

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 89 - 1077
EASEMENT FOR BUREAU OF WATER WORKS,)
CITY OF PORTLAND, FOR CONSTRUCTION AND) Introduced by
INSPECTION OF WATER LINE ON SITE OF) Executive Officer Rena Cusma
OREGON CONVENTION CENTER)

WHEREAS, construction of the Oregon Convention Center has required the relocation of several utilities; and

WHEREAS, the Bureau of Water Works, City of Portland is relocating a water line from the center of Irving Street to the southern end of the convention center site; and

WHEREAS, the relocation, construction and future maintenance of the water line will require access by the City; and

WHEREAS, in order to grant this access an easement is required; now, therefore,

BE IT RESOLVED,

That the Metropolitan Service District grant to the Bureau of Water Works a perpetual easement for the water line relocated to the southern end of the site of the Oregon Convention Center.

ADOPTED by the Council of the Metropolitan Service District this 13th day of April, 1989.



Mike Ragsdale, Presiding Officer

WATER FACILITY EASEMENT
TO THE
BUREAU OF WATER WORKS
CITY OF PORTLAND, OREGON

In consideration of mutual benefits the Metropolitan Service District, an Oregon municipal corporation (Grantor) conveys to the Bureau of Water Works of the City of Portland, a municipal corporation of the State of Oregon (Grantee), a perpetual easement to use a parcel of land for the purpose of constructing, reconstructing, inspecting and maintaining a water line or lines, water system facilities, and necessary appurtenances, which is located within the Grantor's property as described in Exhibit "A", which is attached hereto.

The terms of this easement are as follows:

1. No permanent or temporary surface or underground structure, including public or private utility line(s) or other improvements, shall be constructed or located within the easement without the prior written consent of the Chief Engineer of the Grantee, which consent shall not be unreasonably withheld. Grantee may construct only such structures within the easement as are required for the water facilities. Grantee acknowledge Grantor's future expansion plans for construction of retaining wall and roadway facilities in vicinity of easement and shall cooperatively work with Grantor to develop acceptable plans for such facilities, but shall not be responsible for any relocation costs.

2. The easement area shall be kept open, accessible, and passable at all times with the exception that obstructions to accessibility shall be approved in writing by the Chief Engineer of the Grantee prior to their installation or construction.

3. No grade change in excess of one (1) foot in elevation shall be allowed within the easement without the prior written consent of the Chief Engineer of the Grantee, which consent shall not be unreasonably withheld.

4. No trees shall be planted within ten feet of the center line of the water line without the prior written consent of the Chief Engineer of the Grantee.

5. Water facilities shall not be connected to water facilities owned and/or controlled by the Grantee without appropriate permits from the Grantee.

6. Grantor agrees that within the Water Facility Easement, the construction of any surface or underground structures, permanent or temporary, or the storage of any materials shall conform to all State and local health regulations. No public health hazard or hazardous materials as defined by Chapter 333 of the Oregon Administrative Rules of the Oregon State Health Division, or any materials prohibited within the easement area by the Grantee may be stored within the Water Facility Easement.

7. The Grantee will restore to a condition of equal or better, the surface of the easement within a reasonable time after completion of construction or maintenance work. The Grantee agrees to use vegetation equal to or better than the existing in the restoration of any landscaping of the easement. The Grantor agrees to maintain the surface of the easement after acceptance of the restoration work performed by the Grantee.

8. In the event the Grantor should sell or lease the property upon which the easement may be located, the sale or lease will be subject to the restrictions and conditions described herein which will be binding upon the Grantor's heirs, successors, and assigns.

9. The Grantee shall, to the extent allowable by law, hold harmless, defend and indemnify Grantor and Grantor's officers, employees, and agents, against all claims, demands, actions and suits (including attorney fees and costs) brought against any of them arising from the Grantee's negligent use of easement, including but not limited to construction, repair, and maintenance of water facilities within the easement by the Grantee, its contractors, heirs, successors or assigns. Grantee's obligation to Grantor hereunder shall, however, be circumscribed by the limitations and exclusions contained in the Oregon Tort Claims Act, ORS 30.260-330.300.

10. Grantor shall, to the extent allowable by law, hold harmless, defend, and indemnify the Grantee and the Grantee's officers, agents and employees against all claims, demands actions, and suits (including attorney fees and costs) brought against any of them arising from Grantor's grant of the easement or Grantor's performance of any other obligations specified in the easement agreement. Grantor's obligation to Grantee hereunder shall, however, be circumscribed by the limitations and exclusions contained in the Oregon Tort Claims Act, ORS 30.260-30.300.

11. Prior to the start of any work within the easement, each party shall notify the other of the proposed work, addressing access, security, and any other impacts of the construction.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this 14th day of April, 1989.

GRANTOR:

Rena Cusma, Executive Officer
Metropolitan Service District

GRANTEE:

Bureau of Water Works of the
City of Portland, Oregon

STATE OF OREGON,)
) ss.
County of Multnomah,)

The foregoing instrument was acknowledged before me this 14th day of April, 1989, by Rena Cusma, Executive Officer of Metropolitan Service District.

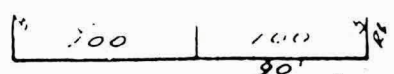
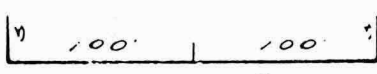
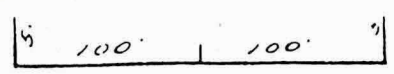
Sandra L Stallcup

Notary Public of Oregon
My Commission Expires: 2-13-92

STATE OF OREGON,)
) ss.
County of Multnomah,)

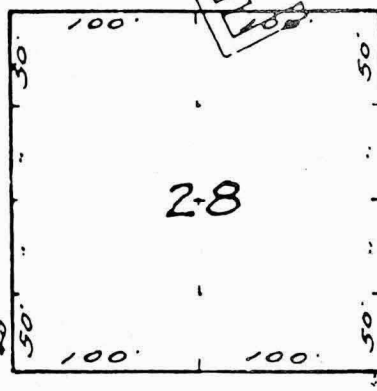
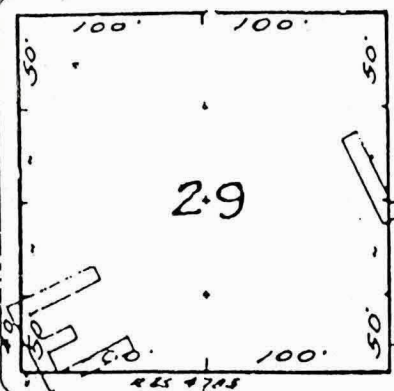
The foregoing instrument was acknowledge before me this _____ day of _____, 1989, by _____.

Notary Public of Oregon
My Commission Expires: _____

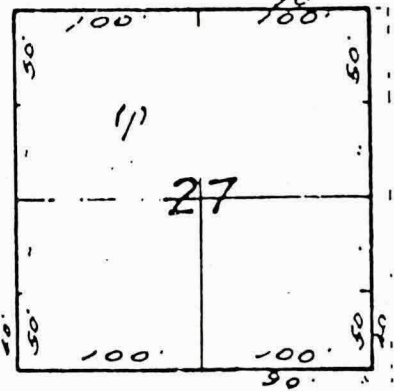


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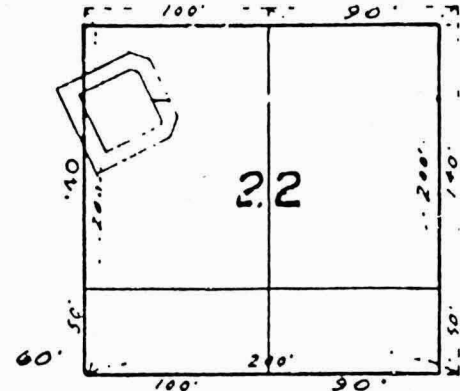
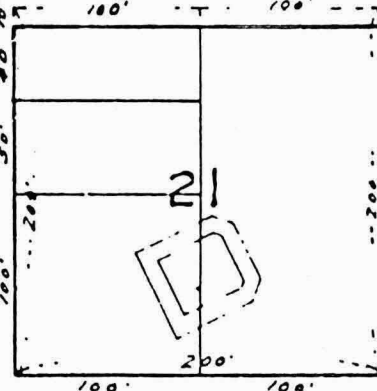
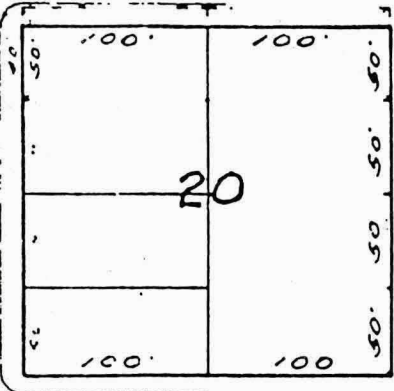
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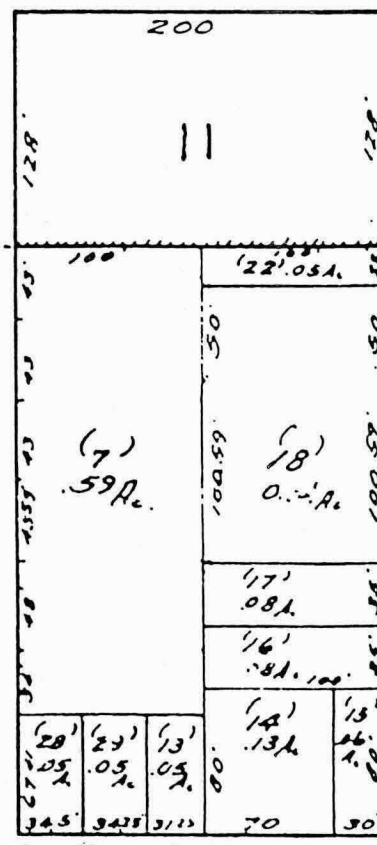
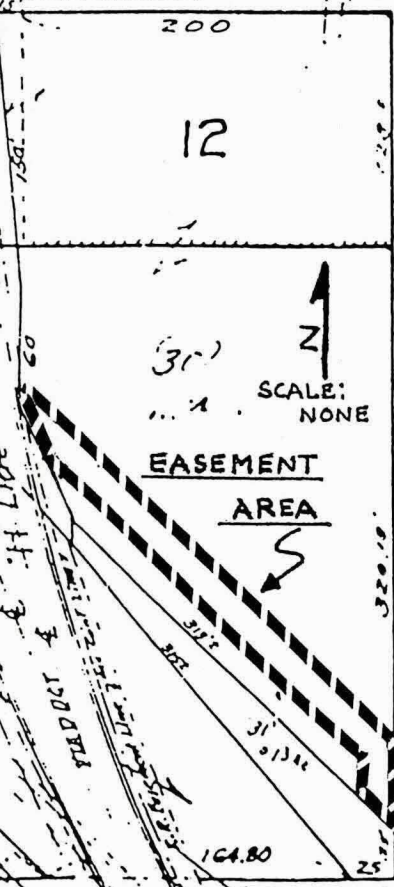
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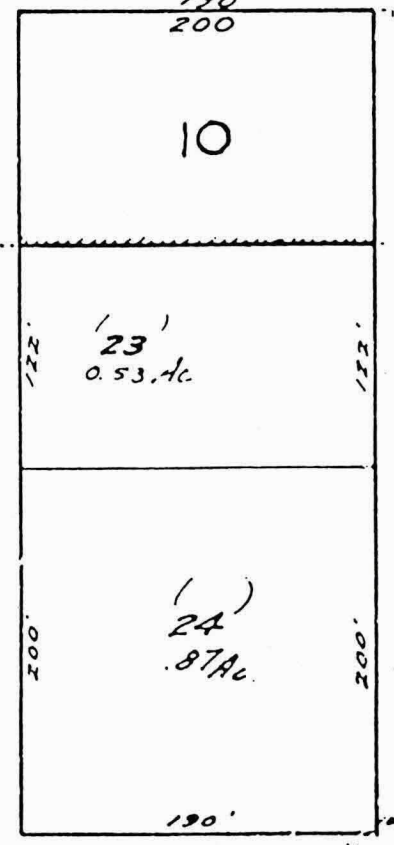


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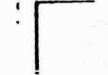
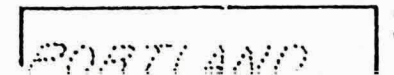
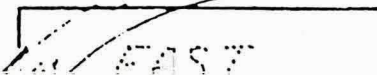


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WATER FACILITY EASEMENT

EXHIBIT "A"

An easement over land in the northeast quarter of Section 34, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon, further described as follows:

Beginning at a point which is South 0° 00' 00" West 322.00 feet from the southeast corner of Block 12, WHEELER'S ADDITION, said point being on the west right-of-way line of N. E. Second Avenue (60' r/w); thence North 45° 51' 05" West 22.30 feet; thence North 0° 00' 30' 00" East 20.66 feet; thence North 46° 30' 00" West 234.93 feet; thence North 20° 20' 13" West 45.36 feet; thence South 46° 30' 00" East 278.72 feet to the west of right-of-way line of N. E. Second Avenue (60' r/w); thence South 0° 00' 00" West 48.58 feet along said right-of-way line to the point of beginning.

The area described above contains 5.690.37 square feet (0.131 Acres), more or less.

Basis of Bearings: Multnomah County Survey No. 49715, filed June 29, 1987.)

CONVENTION, ZOO & VISITOR
FACILITIES COMMITTEE REPORT

Agenda Item No. 4.2

Meeting Date April 13, 1989

RESOLUTION NO. 89-1077, AUTHORIZING EASEMENT FOR BUREAU OF WATER WORKS, CITY OF PORTLAND, FOR CONSTRUCTION AND INSPECTION OF WATER LINE ON SITE OF THE OREGON CONVENTION CENTER

Date: April 5, 1989

Presented By: Councilor Knowles

COMMITTEE RECOMMENDATION: At the April 4, 1989 CZVF Committee meeting, Councilors present -- Councilors Buchanan, Kelley, Van Bergen and myself -- voted unanimously to recommend Council adoption of Resolution No. 89-1077 as amended. Councilor DeJardin was absent.

COMMITTEE DISCUSSION/ISSUES: Convention Center Project staff Neil McFarlane presented Resolution No. 89-1077 which allows the City of Portland access to a 16" water line running along the south end of the convention center site. It was noted this was the first of a number of easement requests to come before the Council as perimeter work around the site progresses. Councilor Van Bergen recommended amending the resolution to remove the easement once the water line is no longer in service. The Committee voted unanimously to include the amendment and it was agreed similar amendments, if needed, might be included in future easement requests.

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 89-1077, EASEMENT FOR BUREAU OF
WATER WORKS, CITY OF PORTLAND, FOR CONSTRUCTION AND INSPECTION OF
WATER LINE ON CONVENTION CENTER SITE

Date: March 31, 1989

Presented by: McFarlane

BACKGROUND AND FACTUAL ANALYSIS:

Constructing the convention center has required the relocation of many utilities. The 16" water line which formerly ran the length of Irving Street on the site is being relocated to the southern end of the convention center property. Access to the line is essential for proper construction and maintenance.

This easement allows the City perpetual access to the water line, prohibits construction of other structures that would interfere with the water line, prohibits planting of trees within 10' of the center of the waterline, and requires the City to restore the surface to its original condition.

EXECUTIVE OFFICER RECOMMENDATION:

The Executive Officer recommends granting the Bureau of Water Works an easement on the convention center site for the construction and maintenance of the water line.