

LETTER OF UNDERSTANDING **Right of Entry and Purchase Agreement**

Marvin Ambuehl and Ana Ambuehl Wagstaff (hereinafter "the Ambuehls" or the "property owners") are the owners of approximately 6.9 acres of undeveloped property located at the intersection of Peter Skene Way and Whitman Way, known as Tax Map 2-2E-32CD, Tax Lot 01400, located within the City of Oregon City (hereinafter "the site"). This property contains a number of public sewer and water lines as well as an unimproved access road. The City of Oregon City (hereinafter "the City") operates and maintains these public sewer and water lines. Although easements exist conveying the access to maintain and operate these lines, in some cases the easement descriptions do not match the actual line location, or in one instance a necessary sewer line replacement requires conveyance of an easement in a new location. This agreement is to memorialize terms for the formal easement dedications for these utility lines and access roadways in their correct location.

BACKGROUND:

In 1976, a previous property owner developed several residential properties around the site and installed public water and sewer lines throughout the site. This development along with the utility work was accomplished with City authorization, however, the record is absent of any recorded utility easement documents.

In 2003, the City initiated a water line design project affecting the site. It was at that time that the City recognized the need for new waterline easements and also realized that the City had yet to receive the 1976 sewer line easements.

On March 3, 2006, permanent public utility easements were granted by the previous owner Mr. Arnold E. Ambuehl to the City of Oregon City for water system improvements and sanitary sewer collection system piping and manholes.

On February 22, 2017, a landslide occurred in a steep natural ravine on the site north of Peter Skene Way and west of Whitman Way. This slide area contained a 40-foot-long segment of the existing 8" sewer pipe, which was displaced by the slide, resulting in an open pipe spilling sewage into the canyon. DEQ was notified, and the City immediately installed an emergency bypass pumping system to redirect sewage around the slide and into the existing sewer system.

Given the emergency, the City notified Marvin Ambuehl about the need for access and, after receiving a verbal consent to proceed, the City executed a personal services contract with a local engineering firm to complete design, bidding, and construction support for this emergency repair project. The City approached three contractors for construction bids and awarded the construction contract. The ultimate and final repair included a new sewer line on a new sewer alignment installed using a trenchless directional drill. This process allowed the contractor to pull in a new replacement pipe with little to no surface disturbance. The new sewer pipe is approximately 510 lineal feet long, is a 10 inch high-

density polyethylene, is 10 to 20 feet deep, and roughly parallels the existing maintenance access road. The requested easement surrounding the new pipe segment is 15-feet wide and is approximately 7650 square feet in total area. In order to avoid impacts along the steep natural canyon, the new pipe alignment lies outside the existing sewer easement.

The City has prepared a legal description for the easement that includes the new sewer pipe segment. As part of this process, the City learned that, in some cases, other easements on the site do not match the location of the utilities and that the City does not have a recorded easement for the existing utility maintenance road.

The Parties would like to properly describe the utility easements for the utility lines, along with the maintenance road, necessary to continue to maintain these lines in their current location. This will require the property owners giving the City access to the site in order to conduct survey work necessary to locate the existing lines. Once the lines are located, new easement agreements can be executed. The City has agreed to compensate the Ambuehls in the amount of \$20,000 in exchange for conveyance of those easements.

Based on the foregoing, the Ambuehls and the City agree to the following terms:

SITE ACCESS:

The undersigned, being the owner of (or the duly authorized representative of the owner of) the real property described below, hereby grants to the City of Oregon City, its employees, agents and assignees, a temporary right of entry onto the entire site.

Purpose: This right of entry is granted expressly for the purpose of locating and creating surveyed descriptions of the location of the existing utility lines, including but not limited to sewer and water lines, as well as the location of the existing maintenance access road.

Restoration: Although no earthwork is anticipated, vegetation clearing needed to complete the line location and survey work is anticipated. This right of entry is granted with the understanding that the City will promptly restore any earthwork-disturbed area on the subject property to a condition reasonably similar to that which existed before survey work began.

Termination: This right of entry shall automatically terminate upon completion of the survey work but no later than March 31, 2019.

Compensation: Within 7 calendar days of execution of this agreement, the City shall pay to the Ambuehls \$5,000, by delivering a check to the Ambuehls' attorney of record.

ESTABLISHMENT OF PERMANENT EASEMENT(S):

Once the survey work is complete and the actual utility and road locations are known, the Ambuehls will execute and the City will record linear utility easements surrounding all of

the existing utility lines located on site as well as an easement covering the use of the existing maintenance access road. The width of the required access easements will vary depending on location and maintenance needs, but will generally be in the range of 25'. These easements shall be prepared by the City and include, among other things, the following terms:

- Conveyance of permanent public dedication of easements for all of the existing utility lines, including but not limited to water and sewer lines, as well as an easement covering the use of the existing maintenance road.
- A release of all of the currently dedicated land not necessary for access or occupation of the existing or abandoned lines.
- The City will retain an easement for the existing abandoned lines as necessary to monitor their condition.
- Consideration for the conveyance of properly described utility easements, including the new easement to cover the new sewer main and maintenance access road shall be \$15,000 to be delivered by the City to the Ambuehls upon execution of the necessary easement agreements.
- Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the City shall agree to indemnify, hold the Ambuehls harmless and agree to defend the Ambuehls for any property damage or personal injury resulting from sewer contamination or other damage directly attributable to the operation of the existing utility lines or the failure of those lines, as a result of landslide or other soil instability. The City assumes no liability for the condition of the property, beyond that which is directly attributable to damage that is the sole result of the City's operation or the failure of the existing utility lines or maintenance roads either now or at any time in the future.

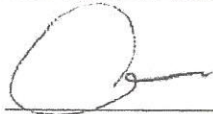
It is anticipated that these easements will be presented for execution no later than March 31, 2019.

The parties agree to act in good faith to facilitate settlement consistent with these terms.

AUTHORIZED BY:

Marvin Ambuehl, Property Owner

Date



Ana Ambuehl Wagstaff, Property Owner

August 9, 2018
Date



John M. Lewis, P.E.
Public Works Director

9-6-18
Date

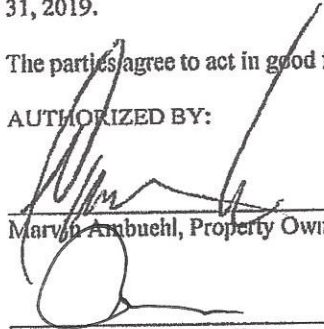
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The parties agree to act in good faith to facilitate settlement consistent with these terms.

AUTHORIZED BY:


Marvin Ambuehl, Property Owner

8/9/2018
Date


Ana Ambuehl Wagstaff, Property Owner

April 10, 2019
Date

John M. Lewis, P.E.
Public Works Director

Date