

ORDINANCE NO. NS-2272

AN ORDINANCE VACATING THE RIGHT OF WAY OF NE FIFTH STREET BETWEEN NE DEKALB AND NE EMERSON STREETS.

Findings:

- A. The City initiated vacation of the right of way of NE Fifth Street between NE Dekalb and NE Emerson Streets.
- B. On June 1 and June 8, 2016, the City published notice of a public hearing on the vacation in The Bulletin, a newspaper of general circulation in the City, consistent with ORS 271.110.
- C. Within five days after the first day of publication of the notice, the City posted notice of the proposed street vacation at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area. The first publication and posting of the notice occurred not less than 14 days prior to the hearing on the proposed vacation.
- D. The City Council held a public hearing on the proposed vacation on June 15, 2016.
- E. The City has not received objections to the proposed vacation.
- F. The City Council has determined that the vacation is in public interest and that the property should be vacated.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. NE Fifth Street between NE Dekalb and NE Emerson Streets in the City of Bend, Deschutes County, Oregon, is vacated, with the exception of 20 feet of right-of-way width north of the alley that is located midway between the Dekalb and Emerson Streets. The east-west alley located between NE Dekalb and NE Emerson where it crosses the NE Fifth Street right-of-way is not vacated and continues to be right-of-way for the east-west alley. The right-of-way area to be vacated is shown on Exhibit A.
- Section 2. A 10' wide public utility easement is reserved along the length of the vacated right-of-way from NE Dekalb Street north to the alley, as shown and described in Exhibit B.
- Section 3. The City Recorder is directed to file and record this Ordinance in the Deschutes County Clerk's Office.

First Reading Date: July 20, 2016

Second Reading Date: August 3, 2016


Adopted by roll call vote of the Bend City Council on August 3, 2016

YES: Jim Clinton, Mayor
Doug Knight
Victor Chudowsky
Sally Russell
Nathan Boddie
Casey Roats
Barb Campbell

NO: None



Jim Clinton, Mayor




Date

ATTEST:



Robyn Christie, City Recorder

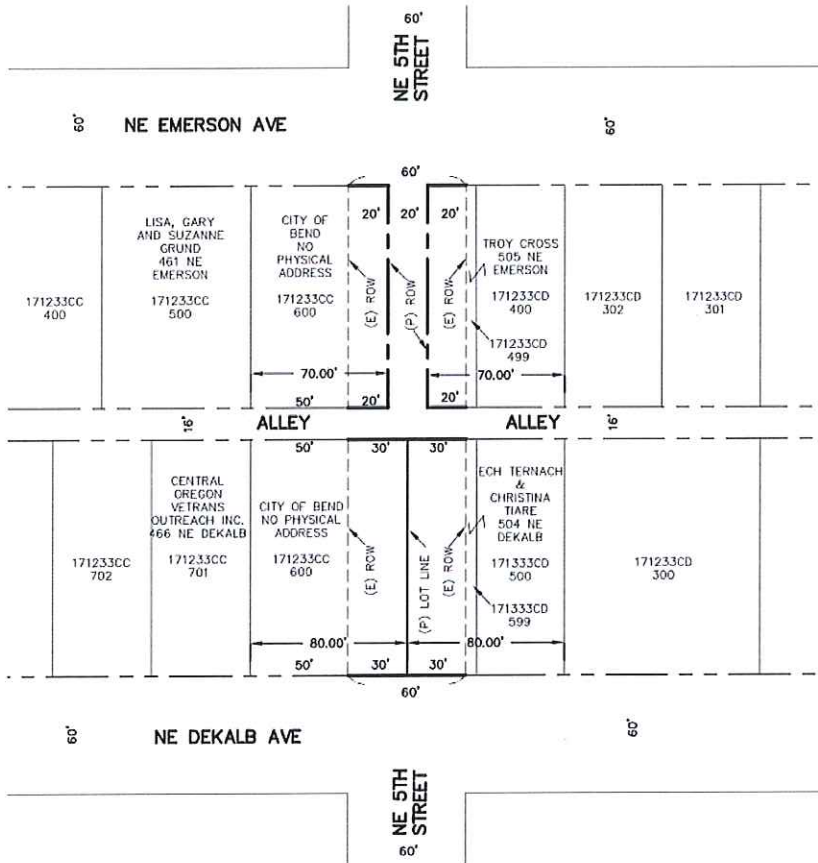
Approved as to form:



Mary Winters, City Attorney

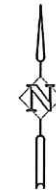
EXHIBIT A

AREA TO BE VACATED



LEGEND:

- EXISTING (E) RIGHT OF WAY LINE
- - - (E) RIGHT OF WAY LINE TO BE VACATED
- PROPOSED (P) RIGHT OF WAY LINE
- PROPOSED (P) LOT LINE
- APPROXIMATE PROPERTY LINE



SCALE
1" = 50'



**Harper
Houf Peterson
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EXHIBIT B

PUBLIC UTILITY EASEMENT

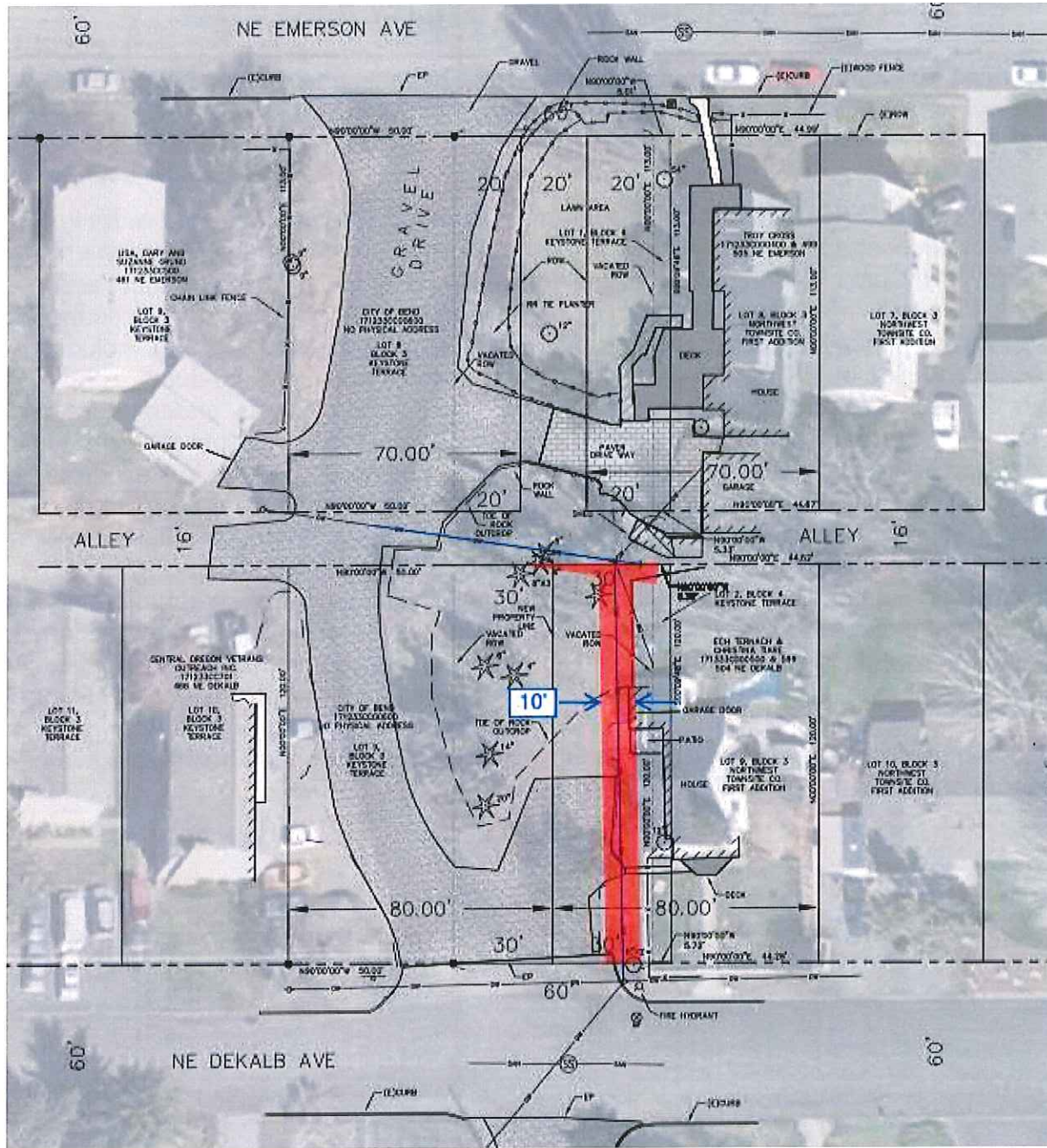


EXHIBIT B

LEGAL DESCRIPTION OF UTILITY EASEMENT

The following text will be an appurtenance to the legal description contained in the deed transferring the east half of the vacated right-of-way south of the alley to 504 NE Dekalb Avenue:

RESERVING THEREFROM a perpetual easement for a right of way 10 feet in width for the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of PacifiCorp's existing and future electric power transmission, distribution and communication lines and all necessary or desirable accessories and appurtenances thereto, including without limitation: supporting towers, poles, props, guys and anchors, including guys and anchors outside of the right of way; wires, fibers, cables and other conductors and conduits therefor; and pads, transformers, switches, vaults and cabinets, and the right of ingress and egress, for PacifiCorp, its contractors, or agents, to the right of way from adjacent lands of Grantee for all activities in connection with the purposes for which this easement has been granted; and together with the present and (without payment therefor) the future right to keep the right of way and adjacent lands clear of all brush, trees, timber, structures, buildings and other hazards which might endanger PacifiCorp's facilities or impede PacifiCorp's activities. At no time shall Grantee place, use or permit any equipment, material or vegetation of any kind that exceeds twelve (12) feet in height, light any fires, place or store any flammable materials, on or within the boundaries of the right of way. Subject to the foregoing limitations, the surface of the right of way may be used for other purposes not inconsistent, as defined by the PacifiCorp, with the purposes for which this easement has been granted. The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns and shall run with the land.