

City of Klamath Falls

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2018-007693

Klamath County, Oregon



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06/26/2018 03:23:31 PM

Fee: \$102.00

ORDINANCE NO. 18-01

**A SPECIAL ORDINANCE VACATING A PORTION OF THE YALE STREET RIGHT-OF-WAY ADJACENT TO LOTS 14 AND 15 OF BLOCK 40 AND LOT 11 OF BLOCK 39 OF BUENA VISTA ADDITION TO THE CITY OF KLAMATH FALLS**

**WHEREAS**, the applicant, Joshua Goossen, has submitted a written proposal for vacation of a certain portion of the Yale Street right-of-way in the City of Klamath Falls. The right-of-way area being vacated is described in Exhibit A;

**WHEREAS**, a public hearing was held on April 9, 2018, pursuant to applicable laws, at which time all evidence and objection with reference to said proposed vacation were considered by the Planning Commission. The Planning Commission adopted appropriate findings and conditions and recommend approval of the proposed vacation to the City Council;

**WHEREAS**, hearing notices were duly given and the City Council held a public hearing on May 7, 2018, on the recommendation of and including the record of the Planning Commission concerning the vacation;

**WHEREAS**, pursuant to such record and hearing the City Council has determined the proposed vacation to be in compliance with the Community Development Ordinance and the Comprehensive Plan; and

**WHEREAS**, the City Council adopted the findings and conditions of the Planning Commission, with modifications; NOW THEREFORE,

**THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:**

**Section 1**

There is hereby vacated a portion of the Yale Street right-of-way in the City of Klamath Falls as described in the attached Exhibit A (the "Vacated Area"); provided, however, there shall be reserved to the City of Klamath Falls a perpetual, exclusive easement ("Easement") for the purpose of installing, inspecting, repairing, maintaining, altering and operating the City's municipal sewer line, and all necessary appurtenances in, into, upon, over, across and under a 16-foot foot wide strip of land legally described on Exhibit B and depicted on Exhibit C (the "Easement Area"). Additional terms and conditions of the Easement are as follows:

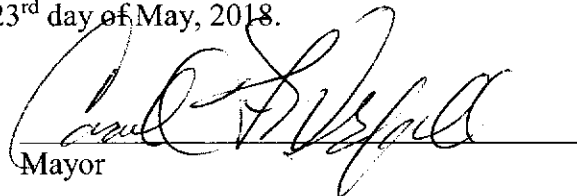
- A. **Restrictions.** Any owner, occupant or user of the Vacated Area ("Owner") shall not erect any buildings or structures within the Easement Area. Owner will have the right to utilize the Easement Area for pedestrian walkways, driveways or parking area (reinforced Portland cement concrete is prohibited) and/or landscaping, except for trees that in City's judgment would interfere with the sewer line. Alteration of the Easement Area by Owner must be approved in writing by City prior to performing

work. Owner agrees that any other use of the Easement Area shall not interfere with City's use and enjoyment of those areas as authorized herein.

- B. **Easement Use and Restoration of Improvements**. City will use due care in any use of the Easement Area and in the construction, installation, repair, replacement and maintenance of either City's improvements or the Easement Area as provided for herein so as not to unreasonably disturb Owner's use of the Vacated Area. City will return the Easement Area to its condition which existed prior to the installation of any of its improvements in the Easement Area, including, but not limited to, the replacement of any sod, landscaping, paving or other improvements that existed within the Easement Area prior to such installation. If not approved by City in accordance with Section A, City will not be responsible for alterations made to the Easement Area by Owner.
- C. This Easement, and the rights and obligations granted and imposed herein, shall run with the Vacated Area, including any division or partition of the Vacated Area. The rights, covenants and obligations of this Easement shall bind, burden and/or benefit all subsequent purchasers of the Vacated Area, the City, and the heirs, successors and assigns of both.

Passed by the Council of the City of Klamath Falls, Oregon, the 21<sup>st</sup> day of May, 2018.

Presented to the Mayor, approved and signed this 23<sup>rd</sup> day of May, 2018.

  
Mayor

ATTEST:

  
City Recorder

STATE OF OREGON                     )  
COUNTY OF KLAMATH            )ss.  
CITY OF KLAMATH FALLS         )

I, Nickole Barrington, Recorder for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 21<sup>st</sup> day of May, 2018, and thereafter approved and signed by the Mayor and attested by the City Recorder.

  
City Recorder

**Yale Street Vacation  
Legal Description**

**EXHIBIT "A"**

A tract of land situated in the NW1/4 NE1/4 of Section 30, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said tract being more particularly described as follows:

Beginning at the southeast corner of Lot 14, Block 40 Buena Vista, said point marking the Westerly right of way line of Yale Street; thence along the said Westerly right of way line of Yale Street North  $17^{\circ}44'42''$  West, 107.65 feet to the Southwest corner of previously vacated Yale Street by Ordinance No. 6889, DV M80, PG 9896, Klamath County Deed Records; thence along the South line of said Vacated Yale Street South  $83^{\circ}10'09''$  East, 65.98 to the Southeast Corner of said previously vacated Yale Street by Ordinance No. 6889, DV M80, PG 9896 and the Easterly right of way line of Yale Street; thence along said Easterly right of way line of Yale Street South  $17^{\circ}44'42''$  East, 41.83 feet to the lot corner common to Lot 10 and Lot 11, Block 39 Buena Vista, thence leaving said Easterly right of way line of Yale Street South  $39^{\circ}38'50''$  West, 71.23 feet to the point of beginning.

Containing 4484 square feet more or less, with bearings based on the plat of Land Partition No. 04-18.

**Yale Street Vacation  
Reservation of Sewer Line Easement  
Legal Description**

**EXHIBIT "B"**

A tract of land situated in the NW1/4 NE1/4 of Section 30, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said tract being more particularly described as follows:

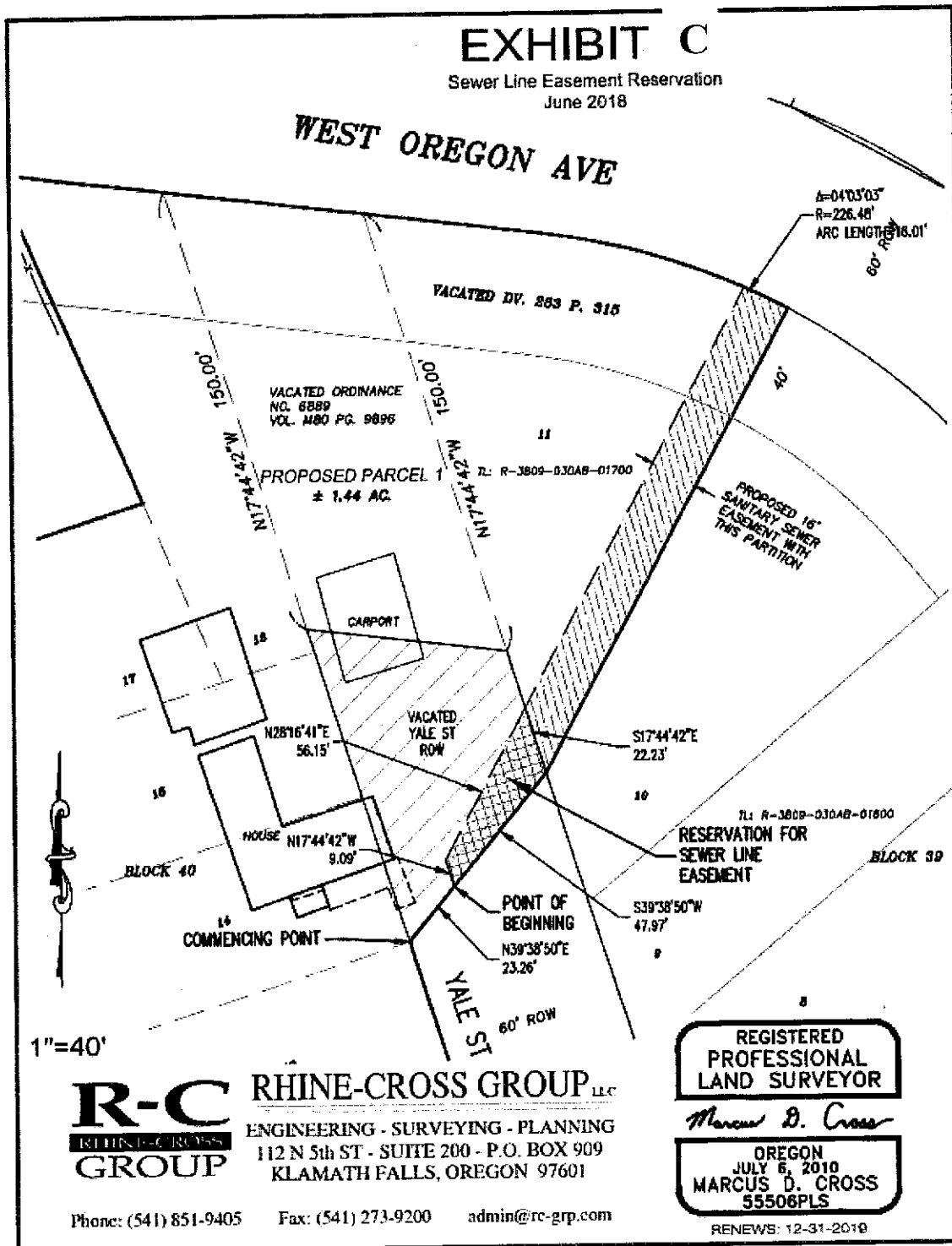
Commencing at the southeast corner of Lot 14, Block 40 Buena Vista, said point marking the Westerly right of way line of Yale Street; thence North 39°38'50" East, 23.26 feet to the **True Point of Beginning** of this sewer line easement reservation; thence North 17°44'42" West, 9.09 feet; thence North 28°16'41" East, 56.15 feet to the Easterly right of way line of vacated Yale Street; thence along said Easterly right of way line of vacated Yale Street South 17°44'42" East, 22.23 feet, thence leaving said easterly right of way line of Yale Street South 39°38'50" West, 47.97 feet to the point of beginning.

Containing 633 square feet more or less, with bearings based on the plat of Land Partition No. 04-18.

# EXHIBIT C

Sewer Line Easement Reservation  
June 2018

## WEST OREGON AVE



1"=40'

**R-C**  
RHINE-CROSS  
GROUP

**RHINE-CROSS GROUP LLC**

ENGINEERING - SURVEYING - PLANNING  
112 N 5th ST - SUITE 200 - P.O. BOX 909  
KLAMATH FALLS, OREGON 97601

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REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Marcus D. Cross*

OREGON  
JULY 6, 2010  
MARCUS D. CROSS  
55506PLS

RENEWS: 12-31-2019