

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7174

**APPROVING THE ACCEPTANCE OF A VACATED RIGHT-OF-WAY
ADJACENT TO THE REAL PROPERTY LOCATED AT SE 72ND AVENUE AND
SE FOSTER ROAD WITHIN THE LENTS TOWN CENTER URBAN RENEWAL
AREA**

WHEREAS, on April 13, 2011, the Portland Development Commission (“PDC”) Board of Commissioners (“Board”) through Resolution No. 6864 authorized the Executive Director to acquire property located at 7104-7120 SE Foster Road (the “Metro Auto West Site”) for the purpose of redevelopment in accordance with the Lents Town Center Urban Renewal Area plan;

WHEREAS, on November 8, 2000, Portland City Council approved Ordinance number 175042, authorizing the vacation of right-of-way located at the easterly end of SE Raymond Court;

WHEREAS, the vacated right-of-way is immediately adjacent to the Metro Auto West Site;

WHEREAS, the Portland Bureau of Transportation intends to record the vacated right-of-way;
and

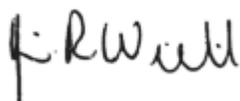
WHEREAS, PDC desires to accept control of the vacated right-of-way to increase the size of the Metro Auto West Site.

NOW, THEREFORE, BE IT RESOLVED, that the PDC Board authorizes the acceptance of the vacated right-of-way described in the Ordinance attached hereto as Exhibit A;

BE IT FURTHER RESOLVED, that the Executive Director is authorized to provide a utility access easement to the City of Portland Bureau of Environmental Services in the form attached hereto as Exhibit B, for utilities that are currently located within the proposed vacated area; and

BE IT FURTHER RESOLVED, that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission on April 20, 2016



Gina Wiedrick, Recording Secretary

PORTLAND DEVELOPMENT COMMISSION

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EXHIBIT A

**APPROVING THE ACCEPTANCE OF A VACATED RIGHT-OF-WAY
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Exhibit A includes this cover page and contains five pages:

- Ordinance No. 175042

ORDINANCE No. 175042

Vacate a certain portion of SE Raymond Court, under certain conditions. (Ordinance by Order of Council; C-9977)

The City of Portland ordains:

Section 1. The Council finds:

1. On February 18, 2000, Matt Gage, Foster Properties Limited Partnership filed a petition for the vacation of a certain portion of SE Raymond Court.
2. The petition states that the reason for the vacation is to consolidate property.
3. The vacation is recommended by the Commissioner of Public Safety under certain conditions set forth in the directive action below.
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 shown on the attached Exhibit A, is hereby vacated:

R/W #5931

All that portion of SE Raymond Court lying between the northerly extension of the west line of Lot 1, Block 15, Firland and the westerly line of an abandoned railroad right-of-way adjacent to Blocks 13, 14, and 15, Firland, City of Portland, Multnomah County, Oregon.

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

- (1) That the Petitioner has paid to the City the sum of \$2,000.00, this being the estimated cost of these vacation proceedings, and that the Petitioner shall be responsible for payment of all additional costs incurred in excess of the estimated costs already paid; the City Engineer may require the Petitioner to make additional payments as needed to process the vacation, and all costs shall be paid prior to recording of the vacation Ordinance.

- (2) Nothing herein contained shall 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, and the right hereby is reserved 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 Buildings, 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 except as herein provided with respect to existing sewer facilities.
- (3) A permanent sewer easement 20 feet wide, centered on the existing public combination sewer line, shall be reserved in Raymond Court for access, maintenance, repair or replacement of the existing public sewer.
- (4) The water main in SE Raymond Court must be cut and plugged at the new property line at the petitioner's expense. The petitioner should call the Water Bureau to request an estimate for the cost of doing the work.
- (5) That the petitioner agrees to obtain a street improvement permit and pay all costs for improvement to SE 71st Avenue and construction of a 36' diameter sweeper turnaround in SE Raymond Court, with drainage modified to fit revised flow lines, in accordance with the requirements of the City Engineer.
 - a. 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 amount of \$26,000, in the form of a surety bond, letter of credit, set-aside account, cash, or other surety approved by the City Attorney. In addition, the petitioner shall pay to the City Engineer, Street Systems Management Section, street improvement permit fees as required by City code, currently estimated at \$7,200. Twenty percent (20%) of the estimated permit fee shall be paid prior to the start of review of the street improvement plans; the estimated balance is due prior to permit issuance. The petitioner acknowledges that the performance guarantee and permit fee amounts indicated above are preliminary estimates subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.

- b. 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 performance guarantee will be released.
 - c. Prior to the issuance of a Certificate of Completion by the City Engineer, the permit fees will be adjusted to agree with the actual cost of services as recorded by the City Engineer. The City will return any excess fees collected to the petitioner; the petitioner agrees to pay any balance due.
 - d. The petitioner agrees that if it fails or neglects to complete the required street improvements within a reasonable time, as determined by the City Engineer, the City is authorized to draw from the performance guarantee as required to complete the construction work. The petitioner further agrees to pay all excess costs incurred by the City to complete the required improvements.
- (6) That in the event the Petitioner fails to fully comply with the conditions as stated in this report within one year after the effective date of the vacating Ordinance, said Ordinance will then be subject to repeal by the Council.

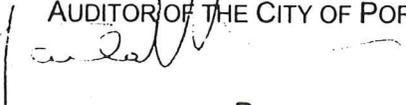
Section 2. Petitioner shall file with the City Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of the Ordinance.

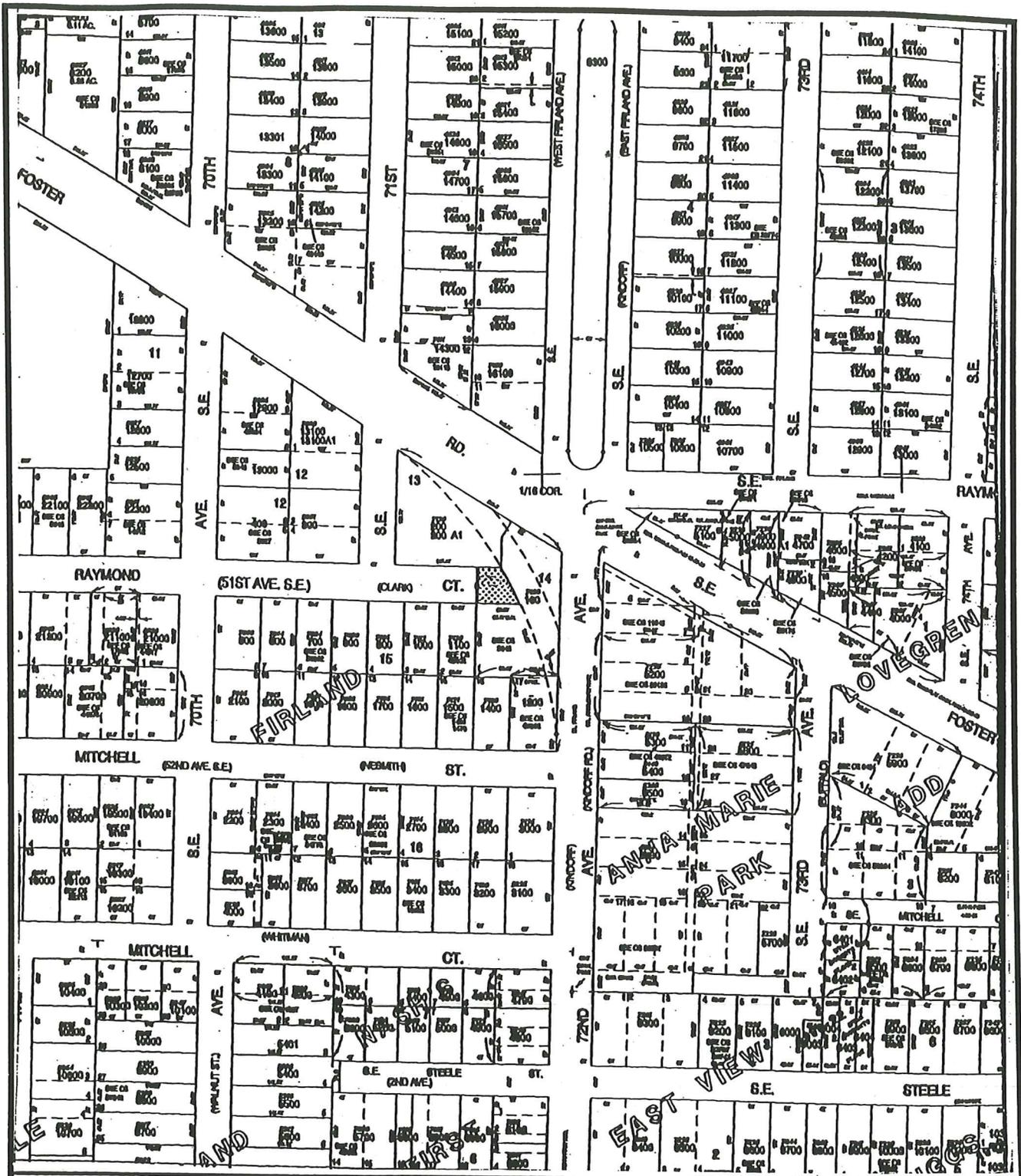
Section 3. Notice is given that the street vacation becomes effective only after a certified copy of the vacating Ordinance has been recorded in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, 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, upon request, the 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, **NOV 08 2000**

Commissioner Charlie Hales
October 18, 2000
Ed Gillard:clm

GARY BLACKMER
AUDITOR OF THE CITY OF PORTLAND
BY 
DEPUTY



Street Vacation - SE Raymond Court West Of SE 72nd Avenue R/W # 5931

Petitioner: Foster Properties, L.P.

 Area Herein Vacated

Quarter Section: 3537

Section: 1S2E17BD

Scale: 1" = 200'

Exhibit A



PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7174

EXHIBIT B

**APPROVING THE ACCEPTANCE OF A VACATED RIGHT-OF-WAY
ADJACENT TO THE REAL PROPERTY LOCATED AT SE 72ND AVENUE AND
SE FOSTER ROAD WITHIN THE LENTS TOWN CENTER URBAN RENEWAL
AREA**

Exhibit B includes this cover page and contains six pages:

- Sewer Easement
 - Exhibit A: SE Raymond Ct West of SE 72nd Ave Map

Grantor's Name & Address:

Portland Development Commission
222 NW Fifth Ave
Portland, OR 97209-3859

SEWER EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that **Portland Development Commission**, the designated urban renewal agency of the City of Portland, Oregon (“Grantor”), in consideration of the sum of One and no/100 Dollars (\$1.00), and other good and valuable consideration, to it paid by the City of Portland, a municipal corporation of the State of Oregon, by and through its Bureau of Environmental Services (“Grantee”), the receipt of which is hereby acknowledged, does hereby grant unto said Grantee a perpetual easement (this “Easement”) for the purpose of laying down, constructing, reconstructing, operating, inspecting, monitoring and maintaining a sewer or sewers, outfalls and appurtenances, through, under, over and along the following described parcel (the “Easement Area”):

All that portion of SE Raymond Court, City of Portland, Multnomah County, Oregon, vacated by Ordinance 175042, passed by the Portland City Council on November 8, 2000, and recorded concurrently, except for the north 10 feet and the south 10 feet of said vacation area.

As depicted on Exhibit A, attached hereto and by this reference made a part hereof. Contains 1,450 square feet, more or less.

IT IS UNDERSTOOD and agreed that:

- A. No other utilities, buildings, facilities, easements, material storage, grade change or tree planting will be allowed within the Easement Area without prior written consent of the Director of the Bureau of Environmental Services. Landscaping which by its nature is shallow rooted and may be easily removed to permit access to the sewer lines and facilities authorized by this Easement shall not require consent.
- B. This Easement includes the right of access for construction, inspection, maintenance or other sewerage system activities.

R/W #8035
1S2E17B

After Recording Return to: _____
 Karl Arruda, City of Portland _____
 1120 SW 5th Avenue, Suite 800 _____
 Portland, OR 97204 _____
 Tax Statement shall be sent to: No Change _____

- C. Grantor reserves all other rights not conveyed herein, but will not exercise said rights in any manner that would be inconsistent or interfere with or materially affect rights herein granted.
- D. This Easement shall bind the successors and assigns of Grantor and shall inure to the benefit of the successors in title of Grantee.
- E. Grantor represents and warrants that it has the authority to grant this Easement, that the Easement Area is free from all liens and encumbrances that would materially affect the easement grant, and that it will defend the same to Grantee against the lawful claims and demands of all persons whomsoever.
- F. Grantor agrees that the consideration paid by Grantee is accepted as just compensation for the property or property rights conveyed, which includes damage to the property remainder, if any, resulting from the acquisition or use of said property or property rights.
- G. Grantor represents that to the best of its knowledge, after appropriate inquiry under the circumstances, the Easement Area is in compliance with all local, State and Federal environmental laws and regulations.
- H. Grantor represents that it has disclosed all knowledge of any release of hazardous substances onto or from the Easement Area, and disclosed any known report, investigation, survey or environmental assessment regarding the Easement Area. "Release" and "hazardous substance" shall have the meaning as defined under Oregon law.
- I. Grantor warrants that there are no underground storage tanks, as defined under Oregon law, presently on or under the Easement Area.
- J. Grantee, by accepting this Easement, is not accepting liability for any preexisting release of hazardous substances onto or from the Easement Area, and Grantor is not attempting to convey any such liability.

THIS SECTION IS INTENTIONALLY LEFT BLANK.

APPROVED AS TO FORM:

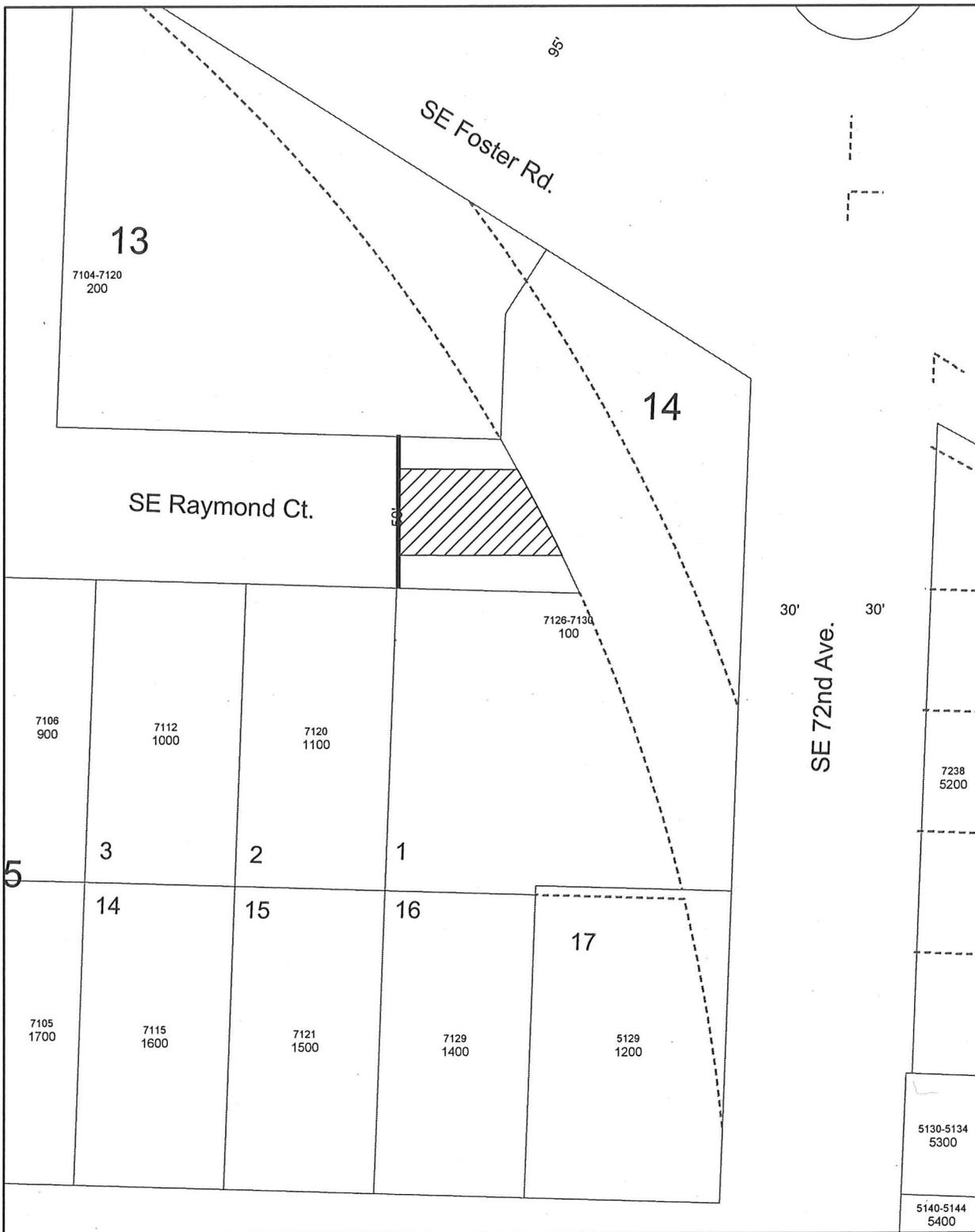
City Attorney

APPROVED:

Bureau of Environmental Services Director
or designee

8035/SEWER EASEMENT

Exhibit A



SE Raymond Ct West of SE 72nd Ave

Legal: A Portion of SE Raymond Ct west of west line of Lot 1, Block 15, Firland
 Grantor: City of Portland
 R/W: 8035 1/4 Section:3537 Section: **1S2E17B** 1 in = 50 ft

Legend: Easement Area

RESOLUTION NO. 7174

RESOLUTION TITLE:

APPROVING THE ACCEPTANCE OF A VACATED RIGHT-OF-WAY ADJACENT TO THE REAL PROPERTY LOCATED AT SE 72ND AVENUE AND SE FOSTER ROAD WITHIN THE LENTS TOWN CENTER URBAN RENEWAL AREA

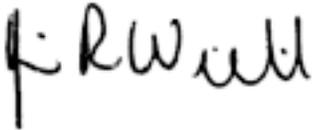
Adopted by the Portland Development Commission on April 20, 2016

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Tom Kelly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Gustavo Cruz, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Mark Edlen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner William Myers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Regular Agenda				

CERTIFICATION

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and as duly recorded in the official minutes of the meeting.

	<p>Date:</p> <p>April 29, 2016</p>
<p>Gina Wiedrick, Recording Secretary</p>	