

RESOLUTION No. 3358

A RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN FOR THE 3RD STREET AND POWERS ROAD SIGNAL IMPROVEMENT PROJECT

Findings

- A. The City of Bend ("City") has the authority to exercise the power of eminent domain under the City of Bend Charter, ORS 233.005 – ORS 223.105, ORS 225.010-ORS 225.080, and ORS Chapter 35, when deemed necessary by the City of Bend's governing body to accomplish public purposes.
- B. The City has the authority to engage in activities that promote the health, safety, benefit, and general welfare of the public and is authorized to build, own, and operate roads and road improvements within and without its boundaries for the benefit and use of its inhabitants, and appropriate and acquire land for those purposes.
- C. The City is engaged in various projects to improve and upgrade facilities and infrastructure that are part of its transportation network. One such project is for a signal improvement at the 3rd Street and Powers Road intersection (the "Project"). Additional right of way and temporary construction easements are needed to accommodate the relocation of a signal pole for the Project.
- D. The Project has been planned in accordance with appropriate engineering standards for the construction of transportation infrastructure to minimize property damage, promote transportation, and safeguard travel.
- E. The City Council finds that the right of way and easements being acquired are necessary for the construction of the Project and are in the public interest, and that the Project will be designed and constructed in a manner which will be most compatible with the greatest public good and the least private injury.
- F. To accomplish this Project, it is necessary to acquire the interests in property described and shown in Exhibit 1.

Based on these findings, the City Council of the City of Bend resolves as follows:

Section 1. The Council accepts the Findings as facts in support of this Resolution. The right-of-way and temporary construction easement being acquired are necessary for the construction of the Project and are in the public interest. The Project has been planned and located and will be designed and constructed in a manner which will be most compatible with the greatest public good and the least private injury.

Section 2. The power of eminent domain is exercised with respect to the property and interests in the property described in the attached Exhibit 1. The right

of way and temporary construction easement are acquired subject to payment of just compensation and subject to procedural requirements of Oregon Law.

Section 3. City staff and the City's agents and attorneys are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition. If no satisfactory agreement can be reached, City staff, agents and attorneys are authorized to commence and prosecute condemnation proceedings necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the City Council.


Section 4. The City of Bend expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

Section 5. This resolution takes effect immediately upon adoption.

Adopted by the Bend City Council on February 7, 2024.

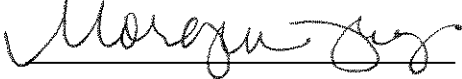
YES: Mayor Melanie Kebler
Mayor Pro Tem Megan Perkins
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Ariel Méndez
Councilor Mike Riley
Councilor Megan Norris

NO: none



Melanie Kebler, Mayor

ATTEST:



FOR Robyn Christie, City Recorder

APPROVED AS TO FORM:

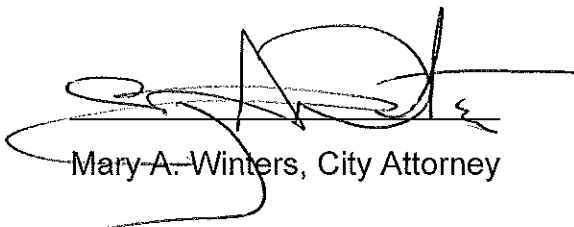

Mary A. Winters, City Attorney

Exhibit 1
Temporary Construction Easement and Right Of Way
Legal Descriptions and Drawings

TEMPORARY CONSTRUCTION EASEMENT

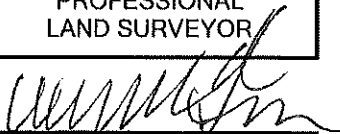
A parcel of land containing 3,830 square feet, more or less, being a portion of those lands described in Warranty Deed recorded January 26, 2005, Instrument No. 2005-4493, Deschutes County Records, located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section 8, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the most northerly corner of those lands conveyed to the City of Bend, a municipal corporation of the State of Oregon in Warranty Deed recorded May 17, 2016, Instrument No. 2016-18886, Deschutes County Records; thence along the easterly line of said lands conveyed to the City of Bend, South 54°31'37" West a distance of 8.00 feet to the **True Point of Beginning** of this description; thence leaving said easterly line, South 69°57'27" West a distance of 64.13 feet to the north right of way line of Powers Road; thence along said north right of way line, North 89°29'36" West a distance of 100.79 feet; thence leaving said northerly right of way line, North 00°30'24" East a distance of 20.00 feet; thence South 89°29'36" East a distance of 100.79 feet; thence North 26°42'23" East a distance of 30.85 feet; thence South 82°30'18" East a distance of 41.32 feet; thence South 14°32'35" East a distance of 20.86 feet to the **True Point of Beginning**, the terminus of this description.

See attached map titled "Exhibit B" hereby incorporated by reference.

1/8/24

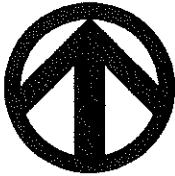
REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 10, 2007
PATRICK GAGE COLE
79157

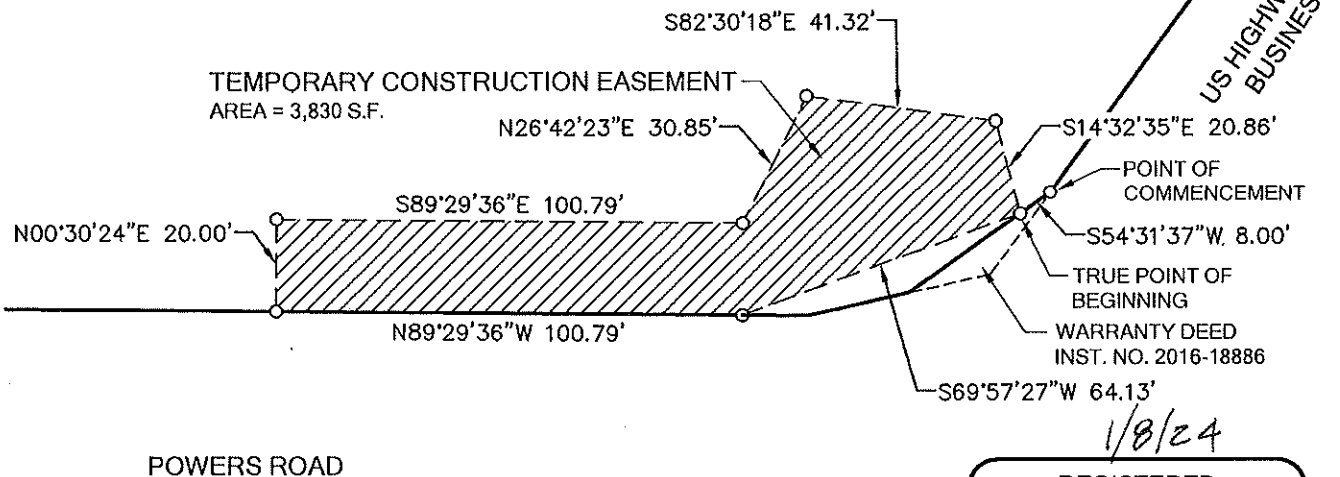
EXPIRES: 12/31/25

LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (NW1/4 SE1/4)
 OF SECTION 8, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.,
 CITY OF BEND, DESCHUTES COUNTY, OREGON



NORTH

TAX LOT 181208DB00600
 WARRANTY DEED
 INST. NO. 2005-4493



1/8/24

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Patrick Gage Cole

OREGON
 JULY 10, 2007
 PATRICK GAGE COLE
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EXPIRES: 12/31/25

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HWA CIVIL ENGINEERING SURVEYING PLANNING	TEMPORARY CONSTRUCTION EASEMENT		SHEET 1/1
	NASE COMPANY LLC		
SCALE: 1" = 40'	DRAWN BY: AQR	DATE: 1/8/2024	

RIGHT OF WAY DEDICATION

A parcel of land containing 289 square feet, more or less, being a portion of those lands described in Warranty Deed recorded January 26, 2005, Instrument No. 2005-4493, Deschutes County Records, located in the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section 8, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the most northerly corner of those lands conveyed to the City of Bend, a municipal corporation of the State of Oregon in Warranty Deed recorded May 17, 2016, Instrument No. 2016-18886, Deschutes County Records; thence along the westerly line of said lands conveyed to the City of Bend, South 54°31'37" West a distance of 8.00 feet to the **True Point of Beginning** of this description; thence continuing along said westerly line, South 54°31'37" West a distance of 29.67 feet; thence along the southerly line of said lands described in Inst. No. 2005-4493 the following two (2) courses:

South 77°22'52" West a distance of 22.38 feet;
North 89°29'36" West a distance of 14.25 feet;

thence leaving said southerly line, North 69°57'27" East a distance of 64.13 feet to the **True Point of Beginning**, the terminus of this description.

See attached map titled "Exhibit B" hereby incorporated by reference.

1/8/24

REGISTERED
PROFESSIONAL
LAND SURVEYOR



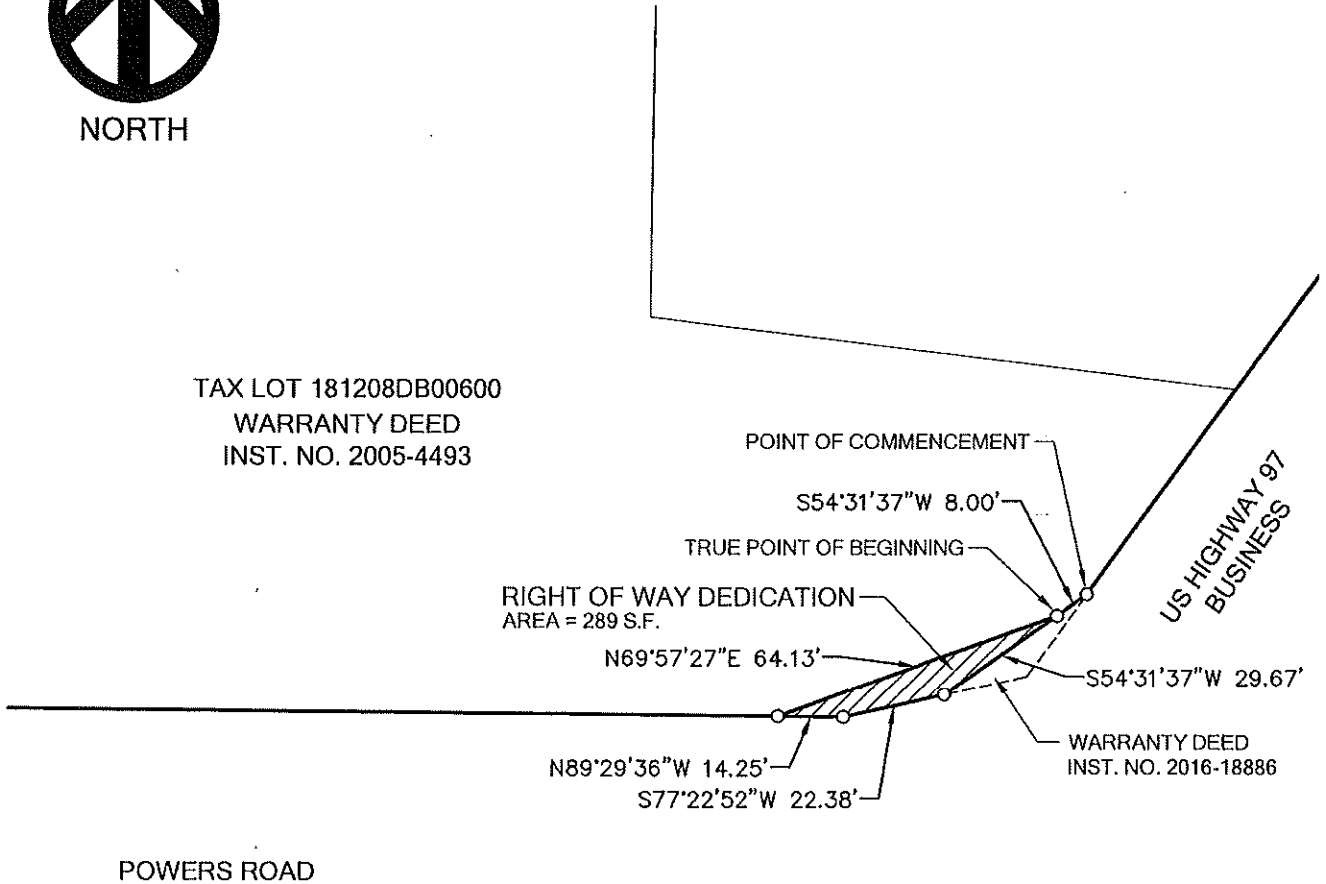
OREGON
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EXPIRES: 12/31/25

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 OF SECTION 8, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.,
 CITY OF BEND, DESCHUTES COUNTY, OREGON



TAX LOT 181208DB00600
 WARRANTY DEED
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HWA CIVIL ENGINEERING SURVEYING PLANNING	RIGHT OF WAY DEDICATION		SHEET 1/1
	NASE COMPANY LLC		
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