

RESOLUTION 3324
EXERCISING THE POWER OF EMINENT DOMAIN:
AWBREY BUTTE DISTRIBUTION IMPROVEMENTS PROJECT –
COLLEGE PUMP STATION INLET PIPE AND MAIN

Findings

A. The City of Bend ("City") has the authority to exercise the power of eminent domain under the City of Bend Charter, ORS 223.005 – 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, operate and maintain waterworks and water systems within and without its boundaries for the benefit and use of its inhabitants, and appropriate and acquire land for those purposes.

C. On July 20, 2022, the Bend City Council approved a Progressive Design-Build Contract with K&E Excavating Inc., which authorized the commencement of Design Services, Preliminary Engineering, and Alternatives Analysis for the construction of the Awbrey Butte Distribution Improvements Project (the "Project"). The Project includes the construction of an additional water supply inlet pipe to the College Pump Station fed by the new transmission main.

D. The City Council finds that the easements being acquired are necessary for the construction of the Project and are in the public interest; that the Project has been planned in accordance with appropriate engineering standards for the construction of water distribution infrastructure to minimize property damage, provide uninterrupted potable water supply, and mitigate operational failures; and that the Project has been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.

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 easement being acquired is necessary for the construction of the Project and is in the public interest. The Project has been planned, designed, located, and will be 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 Exhibits A & B. The easement is 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. In the event that 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 motion of the Bend City Council on May 3, 2023.

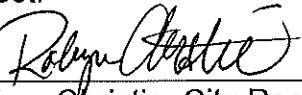
YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Ariel Méndez
Councilor Megan Norris
Councilor Mike Riley

NO: none



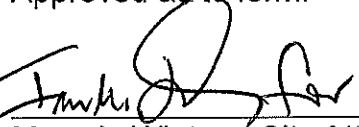
Melanie Kebler, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney



EXHIBIT A
CITY OF BEND
AWBREY BUTTE DISTRIBUTION IMPROVEMENTS
COLLEGE WAY PUMP STATION
WATER LINE EASEMENT

A 20.00 FOOT WIDE STRIP OF LAND BEING A PORTION OF PARCEL 3, PARTITION PLAT NO. 2018-39, RECORDED OCTOBER 31, 2018 AS INSTRUMENT NO. 2018-43908, OFFICIAL RECORDS OF DESCHUTES COUNTY, OREGON, LOCATED IN THE GOVERNMENT LOT 1 (NW1/4, NW1/4) OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, LYING 10.00 FEET ON EACH SIDE, WHEN MEASURED AT RIGHT ANGLES TO, THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED W&H PACIFIC MARKING THE EASTERLY MOST CORNER OF THE CITY OF BEND COLLEGE WAY PUMP STATION PROPERTY AS DESCRIBED IN THAT BARGAIN AND SALE DEED RECORDED MAY 17, 2017 AS INSTRUMENT NO. 2017-18914, OFFICIAL RECORDS OF DESCHUTES COUNTY, OREGON;

THENCE, NORTH 48°56'11" WEST, A DISTANCE OF 43.64 FEET, ALONG THE NORTHERLY LINE OF SAID CITY OF BEND COLLEGE WAY PUMP STATION PROPERTY, TO THE TRUE POINT OF BEGINNING FOR THIS CENTERLINE DESCRIPTION;

THENCE, DEPARTING SAID NORTHERLY LINE, NORTH 22°23'38" EAST, A DISTANCE OF 84.64 FEET, TO THE POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE, BEING 40.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF NW COLLEGE WAY, SAID POINT BEING THE POINT OF TERMINUS FOR THIS CENTERLINE DESCRIPTION, THE CALCULATED POINT FOR WHICH BEARS SOUTH 73°52'30" EAST, A DISTANCE OF 340.01 FEET, FROM THE NW CORNER OF SAID SECTION 31, MARKED BY A 3-1/4" DIAMETER ALUMINUM DISK MONUMENT STAMPED "MUNSON & ASSOCIATES, 2018", ALONG WITH OTHER MARKINGS.

HEREIN DESCRIPTION CONTAINS 1,693 SQUARE FEET, MORE OR LESS.

THE CENTERLINE AND SIDELINES OF THE ABOVE DESCRIBED STRIP SHALL BE LENGTHENED OR SHORTENED AS TO TERMINATE AT THE NORTHERLY LINE OF SAID CITY OF BEND COLLEGE WAY PUMP STATION PROPERTY AND THE SOUTHERLY RIGHT-OF-WAY LINE FOR NW COLLEGE WAY.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

BASIS OF BEARINGS = SOUTH 48°28'24" WEST BETWEEN
GPS DERIVED CENTRAL OREGON COORDINATE SYSTEM (C.O.C.S.)
VALUES FOR RECOVERED MONUMENTS MARKING THE EASTERLY
LINE OF SAID PARCEL 3, PARTITION PLAT NO. 2018-39.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Digitally signed by Scott Bolduc
DN=Scott Bolduc
OU=Surveyor, OU=Users,
OU=Smart, DC=DOWL, DC=COM
Date: 2023.03.03 10:16:26-08'00'

OREGON
JULY 20, 2009
SCOTT C. BOLDUC
79288

EXPIRES: 12/31/2023

