

Multnomah County Official Records  
R Weldon, Deputy Clerk

2013-120059



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**CITY OF PORTLAND**  
**Office of the City Auditor**  
**1221 SW Fourth Avenue, Room 130**  
**Portland, OR 97204-1900**

*P/U K. Calvert*

**I hereby certify this Ordinance No. 184538 to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on August 23, 2013.**

**LaVonne Griffin-Valade**  
**Auditor of the City of Portland**  
By *J. Anderson*  
**Deputy**

**ORDINANCE No. 184538**

Vacate a portion of SE 94th Ave north of SE Henry St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10074)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 30, 2007, the Bureau of Transportation received a request for the vacation of a portion of SE 94<sup>th</sup> Avenue north of SE Henry Street.
2. The petition states that the reason for the vacation is for TriMet and Oregon Department of Transportation (ODOT) to have control over the portions of the property improved with Light Rail tracks and the I-205 multi-use path, respectively, for operation and maintenance of their facilities.
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated November 29, 2010 and on file with the Office of the City Auditor and the Bureau of Transportation.
4. In accordance with ORS 271.100, the Council fixed a time and place for public hearing before the Council; the Auditor published notice thereof, and posted notice in the areas proposed for vacation.
5. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto, and it is in the public interest that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area, as depicted on the attached Exhibit 1, is hereby vacated:

That portion of SE 94<sup>th</sup> Avenue situated in Section 16, T1S, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, between the southeast corner of Lot 5, Block 5, in the duly recorded plat of "Town of Lent" extended easterly to the southwest corner of Lot 10, Block 6 of said plat and 81.00 feet north of the north line of SE Henry Street extended easterly to the east right-of-way line of said SE 94<sup>th</sup>, as depicted on attached Exhibit 1 and by this reference made a part hereof. Said vacation area contains 15,870 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:

1. TriMet will complete a lot consolidation of 1S2E16DC Tax Lots 11500, 11600, 11700 and 11701 through the Title 33 Lot Consolidation Review process if said lots have not been transferred to ODOT prior to the City recording the street vacation ordinance.
2. A 15 foot wide public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facility. The 15 foot easement shall be located over an existing 8 inch pipe as described on Exhibit 2 and shown on Exhibit 3, attached hereto.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said easement area without the prior written consent of the Director of the Bureau of Environmental Services, and further that the City or its contractors will not be responsible for damage to any improvements, including existing landscaping within the easement area if such things are damaged or destroyed by the City or its contractors in the course of reconstruction or maintenance of the existing public sewer facility.

3. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service. The ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Director of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities in the street vacation area will require written agreements between the Petitioner and owner(s) of the utilities.

4. Notwithstanding b3 and except for b2, this Ordinance will serve as a full release of City interests in the street vacation area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
5. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
6. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.

Section 2. Petitioner shall file with the City Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of the Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

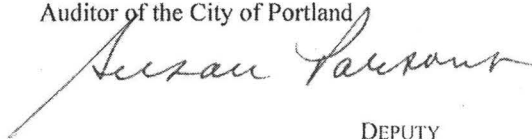
Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, the assessor, and the surveyor of the county in which said property is located, the certified copy of this Ordinance and the acceptance, and any map, plat or other record which may be required by law. The Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor.

Passed by the Council,

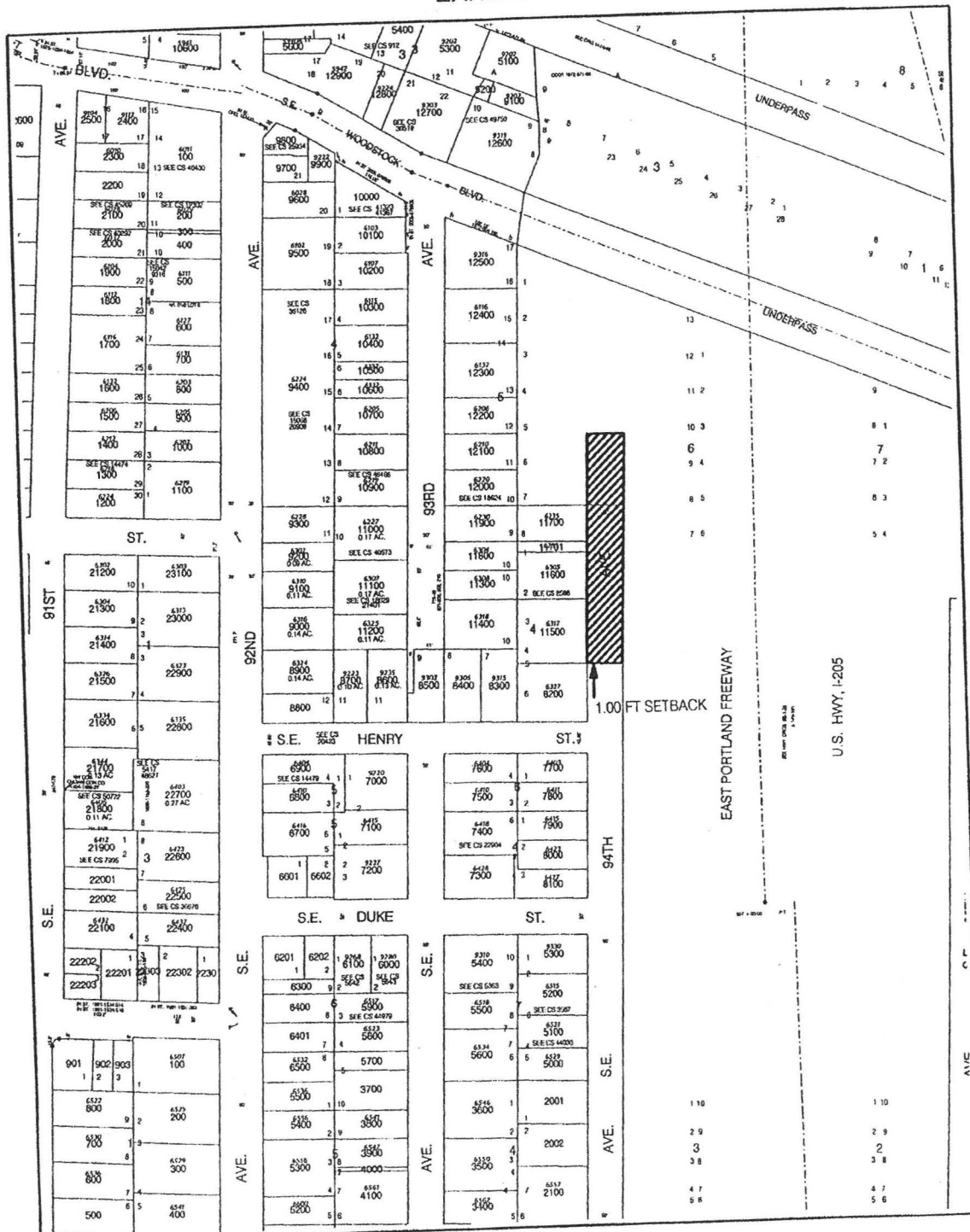
APR 20 2011

Mayor Sam Adams  
Prepared by: Lance D. Lindahl:slg  
March 21, 2011  
RW # 7200

**LAVONNE GRIFFIN-VALADE**  
Auditor of the City of Portland

  
DEPUTY

# EXHIBIT 1



## SE 94TH AVENUE NORTH OF SE HENRY STREET

Petitioner: Bureau of Transportation

1/4 Section: 3640

Section: 1S2E16DC



Area Herein Vacated

Scale: 1" to 200'



## EXHIBIT 2

South Corridor Project  
I-205 Segment

City of Portland  
S.E. 94<sup>th</sup> Avenue  
Portland, OR 97266  
1S2E16DC  
PNS, DEA INC. 07-07-10

## EXHIBIT "A"

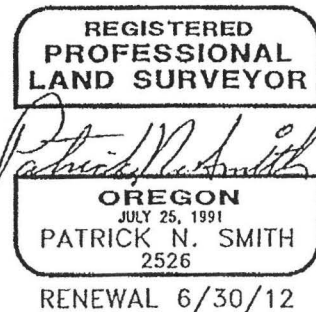
**Reserved Sewer Easement**

A strip of land falling within vacated S.E. 94<sup>th</sup> Avenue situated in the Southeast one-quarter of Section 16, Township 1 South, Range 2 East, W.M., City of Portland, Multnomah County, Oregon, and being a portion of S.E. 94<sup>th</sup> Avenue, said strip being 15.00 feet wide, lying 10.00 feet on the westerly side and 5.00 feet on the easterly side of the following described center line:

Commencing at the southeast corner of Lot 6, Block 4, Webb's Addition; thence along the west right-of-way line of S.E. 94<sup>th</sup> Avenue North 01° 34' 11" East 81.00 feet; thence South 88° 05' 25" East 10.30 feet to the true point of beginning of said center line; thence North 07° 38' 32" West 9.74 feet; thence North 43° 38' 32" West 12.32 feet to the westerly right-of-way line of S.E. 94<sup>th</sup> Avenue. The sidelines of said strip lengthen or shorten to begin on a line bearing South 88° 05' 25" East to or from the true point of beginning and end on the westerly right-of-way line of S.E. 94<sup>th</sup> Avenue.

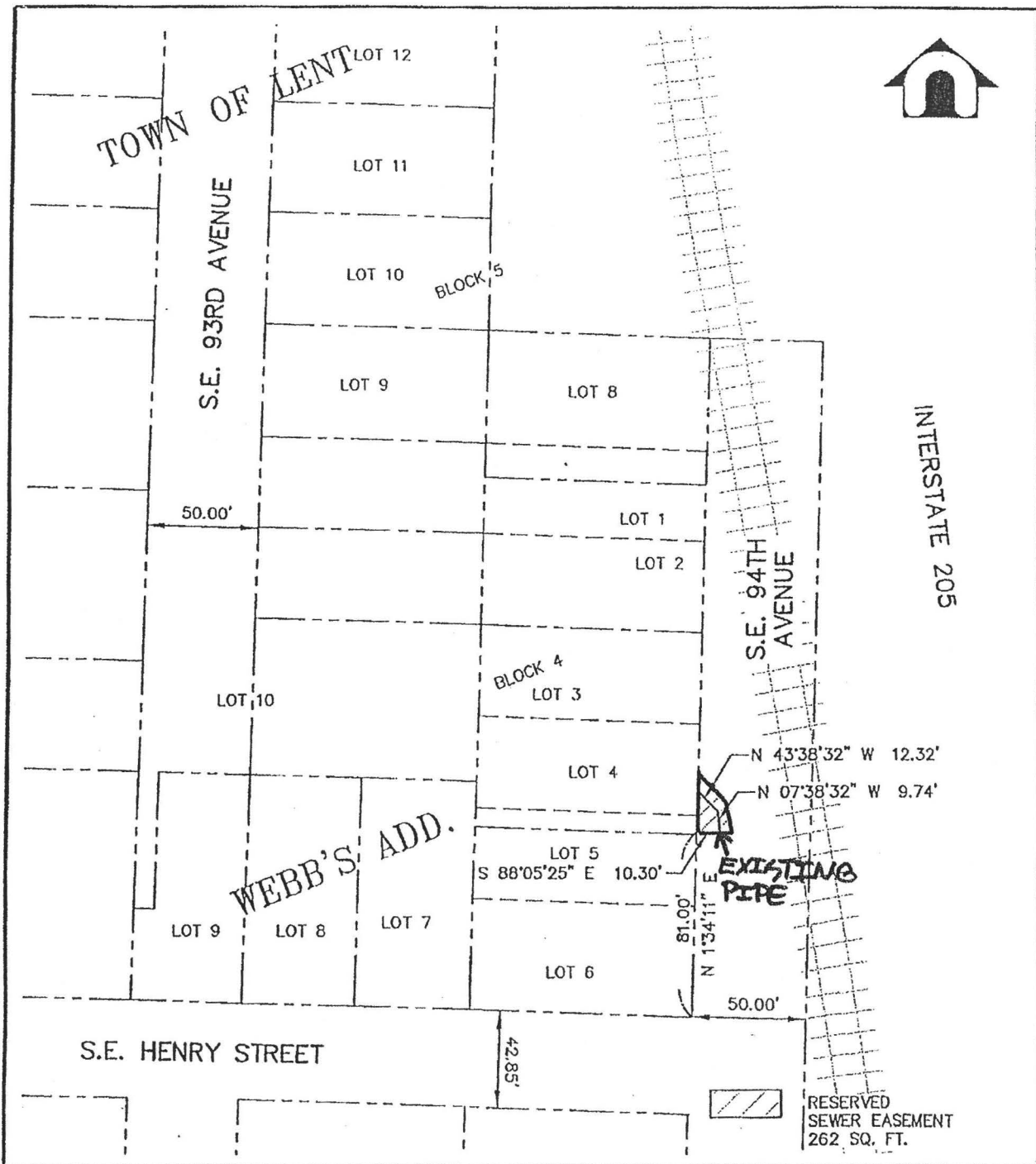
This parcel contains 262 square feet, more or less.

The bearings of this description are based on the Oregon Coordinate System of 1983, north zone, 1991 adjustment.



184538

## EXHIBIT 3



DAVID EVANS  
AND ASSOCIATES INC.  
2100 Southwest River Parkway  
Portland Oregon 97201  
Phone: 503.223.6663

PROJECT

SOUTH CORRIDOR PROJECT

SHEET

TITLE

S.E. 94TH AVENUE &amp; S.E. HENRY STREET

EXHIBIT MAP FOR SEWER EASEMENT

DWG. REF.

SvEm8

PROJECT

TMTX0000-0123

SCALE

1" = 60'

AMENDMENT NO.

2

DRAWN BY

TAS

DESIGN BY

PNS

APPROVED BY

KRW

DATE

7/07/10


1

ACCEPTANCE

Auditor of the City of Portland  
Attention: Toni Anderson  
City Hall Room 140  
1221 SW 4<sup>th</sup> Avenue  
Portland, OR 97204

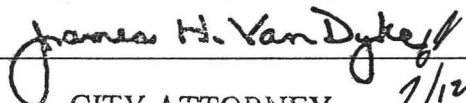
This is to advise the City of Portland, Oregon that the State of Oregon, by and through its Department of Transportation, accepts the terms and provisions of Ordinance No. 184538, passed by the Portland City Council on April 20, 2011, **Vacate a portion of SE 94<sup>th</sup> Ave north of SE Henry St subject to certain conditions and reservations (VAC-10074)**, and in consideration of the benefits received thereunder hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

6/27/13  
Date

  
Rick Crager, State Right of Way Manager

State of Oregon by and through its Department of Transportation  
Right of Way Section  
4040 Fairview Industrial Drive SE, MS#2  
Salem, OR 97302-1142

Approved as to form ~~for~~ APPROVED AS TO FORM

  
City Attorney CITY ATTORNEY 7/12/13



## ACCEPTANCE

Auditor of the City of Portland  
City Hall Room 140  
1221 SW 4<sup>th</sup> Avenue  
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that Tri-County Metropolitan Transportation District of Oregon (TriMet) hereby accepts the terms and provisions of Ordinance No. 184538, passed by the Portland City Council on April 20, 2011, **Vacate a portion of SE 94<sup>th</sup> Ave north of SE Henry St subject to certain conditions and reservations (VAC-10074)**, and in consideration of the benefits received thereunder TriMet hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

August 5, 2013  
Date

Jillian Detweiler Director of Real Property  
(Signature and Title)

Jillian Detweiler

Tri-County Metropolitan Transportation District of Oregon  
1800 SW 1<sup>st</sup> Avenue, Suite 200  
Portland OR 97201

Approved as to form:

APPROVED AS TO FORM

James H. Van Dyke

City Attorney

CITY ATTORNEY

8/20/13