

## ORDINANCE NO. NS-2193

AN ORDINANCE VACATING THE RIGHT OF WAY OF NE VAIL AVENUE BETWEEN NE 3<sup>RD</sup> AND 4<sup>TH</sup> STREETS. (See attached Exhibits A and B)

### Findings:

- A. On July 10, 2012, C. E. Francis, of Francis Hansen & Martin LLP filed a petition on behalf of Koppel LLC and Robberson Ford (collectively "Applicants") to vacate the right of way of NE Vail Avenue between NE 3<sup>rd</sup> and 4<sup>th</sup> Streets (the "Petition"), and on August 1, 2012, the City Council directed staff to proceed to process the Petition.
- B. On September 2 & 9, 2012, the City published notice of a public hearing on the vacation of NE Vail Avenue between NE 3<sup>rd</sup> and 4<sup>th</sup> streets in The Bulletin, a newspaper of general circulation in the City once each week for two consecutive weeks, 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. The City Council opened a public hearing on September 26, 2012 and continued the hearing to November 7, 2012.
- D. The City Council reopened the public hearing on the proposed vacation on November 7, 2012.
- E. The Petitioner complies with applicable standards and the Applicants have submitted the required number of signatures for the Petition to be approved.
- F. The City Council has determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated.

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

- Section 1. NE Vail Avenue, between NE 3<sup>rd</sup> and 4<sup>th</sup> Streets, in the City of Bend, Deschutes County, Oregon, is vacated on the following conditions:
1. That Applicants pay \$283,300.00 to be used for right-of-way acquisition, improvements and maintenance. In addition they will pay recording and noticing costs prior to recording this vacation ordinance.
  2. That Applicants provide a public utility easement for the gas and power utilities remaining within the area to be vacated.
  3. That Applicants provide a public easement for the existing public hydrant and water utilities as shown on the site exhibit.

Section 2. When the City Manager has certified in writing that the conditions have been fulfilled, the City Recorder shall file and record this Ordinance in the Deschutes County Clerk's Office.

Section 3. If the conditions are not fulfilled within one year from this Ordinance's effective date, this Ordinance shall be null and void.

First Reading Date: November 7, 2012

Second Reading Date: November 19, 2012

Adopted by roll call vote of the Bend City Council on November 19, 2012.

YES: Scott Ramsay

Mark Capell

Jodie Barram

Jim Clinton

Mayor Jeff Eager


NO: None

(Councilor Greene excused, Councilor Russell abstained)

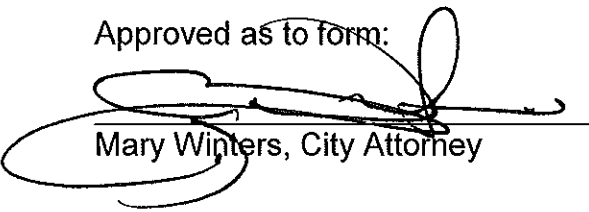
  
\_\_\_\_\_  
Jeff Eager, Mayor

11/28/12  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

Approved as to form:

  
\_\_\_\_\_  
Mary Winters, City Attorney

## EXHIBIT A

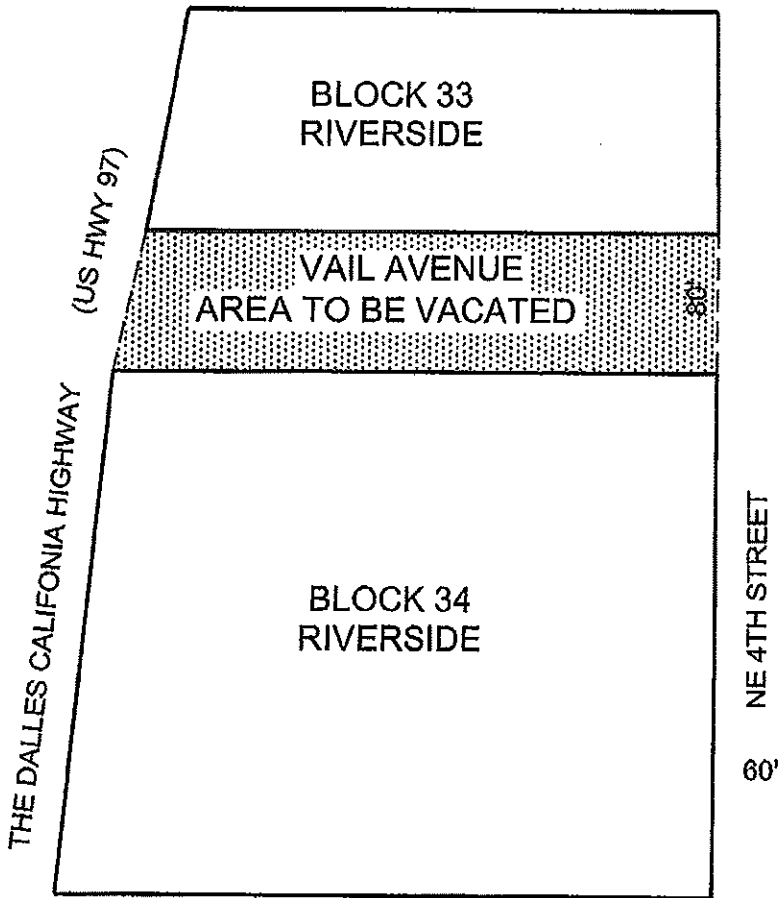
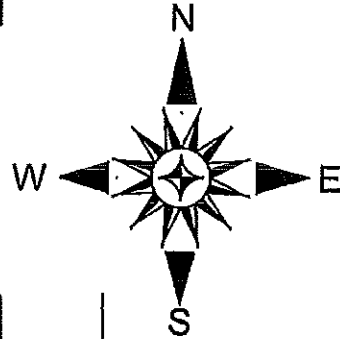
### LEGAL DESCRIPTION OF AREA TO BE VACATED

ALL OF THAT PORTION OF VAIL AVENUE AS CREATED BY THE PLAT OF RIVERSIDE AND RECORDED IN PLAT CABINET A, PAGE 17 OF THE DESCHUTES COUNTY CLERK'S RECORDS AND BEING BOUNDED ON THE WEST BY THE EASTERLY RIGHT OF WAY OF THE DALLES CALIFORNIA HIGHWAY (US HWY 97, 3RD STREET); BOUNDED ON THE EAST BY THE WESTERLY RIGHT OF WAY LINE OF NE 4TH STREET; BOUNDED ON THE NORTH BY THE SOUTH LINE OF BLOCK 33 IN SAID PLAT OF RIVERSIDE AND BOUNDED ON THE SOUTH BY THE NORTH LINE OF BLOCK 34 OF SAID PLAT OF RIVERSIDE, ALL WITHIN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

**FRESHWATERS SURVEYING, INC.**

SCOTT C. FRESHWATERS, PLS, PRESIDENT

**EXHIBIT "B"  
VAIL AVENUE VACATION**



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

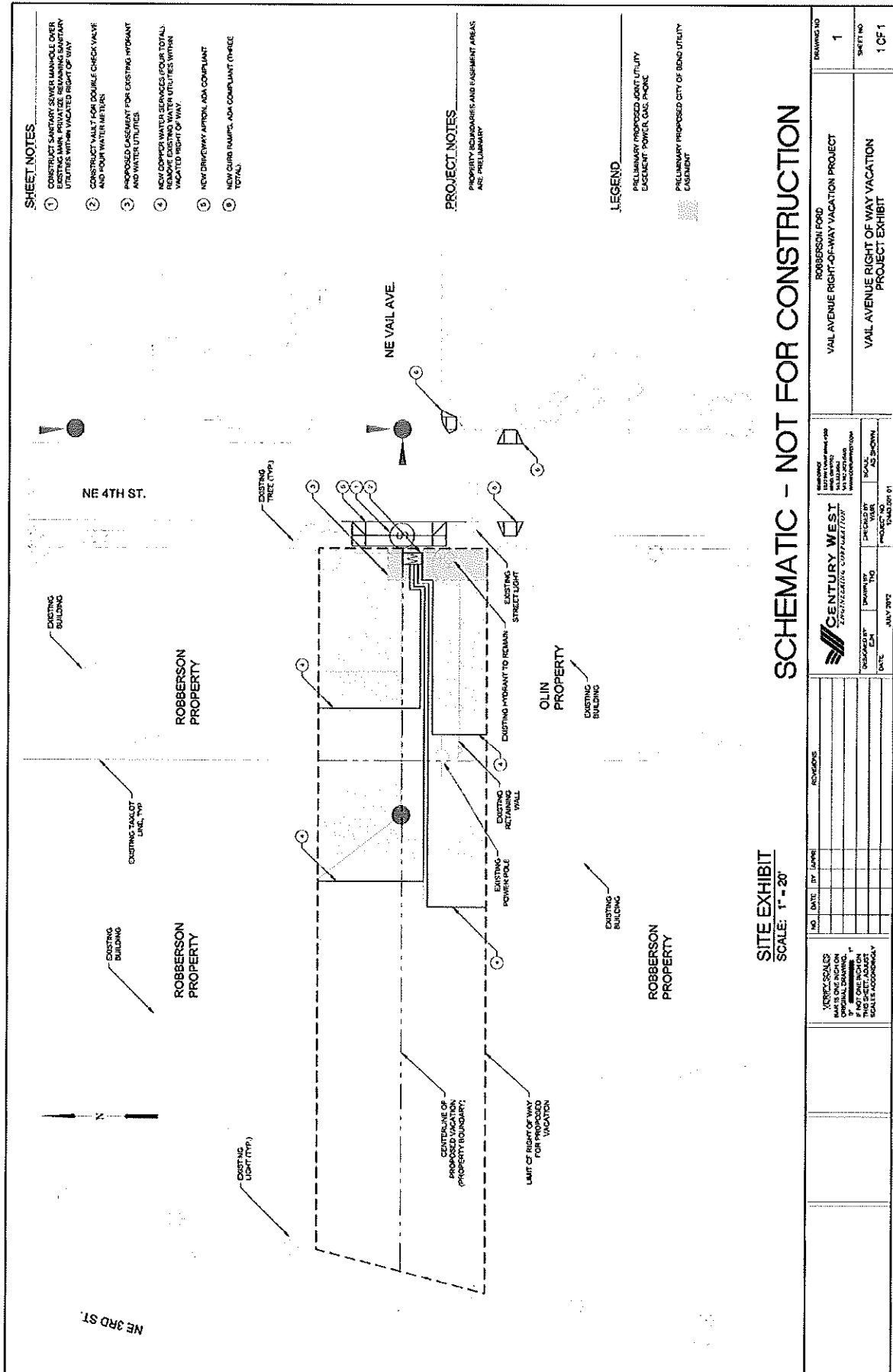
*Scott C. Freshwaters*

OREGON  
JANUARY 15, 1987  
SCOTT C FRESHWATERS  
2003

*Renews 12-31-2013*

reverse .

# EXHIBIT C



**SHEET NOTES**

1. CONSTRUCT SANITARY SEWER MANHOLE OVER EXISTING SANITARY SEWER MAIN WITHIN VACATED RIGHT OF WAY UTILITIES WITHIN VACATED RIGHT OF WAY
2. CONSTRUCT VALVE FOR DOUBLE CHECK VALVE AND FOUR WATER METERS
3. PROPOSED CASEMENT FOR EXISTING HYDRANT AND WATER UTILITIES
4. NEW COPPER WATER SERVICES (FOUR TOTAL) WITHIN VACATED RIGHT OF WAY UTILITIES WITHIN VACATED RIGHT OF WAY
5. NEW DRIVEWAY APPROX. ADA COMPLIANT
6. NEW CURB (IMP. ADA COMPLIANT (THREE TOTAL))

**PROJECT NOTES**

PROPERTY BOUNDARIES AND EASEMENT AREAS ARE PRELIMINARY

**LEGEND**

- PRELIMINARY PROPOSED JOINT UTILITY EASEMENT (POWER, GAS, PHONE)
- PRELIMINARY PROPOSED CITY OF BEND UTILITY EASEMENT

**SITE EXHIBIT**  
SCALE: 1" = 20'

## SCHEMATIC - NOT FOR CONSTRUCTION

						DRAWING NO 1
		VAL AVENUE RIGHT-OF-WAY VACATION PROJECT VAL AVENUE RIGHT OF WAY VACATION PROJECT EXHIBIT		SHEET NO 1 OF 1		
NO. DATE BY USER REVISIONS		CHECKED BY DRAWN BY DATE		SCALE AS SHOWN PROJECT NO. 2018-001		
VERIFY SCALES MAKE SURE ALL DIMENSIONS ARE IN FEET AND INCHES IF NOT ONE INCH ON SCALE IS ACCORDINGLY						

