

RESOLUTION NO. 1511

**A RESOLUTION ACCEPTING A DECLARATION OF RESTRICTIVE COVENANT FROM VERIZON NORTHWEST, INC. WHICH OBLIGATES THEM TO DEDICATE ROAD RIGHT-OF-WAY IN TAX LOT 1N3E26AD1300 WHEN SUCH RIGHT-OF-WAY IS NECESSARY FOR FUTURE PUBLIC ROAD IMPROVEMENTS.**

**THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. On January 26, 2000, the City approved a Conditional Use Permit and Site and Design Review for a major utility consisting of an unoccupied building for housing telecommunications equipment on tax lot 1N3E26AD1300.
2. As a condition of approval, the City required a deed restriction to be placed on tax lot 1N3E26AD1300 for future dedication of the easternmost 18' of the parcel for future street connection to Halsey Loop.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

That the Council accepts from Verizon Northwest, Inc. a declaration of restrictive covenant which obligates them, or their successors in interest, to dedicate road right-of-way in tax lot 1N3E26AD1300 when such right-of-way is necessary for future public road improvements.

YEAS: 5  
NAYS: 0  
ABSTAINED: 0

  
Paul Thalhofer, Mayor

Dated: 8-23-00

  
Debbie Stickney, City Recorder

Adopted: 8-22-00

After Recording, Return to:

City Recorder  
City of Troutdale  
104 SE Kibling Ave.  
Troutdale, OR 97060

Recorded in the County of Multnomah, Oregon  
Total : C. Swick, Deputy Clerk 39.00  
2000-122415 09/05/2000 10:07:14am ATKLM  
G11 5 REC SUR DOR OLIS  
25.00 3.00 10.00 1.00

### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made as of this 24<sup>th</sup> day of July 2000 by Verizon Northwest Inc., a Washington Corporation (the "Declarant").

### RECITALS

A. The Declarant owns the real property located in the City of Troutdale (the "Overall Property") which is identified on the site plan attached as Exhibit A and described as follows: Tax Lot 1300, NE ¼ SE ¼ Section 26, T.1N., R 3E, W.M. in the City of Troutdale, County of Multnomah, State of Oregon.

B. The Declarant would like to develop the Overall Property and has applied for a development permit from the City of Troutdale (the "City"). The City has informed the Declarant that, as a result of the impacts caused by the Declarant's development, the City may need a portion of Declarant's Overall Property (the "Restricted Property") for use as a public right-of-way. The Restricted Property is also identified in Exhibit A and described as follows: an 18 foot wide strip of property that runs along the entire eastern boundary of the Overall Property that is described in paragraph A.

C. Because the City does not have immediate plans to use the Restricted Property as a public right-of-way, the City would prefer to postpone Declarant's dedication of the Restricted property to the City. The Declarant also would prefer not to dedicate the Restricted Property to the City until such time as the City requests the dedication.

D. In exchange for the City's approval of the Declarant's development permit application and the City's willingness to postpone dedication of the Restricted Property, the Declarant is willing to subject the Restricted Property to the obligation that it shall be dedicated to the City within a reasonable time following Declarant's receipt of a written request from the City.

E. To ensure that the Restricted Property may be used as a public right-of-way when the City accepts the dedication, the Declarant also agrees to be responsible for the costs of removing, relocating, replacing or reconstructing any private improvements that are made on the Restricted Property prior to such dedication.

F. The Declarant and City intend the obligation to dedicate the Restricted Property to the City, and the liability for costs associated with private improvements that are made on the Restricted Property prior to such dedication, to be binding on the owner(s) of the Restricted

Property and its respective heirs, successors, assigns, lessees, mortgagees, beneficiaries and trustees.

### AGREEMENT

1. **Obligation to dedicate the Restricted Property.** Declarant agrees the Restricted Property shall be dedicated to the City within a reasonable period of time following Declarant's receipt of a written request from the City of Troutdale.

2. **Private Improvements on Restricted Property.** Declarant agrees all costs associated with removing, relocating, replacing or reconstructing any private improvements on the Restricted Property prior to the dedication shall be paid by the owner(s) of the Restricted Property or its respective heirs, successors, assigns, lessees, mortgagees, beneficiary or trustee.

3. **Term.** The obligation to dedicate the Restricted Property to the City shall be valid for twenty (20) years, or until such time as the Restricted Property is dedicated to the City, whichever occurs first.

4. **Run with the land.** The rights and obligations in this Declaration shall run with the land and shall be binding upon the owner(s) of the Restricted Property and its respective heirs, successors, assigns, lessees, mortgagees, beneficiary or trustee.

5. **Attorney Fees.** If legal action is commenced in connection with this Declaration, the prevailing party in such action shall be entitled to recover its reasonable, actual, out-of-pocket attorney fees and costs incurred. The attorney fees and costs incurred include, but are not limited to, the fees and costs associated with enforcing the terms of the Declaration at trial and on appeal. The term "action" shall be deemed to include any enforcement action as well as any action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.

IN WITNESS WHEREOF, Declarant has executed this Declaration on the date first written above.

DECLARANT:

Verizon Northwest Inc.  
a Washington corporation

By: Michael J. Baumann  
Name: Michael J. Baumann  
Title: DIRECTOR-REALESTATE SERVICES

APPROVED AS TO FORM  
TROY & GOULD  
By: Jandi Goldstein  
Date: 7/18/00

CERTIFICATE OF ACCEPTANCE

I, Debbie Stickney Recorder of the City of Troutdale, hereby certify that the foregoing declaration was accepted by the City Council of the City of Troutdale on the 22 day of August, 2000, by Resolution No. 1511.

Dated this 23 day of August 2000.

Debbie Stickney  
City Recorder



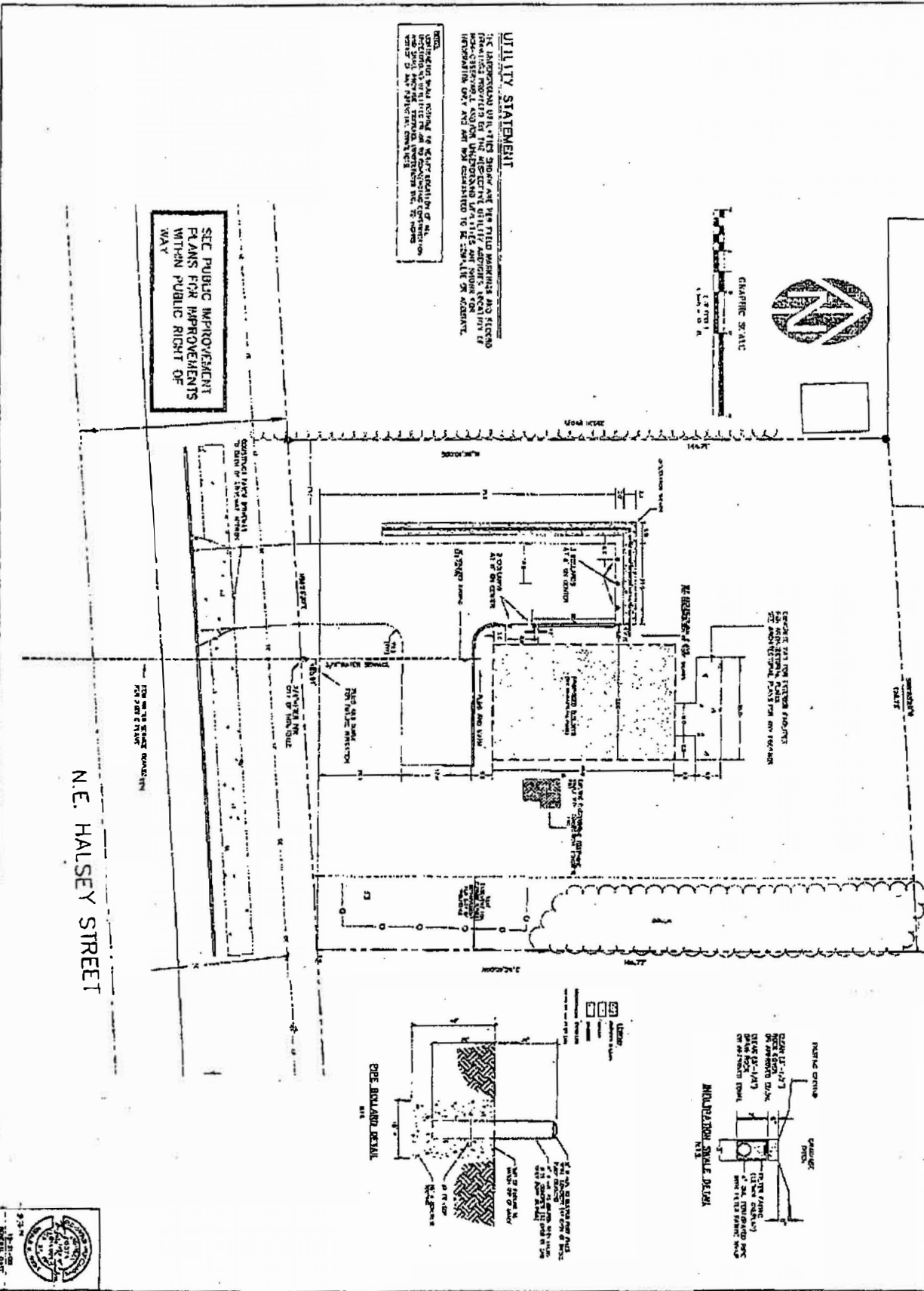
STATE OF OREGON                    )  
  )ss.  
COUNTY OF MULTNOMAH        )

Before me personally appeared the above named City Recorder and acknowledged the foregoing instrument to be the voluntary act and deed of the CITY OF TROUTDALE.

Teresa Ann Hall  
Notary Public for Oregon  
My Commission Expires: Sept. 12 2003

MA

Exhibit "A"



SEE PUBLIC IMPROVEMENT PLANS FOR IMPROVEMENTS WITHIN PUBLIC RIGHT OF WAY

**UTILITY STATEMENT**  
 THE INFORMATION ON THIS SHEET IS FOR THE USE OF THE ENGINEER AND ARCHITECT ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE ENGINEER AND ARCHITECT ARE NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE UTILITY ADJUSTERS. THE UTILITY ADJUSTERS ARE NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE ENGINEER AND ARCHITECT. THE UTILITY ADJUSTERS ARE NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE ENGINEER AND ARCHITECT.



WESTLAKE CONSULTANTS, INC.  
 275-01

**GTE-HALSEY RSU**  
 PRIVATE IMPROVEMENTS  
 CITY OF TROUTDALE  
 SITE PLAN

**WESTLAKE CONSULTANTS, INC.**  
 ENGINEERING • SURVEYING • PLANNING  
 1111 N. W. 11th Street, Suite 110  
 Portland, Oregon 97204

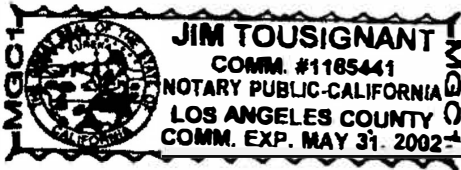
State of California

County of Los Angeles


On 7/24/2000 before me, Jim Tousignant, Notary Public,

Personally appeared Michael J. Baumann, Director - Real Estate Services

Personally known to me -OR-  proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.

A handwritten signature in cursive script, appearing to read "Jim Tousignant", written over a horizontal line.