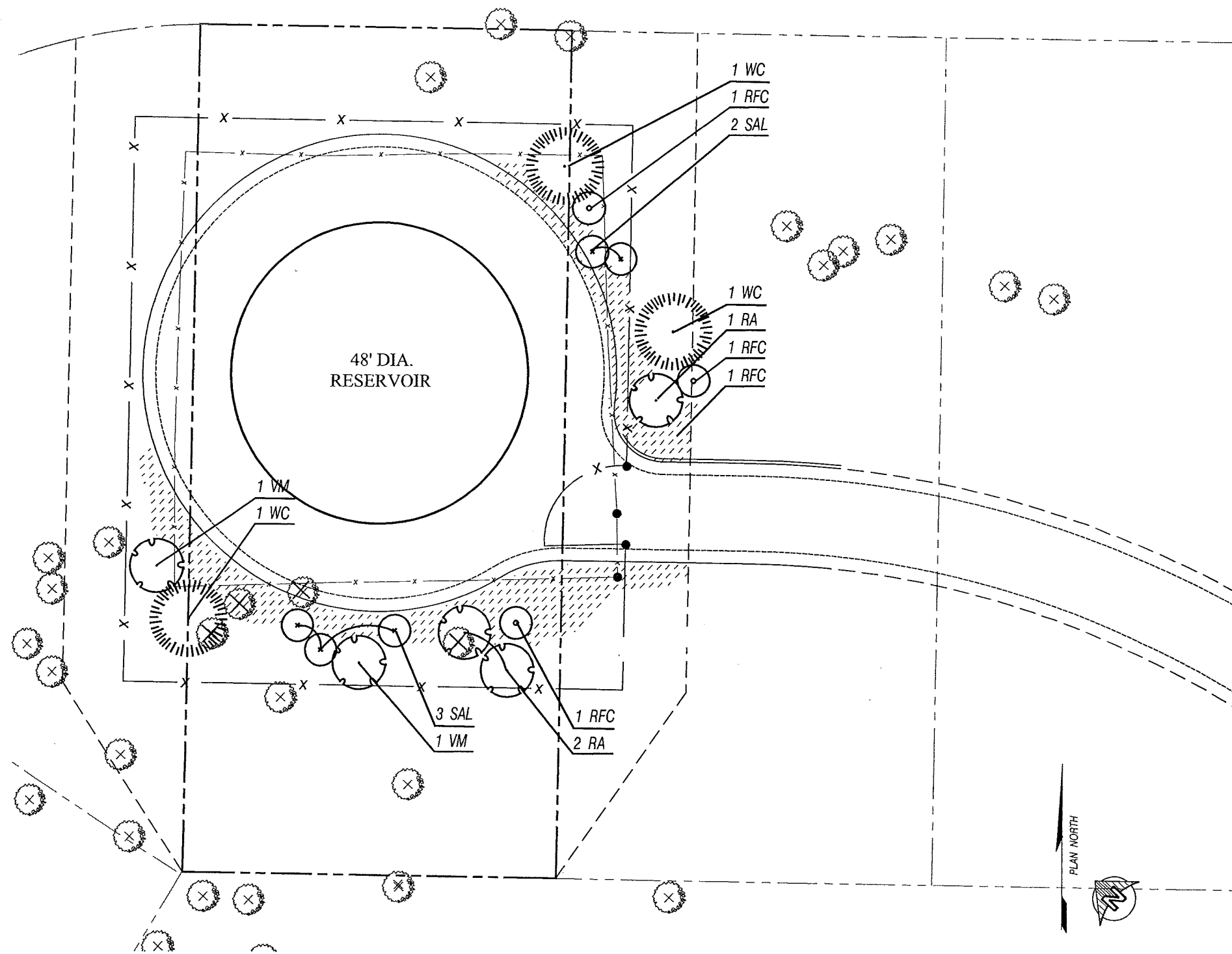


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BURLINGTON WATER DISTRICT
ECOLOGY BLOCK PROFILE
CONCRETE & STEEL OPTIONS
2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

DATE	MAR. 2013
PN	1554
DR	CJM
DES	DCA
CAD	

INSPIRATION DRIVE (30' R.O.W.)



PLANT LEGEND

TREES			
	(4)		Existing Trees to be Removed
	WC (3)	3-4'	<i>Thuja plicata</i> Western Red Cedar
	RA (3)	#1 Container	<i>Alnus rubra</i> Red Alder
	VM (2)	5 gal.	<i>Acer circinatum</i> Vine Maple
SHRUBS			
	SAL (5)	1 gal.	<i>Galthera shallon</i> Salal
	RFC (3)	1 gal.	<i>Ribes sanguinum</i> Red Flowering Currant
GROUND COVER			
			Seed remaining disturbed areas with Hobbs & Hopkins ProTime 705 PDX Ecoogy Mix. Seed at a rate of (1.5-2 lbs/1000 s.f.)

Notes:

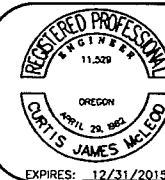
1. Clear and remove all blackberries within the construction area.
2. Remove and save existing ferns from the construction area for transplant throughout the revegetation area shown on this plan.

PLANTING PLAN
SCALE: 1"=10'

BAR IS ONE INCH ON ORIGINAL DRAWING.
ADJUST SCALE AS SHOWN ACCORDINGLY.

REV.	DESCRIPTION	REVISED BY	DATE

REVISIONS



CURRAN-McLEOD, INC.
CONSULTING ENGINEERS
6655 SW HAMPTON ST, SUITE 210
PORTLAND, OREGON 97223
PHONE (503) 684-3478

BURLINGTON WATER DISTRICT
RESERVOIR PLANTING PLAN

2013 RESERVOIR IMPROVEMENTS
MULTNOMAH COUNTY, OREGON

DATE	MAR. 2013
P/N	1554
D/R	CJM
D/S	DCA
C/D/P	

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 13-4430, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO GRANT AN EASMENT TO THE BURLINGTON WATER DISTRICT

Date: May 16, 2013

Prepared by: Kathleen Brennan-Hunter
503-797-1948

BACKGROUND

Metro's Sustainability Center receives requests for easements, leases and right-of-ways through natural area properties. These requests are reviewed and analyzed per guidance and policy established via Resolution 97-2539B, "For The Purpose Of Approving General Policies Related To The Review Of Easements, Right-Of-Ways and Leases For Non-Park Uses Through Properties Managed By Regional Parks and Greenspaces Department" adopted by the Metro Council on November 6, 1997. Metro received an easement application from the Burlington Water District and it has been reviewed by staff in accordance with this policy. As set forth in the findings in Attachment 1 as required by the policy, staff recommends approval of the easement request.

Metro acquired 332 acres of property in the Forest Park Connections Target Area with funds from the 1995 Open Spaces, Parks and Streams bond measure (the "Burlington Property"). The site, consisting primarily of timbered slopes, includes scenic vistas, water quality protection and habitat values. For the past century, the Burlington Water District (the "District") has operated and maintained a 200,000 gallon water storage tank on an inholding at the site. Surrounded on three sides by Metro's Burlington Property, the existing tank is in poor condition and is smaller than needed. There is no existing access agreement for maintenance, replacement and repair the tank. It must be replaced with a 350,000 gallon tank within the next year to provide safe storage for potable water within and adjacent to the District in accord with state rules and regulations.

The Burlington Water District requests a permanent access easement from Inspiration Drive 150 ft. to the District's water tank, one 2,710 square foot permanent easements on the north side of the District's property and one 2,770 square foot permanent easement on the south side of the district's property to use for the replacement of the existing water reservoir for future maintenance and repair. The area of the proposed access easement from Inspiration Drive is an existing gravel road that is utilized by Metro for site maintenance and by power utility companies to inspect and maintain their lines and towers. The use of the easement areas adjacent to the existing tank and property lines will have minimal impact on native vegetation and the Burlington Water District will be required to restore the site after construction per Metro specifications.

Metro staff recorded time and costs spent on this application and informed the applicant that the policy requires reimbursement. The applicant, a small, local water district with limited resources, requests that the Metro Council waive this requirement. Additionally, if the Metro Council elects to approve the easements, the applicant would be required to obtain an appraisal to determine the fair market value of the proposed temporary and permanent easements and compensate Metro accordingly. The applicant requests that the Metro Council waive the requirement to obtain an appraisal and pay fair market value for the easements. The area impacted is minimal and the cost of an appraisal is likely to be greater than the value of the easements.

ANALYSIS/INFORMATION

1. Known Opposition

None

2. Legal Antecedents

1995 Metro Open Spaces Bond Measure approved by voters on May 16, 1995;

Metro Code Section 2.04.026(a)(2), which requires Metro Council authorization for the Chief Operator to transfer interests in real property; and

Metro Council Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right-Of-Ways, and Leases for Non-Park Uses through Properties Managed by the Regional Parks and Greenspaces Department," adopted November 6, 1997.

3. Anticipated Effects

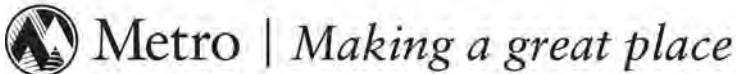
Adoption of the easement will allow the Burlington Water District to develop, construct and maintain a new water tank that will provide potable water to residents and businesses within and adjacent to the District.

4. Budget Impacts

None

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution 13-4430.



METRO EASEMENT POLICY CRITERIA AND STAFF FINDINGS ON BURLINGTON WATER DISTRICTS APPLICATION FOR A PERMANENT EASEMENT IN BURLINGTON CREEK FOREST

- 1) Provide for formal review of all proposed easements, rights of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

Staff finding: Metro natural areas staff reviewed the easement application materials in light of the criteria outlined in the Metro easement policy. The information that was provided by the applicant to Metro staff indicates that the activities proposed in this easement support a pre-existing water utility use and would not significantly damage the natural resources at the site. Criterion has not been satisfied; a resolution is on the May 16, 2013 Metro Council agenda.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff finding: The applicant requests a permanent access easement from Inspiration Drive 150 ft. to the District's water tank and two 2,040 sq. ft easements on either side of their property to use for the replacement of the existing water reservoir and appurtenances and the required maintenance of the reservoir. The proposed access easement from Inspiration Drive is currently a gravel road that is utilized by Metro for site maintenance and power utility companies to inspect and maintain their lines and towers. The easement areas adjacent to the existing tank and property lines will have minimal impact on native vegetation

- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff finding: There will be no significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management to the site by the requested easement due to the fact that the access easement will be over an existing gravel road through Metro property that has been used for ingress and egress. The impacts to the easement areas adjacent to the water tank will be minimal and any impacts to plants or habitat will be restored by the applicant.

- 4) **Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way, or non-park use can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.**

Staff finding: There is not a master or management plan for the site, but the road and tank are existing uses and will have to be accommodated in future planning regardless of these easements. Any natural resource impacts to the site would be minimal and can be mitigated.

- 5) **Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff finding: The applicant proposes to mitigate impacts to the site's natural resources by re-grading to existing contours when possible and replanting with native trees, shrubs and groundcover.

- 6) **Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to accomplish the objectives of any proposal.**

Staff finding: The applicant indicates that the access easement 16' x 160' (approx. 2,560 sq. ft.) and the 20' x 102' (approx. 2,040 sq. ft.), 67' x 10' (approx. 670 sq. ft.), 20' x 105' (approx 2,100 sq. ft.) and 10' x 67' (approx 670 sq. ft.) permanent easements being requested are the minimum required for the project. Maintenance of this area in perpetuity after the construction will be necessary for the applicant to maintain the fence line and to protect the integrity of the tank.

- 7) **Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff finding: The applicant indicates that permanent easement space limitations are the minimum needed to accomplish and maintain the project. The permanent easement would typically require regular inspection visits, which could be monthly or more frequent as needed.

- 8) **Require reversion, non-transferable, and removal and restoration clauses in all easements, rights of ways, and leases.**

Staff finding: If the Metro Council approved an easement, the easement will include these terms.

- 9) **Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying, or assuring compliance with the terms of any easement, right of way, or lease for non-park use.**

Staff finding: Metro staff documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the easement is subject to satisfaction of all expenses. The applicant, a small, local water district, requests that the Council waive this requirement.

- 10) **Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than money.**

Staff finding: If the Metro Council elects to approve the easements, the applicant would be required to obtain an appraisal to determine the fair market value of proposed temporary and permanent easements and compensate Metro accordingly. The cost of obtaining an appraisal of the easement area may exceed the value of the easement area. The applicant, a local water district, requests that the Council waive the requirement to pay fair market value for the easement supporting the renewal and replacement of this pre-existing facility.

- 11) **Require full indemnification from the easement, right of way or leaseholder for all costs, damages, expenses, fines, or losses related to the use of the easement, right of way, or lease. Metro may also require insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff finding: If the Metro Council elected to approve the easements, the easement document would include indemnification and insurance provisions.

- 12) **Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff finding: There is no master or management plan nor noted leases in the implementation work plan for the site.

- 13) **Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:**
- A. **The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute unfeasibility.**

Staff finding: The applicant submitted a detailed proposal that included all necessary information. The alternatives analysis indicates that other sites for the project do not exist.

- B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities, which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.**

Staff finding: No additional information is needed.

- C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.**

Staff finding: Staff has determined no reasonable alternative exists.

- D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.**

Staff finding: Staff has determined no significant impacts will occur to natural resources or the operations and management of Metro property.

- E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval. In no event shall construction of a project commence prior to formal approval of a proposal.**

Staff finding: Construction is contingent on the approval of the Metro Council.

- F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way, or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.**

Staff finding: The applicant requests that the Metro Council waive the requirement to pay for expenses incurred by Metro. Staff determined that is reasonable to waive the costs associated with this easement request. Waiving the expenses is contingent on the approval of the Metro Council.

- G. Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state, or local jurisdiction requirements.**

Staff finding: Criterion satisfied