

## RESOLUTION NO. 2208

### A RESOLUTION ACCEPTING A PUBLIC UTILITY EASEMENT FROM JLE INVESTMENTS LLC ADJACENT TO SW HALSEY STREET RIGHT-OF-WAY

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


1. JLE Investments LLC is the owner of the real property at 1020 SW Halsey Street.
2. The City typically requires a public utility easement adjacent to rights-of-way in the City.
3. As a condition of development, JLE Investments LLC was required to dedicate an eight foot wide public utility easement on the SW Halsey Street frontage and has provided a signed easement document of a form and content that is in accordance with the requirements of the City (attached).

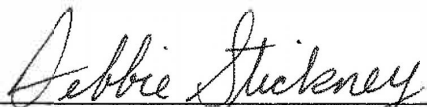
#### NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City of Troutdale accepts the public utility easement from JLE Investments LLC, included herewith as Attachment 1, for the construction, installation, operation, maintenance, repair, and/or modification of utility system or components thereof.

Section 2. This resolution is effective upon adoption.

YEAS: 6  
NAYS: 0  
ABSTAINED: 0

  
\_\_\_\_\_  
Doug Daoust, Mayor  
6/12/13  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Debbie Stickney, City Recorder  
Adopted: June 11, 2013

After recording return to:  
City Recorder  
City of Troutdale  
219 East Historic Columbia River Highway  
Troutdale, OR 97060

*Plu Sarah Skroch*

Multnomah County Official Records  
R Weldon, Deputy Clerk

2013-087675



01198162201300876750060069

\$66.00

06/27/2013 10:55:35 AM

1R-EASEMT  
\$30.00 \$11.00 \$15.00 \$10.00

Pgs=6 Str=10 ATRJG

## PUBLIC UTILITY EASEMENT AGREEMENT

This Public Utility Easement Agreement ("AGREEMENT") is entered into by JLE Investments LLC, ("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 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. The purpose of this Agreement is to grant a utility easement to GRANTEE for the access and use of the Easement Area.

### EASEMENT GRANTED

1. **Grant.** For no dollars but for other good and valuable consideration that is 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, its franchised utility companies, and its assigns may access, construct, install, operate, maintain, repair, and/or modify components of utility systems or components thereof.
2. **Limitations.** Grantor shall not construct, install, nor place any structure, or vegetation within the Easement Area except for the shallow-root grasses and low-growing shrubs (but not trees), fences, sidewalks, driveways, or pavement, as permitted by applicable City regulations. Any damages to GRANTEE's utilities caused by GRANTOR's construction, installation, or placement of shallow-root grasses, low-growing shrubs, fences, sidewalks, driveways, pavements, or any unauthorized structures 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 property to 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 the performing the aforementioned actions, whether or not such loss, damage or destruction was to GRANTOR's shallow-root grasses, low-growing shrubs, pavement, fences, sidewalks, or driveways that are allowed in accordance with paragraph 2, shall be the responsibility of the 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 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 reasonable attorneys 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 or 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 waiver of any succeeding breach or a waiver of this nonwaiver clause.
10. **Easement Area.** See attached Exhibit A for the legal description and Exhibit B for the Public Utility Easement map.

CERTIFICATE OF GRANTOR

I, James Ellis, 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 2nd day of May, 2013.

JLE INVESTMENTS LLC, an Oregon limited liability company

By: [Signature]  
James Ellis, Member

5586 SW MURRAY BLVD  
Address

BEAVERTON, OR 97005  
City, State, Zip Code

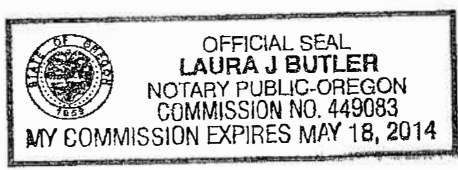
(503) 819-9100  
Telephone Number

STATE OF OREGON )  
 ) ss.  
COUNTY OF MULTNOMAH )

This instrument was acknowledged before me on May 2, 2013, by James Ellis  
as Member of JLE Investments LLC.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 5/18/2014

(seal)



CERTIFICATE OF GRANTEE

I, Debbie Stickney Recorder of the City of Troutdale, hereby certify that the foregoing easement was accepted by the City of Troutdale on the 11 day of June, 2013 by Resolution No. 2208.

Dated this 13 day of June, 2013.

Debbie Stickney  
City Recorder

(seal)

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

STATE OF OREGON        )  
  ) ss.  
MULTNOMAH COUNTY    )

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



BEFORE ME: Sarah Lynn Skroch  
Notary Public for Oregon  
Commission Expires: Aug. 7, 2015

(seal)

Public Utility Easement  
1020 SW Halsey  
Troutdale, OR 97060  
Troutdale File #13-002

Exhibit "A"  
Easement Description

An 8.00 foot wide strip of land in the southeast one-quarter of Section 26, Township 1 North, Range 3 East of the Willamette Meridian, City of Troutdale, Multnomah County, Oregon, being more particularly described as follows:

The northernmost 8.00 feet of Parcel 2 of Partition Plat 1998-44, between the southerly right of way line of Halsey Street (Road 1180) and a line parallel to and 8.00' south of said right of way line.

Containing 120 square feet more or less.

# Exhibit "B"

