

Multnomah County Official Records  
Cindy Swick, Deputy Clerk

2008-057107



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**CITY OF PORTLAND**  
**Office of the City Auditor**  
**1221 SW Fourth Avenue, Room 140**  
**Portland, OR 97204-1900**

*PLU 4-15-08*  
*Denise Woodward*

I hereby certify this Ordinance No. 181476 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 April 9, 2008.

**GARY BLACKMER**  
**Auditor of the City of Portland**  
By *[Signature]*  
Deputy

10

**ORDINANCE No.                      As Amended**

Vacate a portion of NW 9<sup>th</sup> Avenue north of NW Overton Street subject to certain conditions and reservations (Hearing; Ordinance; VAC-10038)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 8, 2006, the Office of the City Auditor certified a petition for the vacation of a portion of NW 9<sup>th</sup> Avenue north of NW Overton Street, with the petition initiated by Block 19, LLC, the owner of adjoining property.
2. The petition states that the reason for the vacation is to consolidate property.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated October 1, 2007, and on file with the Office of the City Auditor and the Office 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. That the Commissioner-in-Charge and Auditor are authorized; to vacate the following described street area as depicted on the attached Exhibit 1 and said street is hereby vacated.

A portion of NW 9<sup>th</sup> Avenue north of NW Overton Street, situated in Section 34, T1N, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, as described in attached Exhibit 1A and depicted on Exhibit 1B and by this reference made a part hereof. Said vacation area contains 4,931 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
  1. **Office of Transportation, Permit Engineering.** The Petitioner will install a fence/barrier at the new Right-of-Way line to control vehicular access until property is developed and construct curb, sidewalk, or driveway improvements within the right-of-way for NW 9<sup>th</sup> Avenue and NW Overton Street in accordance with the requirements of the City Engineer.

- i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, Street Systems Management Section, a performance guarantee in the form of a surety bond, letter of credit, set-aside account, cash, or other form of surety, subject to approval by the City Attorney. The Petitioner acknowledges that the performance guarantee indicated is a preliminary estimate subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.
  - ii) The Petitioner will authorize the City to complete the required street improvements at the Petitioner's cost, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.
  - iii) Upon completion of the required improvements by the Petitioner, and acceptance by the City Engineer, the Petitioner shall guarantee maintenance of the improvements for two (2) years following the date of project acceptance. The maintenance guarantee may be satisfied by the performance guarantee, or by substitution of other surety acceptable to the City Attorney and equal to 20% of the performance guarantee. Upon acceptance by the City of a 20% maintenance guarantee, the street improvements performance guarantee will be released.
  - iv) Prior to the issuance of a Certificate of Completion by the City Engineer, fees collected by the City in association with street closure work will be reconciled with actual City costs, with Petitioner to receive from or pay to the City the net difference. In the event of non-payment by the Petitioner, the street improvement performance bond will be used to reimburse City costs. Use of the performance bond by the City will not preclude the City from billing to and collecting from the Petitioner those costs incurred by the City that were in excess of the performance bond.
2. **Office of Transportation, Street Lighting.** As a condition of the street vacation approval, the Petitioner will survey the area to determine if existing City of Portland street light facilities are within the street area to be vacated and pay for the relocation of such facilities if it is determined they lie within proposed vacation area.
  3. **Office of Transportation, Development Review.** As a condition of the street vacation approval, the Petitioner will agree to the reservation of a public walkway easement for perpetual use by the public over the public sewer easement referenced in condition 4 and described in Exhibit 2A and depicted on Exhibit 2B.
  4. **Bureau of Environmental Services.** The Bureau of Environmental Services owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public sewer easement over multiple existing sanitary sewer facilities in the vacated street area as described in Exhibit 2A and depicted on Exhibit 2B attached hereto.

This easement is hereby reserved to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of the existing public sewer facility and necessary appurtenances, and 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 landscaping existing on 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.

5. **Utilities.** 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, including, but not limited to those identified by PGE and Qwest. The ordinance will reserve 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.
6. Notwithstanding condition 5 and except for conditions 3 and 4, 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.
7. **Costs.** In the event that additional processing requirements exceed current projections, Petitioner may be required to pay additional processing costs to the City prior to the Street Vacation Ordinance being recorded.
8. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting the 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, Transportation Engineering and Development, 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.

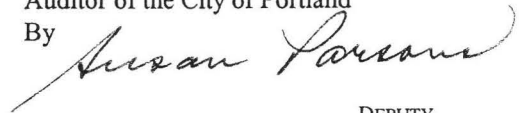
Passed by the Council, DEC 12 2007

Commissioner Sam Adams  
Prepared by: Dee A. Walker:slg  
November 13, 2007  
R/W # 6752

**GARY BLACKMER**

Auditor of the City of Portland

By



DEPUTY



Harper  
Houf Peterson  
Righellis Inc.

ENGINEERS • PLANNERS  
LANDSCAPE ARCHITECTS • SURVEYORS

**LEGAL DESCRIPTION**  
**STREET VACATION**

September 18, 2007

Being a portion of N.W. 9<sup>th</sup> Avenue as shown on plat of "Hoyt Street Yards No. 2", recorded as Book 1259 Page 84-86, Multnomah County Plat Records, located in the Northwest One-Quarter of the Northwest One-Quarter of Section 34, Township 1 North, Range 1 East, of the Willamette Meridian, City of Portland, Multnomah County, Oregon, being more particularly described as follows:

**Beginning** at the southeast corner of Lot 23, said plat of "Hoyt Street Yards No. 2";

Thence N01°26'50"W, along the east line of said Lot 23, 153.52 feet to the northeast corner thereof;

Thence S33°07'49"E 114.24 feet to the most southerly corner of Tract "B" as shown on sheet 3 of 3 of Survey No. 53,400, Multnomah County Survey Records; said point being located 60.00 feet easterly as measured at right angles to said east line of said Lot 23;

Thence S39°33'25"W 15.42 feet to the beginning of a 235.53 foot radius curve to the left, having a central angle of 13°12'01";

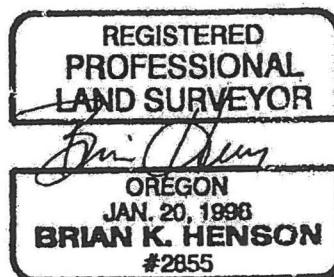
Thence along the arc of said curve to the left (the long chord of which bears S32°57'24"W 54.14 feet) 54.26 feet to the easterly extension of the north line of N.W. Overton Street as shown on said plat of "Hoyt Street Yards No. 2";

Thence S88°33'10"W, along said easterly extension, 19.29 feet to the Point of Beginning.

**EXCEPTING THEREFROM** a 1.00 foot wide strip, lying on the southerly side of and contiguous with the northeasterly line of the above described portion of N.W. 9<sup>th</sup> Avenue.

Containing 4,931 square feet more or less.

This legal description and the basis of bearings thereof, is based upon Record of Survey recorded as Survey No. 59,145, Multnomah County Survey Records.



EXP 6-30-09



# EXHIBIT 1B



SCALE: 1" = 20'

HOYT STREET YARDS NO. 2  
(PLAT BOOK 1259 PAGE 85)  
LOT 23

NORTHEAST CORNER  
OF LOT 23, "HOYT  
STREET YARDS NO. 2"

N.W. 9TH  
AVENUE

TAX LOT 900

TAX LOT 1000

TAX LOT 1100

N.W. 9TH  
AVENUE

RIGHT-OF-WAY  
VACATION  
4,931 SQ.FT. ±

153.52'  
N01°26'50"W

60.00'

114.24'

MOST SOUTHERLY  
CORNER OF TRACT "B"  
AS SHOWN ON SHEET 3  
OF 3, SN 53400,  
MULTNOMAH COUNTY  
SURVEY RECORDS

S39°33'25"W  
15.42'

R=235.53'  
L=54.26'  
Δ=13°12'01"  
LC=S32°57'24"W  
54.14'

APRIL 17, 2006  
JOB NO. HYT-03

POINT OF  
BEGINNING  
SOUTHEAST CORNER  
OF LOT 23, "HOYT  
STREET YARDS NO. 2"

S88°33'10"W  
19.29'

N.W. OVERTON  
STREET

Petitioner: Hoyt Street Properties LLC

1/4 Section: 2929 Section: 1N1E34BB



Area Herein Vacated

LEGAL DESCRIPTION  
Public Sewer Easement  
September 21, 2007

Being a portion of N.W. 9<sup>th</sup> Avenue as shown on the plat of "Hoyt Street Yards No. 2", recorded as Book 1259 Page 84-86, Multnomah County Plat Records, located in the Northwest One-Quarter of the Northwest One-Quarter of Section 34, Township 1 North, Range 1 East, of the Willamette Meridian, City of Portland, Multnomah County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Lot 23, said plat of "Hoyt Street Yards No. 2";

Thence S33°07'49"E 114.24 feet to a point on the easterly right-of-way line of said N.W. 9<sup>th</sup> Avenue, said point being 60.00 feet easterly as measured at right angles to the east line of said Lot 23;

Thence leaving said easterly right-of-way line S39°33'25"W 15.42 feet to the beginning of a 235.53 foot radius curve to the left, having a central angle of 13°12'01";

Thence along the arc of said curve to the left (the long chord of which bears S32°57'24"W 54.14 feet) 54.26 feet to the easterly extension of the north line of N.W. Overton Street as shown on said plat of "Hoyt Street Yards No. 2";

Thence S88°33'10"W, along said easterly extension, 6.54 feet to a point;

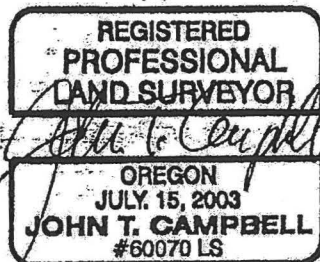
Thence leaving said easterly extension, N01°28'21"W 95.72 feet to a point;

Thence N21°39'51"W 36.78 feet to the east line of said Lot 23;

Thence N01°26'50"W, along said east line, 23.29 feet to the Point of Beginning.

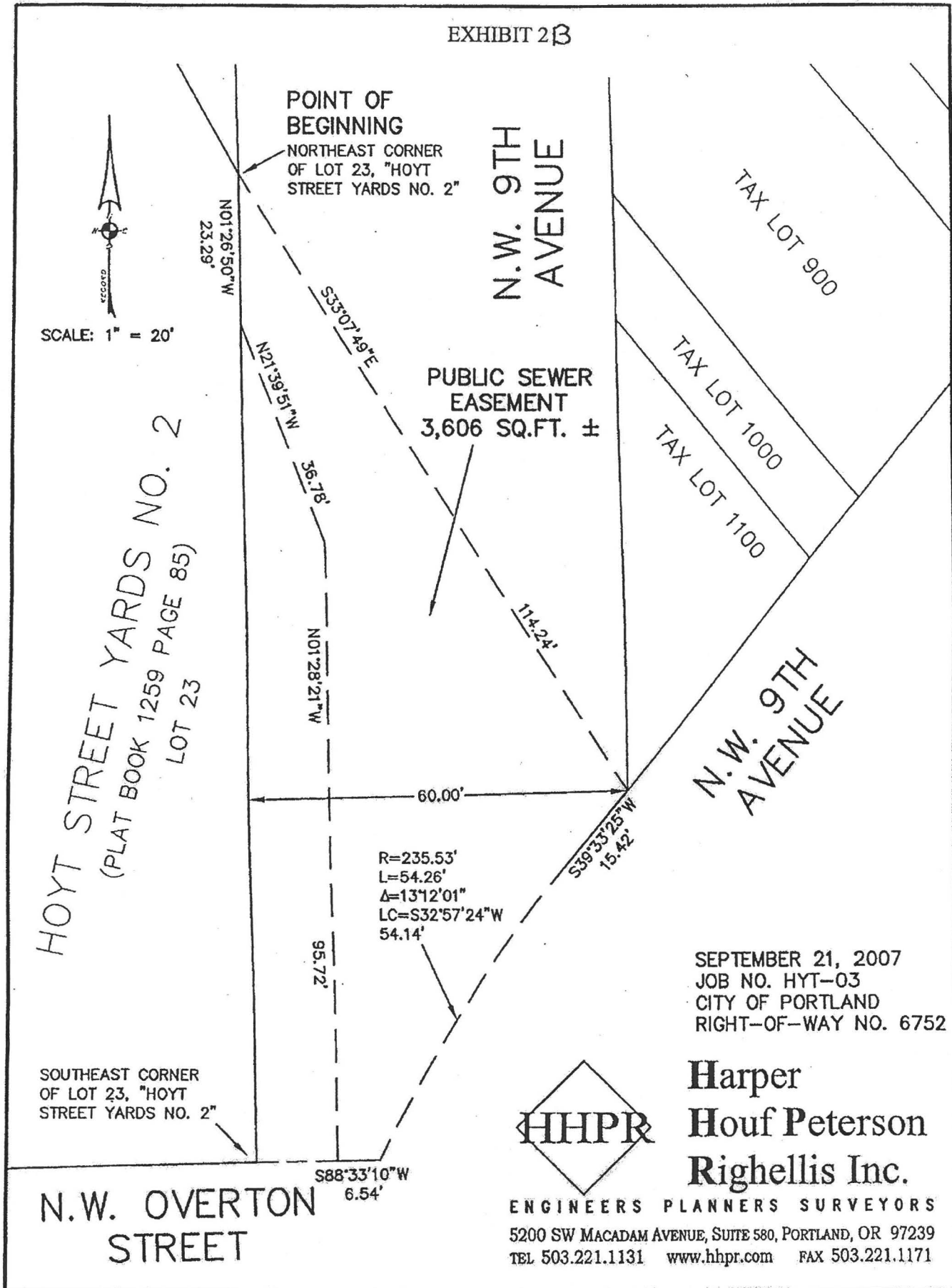
Containing 3,606 square feet more or less.

This legal description and the basis of bearings thereof, is based upon Record of Survey recorded as Survey No. 59,145, Multnomah County Survey Records.





## EXHIBIT 2B

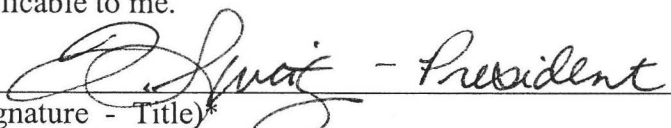


## ACCEPTANCE

December 28, 2007

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 I hereby accept the terms and provisions of Ordinance No. 181476, passed by the Portland City Council on December 12, 2007, **Vacate a portion of NW 9<sup>th</sup> Avenue north of NW Overton Street subject to certain conditions and reservations (VAC-10038)**, and in consideration of the benefits received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

 - President  
(Signature - Title)\*

Block 19 LLC  
c/o Tiffany Switzer, President  
Hoyt Street Properties, LLC  
1022 NW Marshall Street, Suite 270  
Portland, OR 97209

Approved as to form: **APPROVED AS TO FORM**

  
City Attorney CITY ATTORNEY

\*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

RECEIVED

JAN 07 2007