

RESOLUTION NO. 2299

A RESOLUTION ACCEPTING A PERPETUAL, NONEXCLUSIVE UTILITY EASEMENT ALONG NW GRAHAM ROAD FROM MYR REAL ESTATE HOLDINGS LLC

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The Port of Portland is constructing improvements to NW Graham Road in partnership with the City of Troutdale
2. MYR Real Estate Holdings LLC is the owner of the real property identified by State ID # 1N3E24C-01601
3. A utility easement from MYR Real Estate Holdings LLC to the City of Troutdale on the above referenced property is necessary to complete and maintain the improvements
4. The Port has prepared the necessary easement documents and MYR Real Estate Holdings LLC has executed the easement agreement
5. The Port is providing compensation to the property owner in accordance with the easement agreement

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

Section 1. The City of Troutdale accepts the Utility Easement from MYR Real Estate Holdings, LLC, included herewith as Attachment A.

Section 2. This resolution is effective upon adoption

YEAS: 6

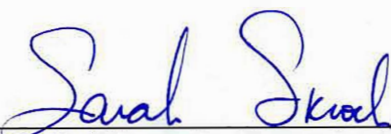
NAYS: 0

ABSTAINED: 0



Doug Daoust, Mayor

Date 8/26/15



Sarah Skroch, Deputy City Recorder
Adopted: August 25, 2015

After recording, return to:

City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060



\$71.00

09/30/2015 08:33:03 AM

1R-EASEMT

Pgs=6 Stn=106 ATVMA

\$30.00 \$11.00 \$20.00 \$10.00

UTILITY EASEMENT AGREEMENT

This Public Utility Easement Agreement ("AGREEMENT") is entered into by MYR REAL ESTATE HOLDINGS, LLC, a limited liability company authorized to do business in Oregon ("GRANTOR"), and the CITY OF TROUTDALE, an Oregon municipal corporation ("GRANTEE"), as of the date the GRANTOR signs the Certificate of Grantor.

RECITALS

A. GRANTOR owns the property described in this Agreement under paragraph 10 (the "Easement Area"). GRANTOR also owns other real property adjacent to and in the vicinity of the Easement Area.

B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities.

C. On behalf of the GRANTEE, the Port of Portland, a Port District of the State of Oregon ("Port"), will construct roadway and related improvements, including slope and drainage upgrades, on Northwest Graham Road, and in so doing, will access and use the Easement Area.

D. The purpose of this Agreement is to grant a road slope easement to GRANTEE for access and use of the Easement Area.

EASEMENT GRANTED

1. **Grant.** For TEN THOUSAND THREE HUNDRED SEVENTY DOLLARS (\$10,370.00), paid to the GRANTOR by the Port, the full consideration that GRANTOR acknowledged and received, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a perpetual nonexclusive easement for the Easement Area so that GRANTEE may construct, install, operate, maintain, repair, replace, and/or modify components of public utility systems including, but not solely limited to, water, sanitary sewer, transportation, and storm water systems.

2. **Limitations.** GRANTOR shall not construct, install, nor place any structure, pavement, or vegetation within the Easement Area except for shallow-root grasses and low-growing shrubs (but not trees), fences as permitted by applicable City regulations, and sidewalks or driveways. Any damages to GRANTEE's utilities caused by GRANTOR's construction, installation, or placement of shallow-root grasses, low-growing shrubs, fences, sidewalks, driveways, or any unauthorized structures, pavement or vegetation, within the Easement Area shall be repaired or replaced by GRANTOR, or by the GRANTEE at the GRANTOR's expense, as determined by the GRANTEE.

3. **Use and Access.** GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly construct, install, operate, maintain, repair, replace, and/or modify its utilities. Any loss, damage, or destruction caused by GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions, whether

6

or not such loss, damage or destruction was to GRANTOR's shallow-root grasses, low-growing shrubs, fences, sidewalks or driveways that are allowed in accordance with paragraph 2, shall be the responsibility of GRANTOR.

4. **Binding Effect, Run with the Land.** This Agreement shall run with the land as to all real property burdened and benefited, and shall inure to the benefit of GRANTOR, GRANTEE and their respective successors and assigns.

5. **Attorney Fees.** In the event legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term "action" shall be deemed to include action commenced in the Bankruptcy Court of the United States and any other court of general or limited jurisdiction. The reference to "costs" includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

6. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

7. **Integration.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this utility easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein.

8. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon. The parties agree to venue in Multnomah County, state of Oregon.

9. **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

10. **Easement Area.** The Easement Area is more particularly described on Exhibit "A" and shown and legally described on Exhibit "B", attached hereto.

CERTIFICATE OF GRANTOR

I, Mindie McIFF, owner or the authorized representative of the owner of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

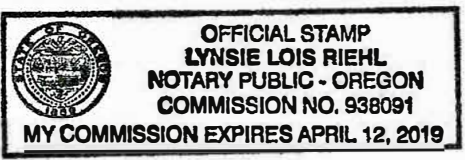
Dated this 8th day of JULY, 2015.

MYR REAL ESTATE HOLDINGS, LLC, an Oregon limited liability company

By: Mindie McIFF
Print Name: Mindie McIFF
Member

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This instrument was acknowledged before me on July 8, 2015, by Mindie McIFF as authorized representative of MYR Real Estate Holdings, LLC.



Lysie Riehl
Notary Public for Oregon
My commission expires: April 12, 2019.

CERTIFICATE OF GRANTEE

I, Sarah Stroch ^(Deputy) Recorder of the City of Troutdale, hereby certify that the foregoing easement was accepted by the City Council of the City of Troutdale on the 25th day of August, 2015 by Resolution No. 2299.

Dated this 10th day of September, 2015.

Sarah Stroch

Deputy City Recorder

APPROVED AS TO FORM:

By: [Signature]

City Attorney

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

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

BEFORE ME: Marion Berg
Notary Public for Oregon
Commission Expires: 5-4-2018

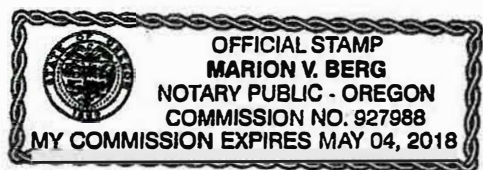


EXHIBIT A

PARCEL 1 SLOPE EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1 ON THE EAST RIGHT OF WAY LINE OF NW GRAHAM ROAD; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, SOUTH 00°14'08" EAST, 96.36 FEET TO THE TRUE POINT OF BEGINNING; THENCE, DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 89°45'52" EAST, 5.00 FEET; THENCE SOUTH 00°14'08" EAST, 364.14 FEET; THENCE NORTH 77°34'59" WEST, 5.12 FEET TO SAID EAST RIGHT OF WAY LINE; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°14'08" WEST, 363.01 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 1,818 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.

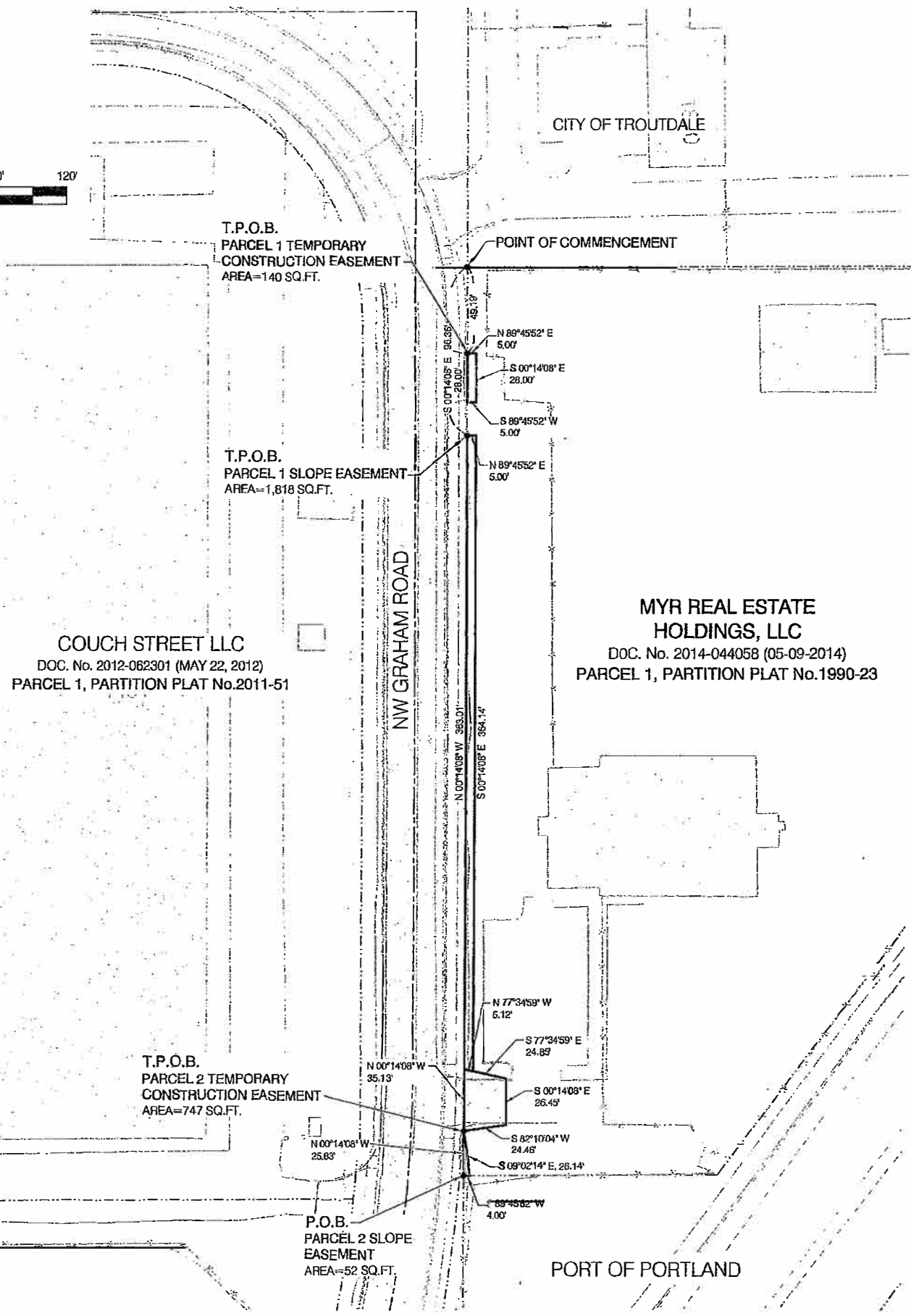
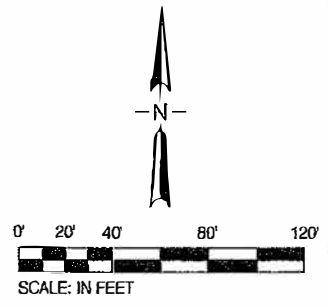
PARCEL 2 SLOPE EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

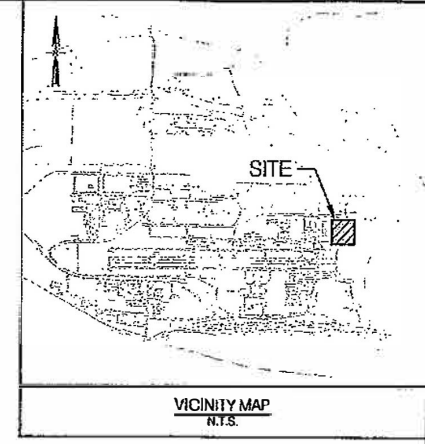
BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE, ALONG THE WEST LINE OF SAID PARCEL 1, NORTH 00°14'08" WEST, 25.83 FEET; THENCE, DEPARTING SAID WEST LINE, SOUTH 09°02'14" EAST, 26.14 FEET TO THE SOUTH LINE OF SAID PARCEL 1; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL 1, SOUTH 89°45'52" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 52 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS

DRAWING SCALE - FOR REFERENCE ONLY



NOTES:
 THE PURPOSE OF THIS DRAWING IS TO SHOW THE LIMITS OF THE TEMPORARY CONSTRUCTION EASEMENTS FOR THE GRAHAM ROAD IMPROVEMENT PROJECT SLATED FOR CONSTRUCTION IN 2015-2017 AND THE LOCATION OF THE PERMANENT SLOPE AND UTILITY EASEMENTS FOR THE SAME PROJECT.
 BACKGROUND IS FOR INFORMATIONAL PURPOSES ONLY.



PARCEL 1 TEMPORARY CONSTRUCTION EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1 ON THE EAST RIGHT OF WAY LINE OF NW GRAHAM ROAD; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, SOUTH 00°14'08" EAST, 49.19 FEET TO THE TRUE POINT OF BEGINNING; THENCE, DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 89°45'52" EAST, 5.00 FEET; THENCE SOUTH 00°14'08" EAST, 28.00 FEET; THENCE SOUTH 89°45'52" WEST, 5.00 FEET TO SAID EAST RIGHT OF WAY LINE; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°14'08" WEST, 28.00 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 140 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.

PARCEL 1 SLOPE EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1 ON THE EAST RIGHT OF WAY LINE OF NW GRAHAM ROAD; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, SOUTH 00°14'08" EAST, 96.36 FEET TO THE TRUE POINT OF BEGINNING; THENCE, DEPARTING SAID EAST RIGHT OF WAY LINE, NORTH 89°45'52" EAST, 5.00 FEET; THENCE SOUTH 00°14'08" EAST, 364.14 FEET; THENCE NORTH 77°34'59" WEST, 5.12 FEET TO SAID EAST RIGHT OF WAY LINE; THENCE, ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°14'08" WEST, 363.01 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 1,818 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.

PARCEL 2 TEMPORARY CONSTRUCTION EASEMENT

A TRACT OF LAND SITUATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON LYING WITHIN PARCEL 1, PARTITION PLAT No. 1990-23, MULTNOMAH COUNTY PLAT RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE, ALONG THE WEST LINE OF SAID PARCEL 1, NORTH 00°14'08" WEST, 25.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE, CONTINUING ALONG SAID WEST LINE, NORTH 00°14'08" WEST, 35.13 FEET; THENCE, DEPARTING SAID WEST LINE, SOUTH 77°34'59" EAST, 24.85 FEET; THENCE SOUTH 00°14'08" EAST, 26.45 FEET; THENCE SOUTH 82°10'04" WEST, 24.46 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 747 SQUARE FEET MORE OR LESS.

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PARCEL 2 SLOPE EASEMENT

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BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE, ALONG THE WEST LINE OF SAID PARCEL 1, NORTH 00°14'08" WEST, 25.83 FEET; THENCE, DEPARTING SAID WEST LINE, SOUTH 09°02'14" EAST, 26.14 FEET TO THE SOUTH LINE OF SAID PARCEL 1; THENCE, ALONG THE SOUTH LINE OF SAID PARCEL 1, SOUTH 89°45'52" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 52 SQUARE FEET MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.

LAW YOU SEE THE AIRPLANES? THE AIRPLANES? THE AIRPLANES? UNLESS SHOWN OTHERWISE, LEVELS OF SHADING SETTINGS FOR VIEWING AND PRINTING DRAWING CONTENT ARE OPTIMIZED WHEN ALL THREE PLANES ARE VISIBLE. THIS GUIDANCE IS PROVIDED FOR REFERENCE ONLY.

NO.	DATE	BY	REVISIONS	APPROVED	CHKD	NO.	DATE	BY	REVISIONS	APPROVED	CHKD

PORT OF PORTLAND
PORTLAND, OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR

Christopher M. Vanderwerf

OREGON
JULY 25, 1993
CHRISTOPHER M. VANDERWERF
2719

SIGNED: *C. M. Vanderwerf*
EXP. 6/30/15

DESIGNED BY: C. VANDERWERF
DRAWN BY: P. SHIELDS
CHECKED BY: R. ALDERSEBAUM
DATE: MAR. 2015
SCALE: 1"=40'

TROUTDALE REYNOLDS INDUSTRIAL PARK

PHASE TWO PUBLIC IMPROVEMENTS - GRAHAM ROAD
SLOPE & CONSTRUCTION EASEMENTS
MYR REAL ESTATE HOLDINGS, LLC

SUBMITTED BY: RYAN PARKER
TYPE: ELP
DRAWING NO.: TRMP-2015-7.1
SHEET NO.: 1/1
DISC. SHEET NO.: SW-1