

AFFIDAVIT OF POSTING ORDINANCE NO. 42

STATE OF OREGON)
)
Counties of Clackamas)
and Washington)
)
City of Wilsonville)

I, the undersigned, City Recorder of the City of Wilsonville, Oregon, being first duly sworn on oath depose and say:

On Tuesday, the 7th day of May, 1974, I caused to be posted copies of the attached Ordinance No. 42 in the following three

(3) public and conspicuous places of the City, to wit:

1. Wilsonville City Hall
2. Kopper Kitchen Restaurant
3. Wilsonville United States Post Office

The notices remained posted for more than five (5) consecutive days prior the time for final reading and passage of the Ordinance on the 13th day of May, 1974.

Dated at Wilsonville, Oregon this 7th day of May, 1974.

Marjorie A. Hintz
Marjorie A. Hintz, City Recorder

Subscribed and sworn to before me this 7th day of May, 1974.

Alma Wehler
Notary Public for Oregon
My Commission expires: 6-10-77

4/13/74

ORDINANCE NO. 42

AN ORDINANCE DECLARING THE VACATION OF PORTIONS OF STREETS AND ALLEYS IN THE CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON.

WHEREAS, a Petition and Supplemental Petition by Oregon Electric Railway Company was previously presented to the Wilsonville City Recorder for the vacation of portions of certain streets and alleys situated in the City of Wilsonville, Clackamas County, Oregon; and

WHEREAS, the said Petition was examined by the City Recorder and found by her to be sufficient and was therefore filed in the City Recorder's office on the 7th day of November, 1973, and thereafter said Petition and Supplemental Petition came on regularly for hearing before the Wilsonville City Council at a regular meeting thereof on Monday, November 12, 1973, and after consideration of the matter, the Wilsonville City Council adopted Resolution No. LI on Monday, November 26, 1973, entitled "A RESOLUTION FIXING A TIME FOR A PUBLIC HEARING ON THE PETITION OF OREGON ELECTRIC RAILWAY COMPANY FOR AN ORDER DECLARING AND AUTHORIZING A VACATION OF PORTIONS OF STREETS AND ALLEYS IN WILSONVILLE, CLACKAMAS COUNTY, OREGON," and said Resolution established and fixed Monday, January 14, 1974, at the hour of 7:30 P.M. at the Wilsonville City Hall in Wilsonville, Clackamas County, State of Oregon, as the time and place for a hearing on said Petition and Supplemental Petition; and

WHEREAS, the Wilsonville City Recorder posted a "NOTICE OF HEARING" on the 13th day of December, 1973, on the door of the Wilsonville City Hall and also at the Kopper Kitchen Restaurant and also at the Wilsonville Post Office, all of said places being conspicuous, public and widely separated places in the City of Wilsonville and the Wilsonville City Recorder also published a "NOTICE OF HEARING" in four successive weekly publications of The

Tigard Times, a newspaper published within the City of Tigard, Washington County, Oregon, and having circulation within the City of Wilsonville, which said newspaper was designated by the Wilsonville City Council as the newspaper in which said Notice should be published. The first publication in said paper of such Notice was made on December 13, 1973; and on the same date, i.e., December 13, 1973, the Wilsonville City Recorder posted "NOTICE OF STREET VACATION" at or near each end of each separate parcel proposed to be vacated, and there being a total of six separate parcels, there were twelve such Notices which were posted, and the postings and publications of such Notices were made pursuant to the provisions of Oregon Revised Statute 271.110 and the City Recorder's Affidavit of Posting of Notice of Street Vacation and the newspaper's Affidavit of publishing the Notice of Hearing are on file in the City Recorder's records and file of this matter. The time and place of the postings of each of such Notices and the copy of the Notices as posted have been recorded in the Minute Book of the Wilsonville City Recorder and are now a part of the records and file of this matter and more than twenty-eight (28) days elapsed since the date of the postings and prior to the hearing, and

WHEREAS, on Monday, January 14, 1974, at the hour of 7:30 P.M. at the Wilsonville City Hall on Boones Ferry Road in Wilsonville, Clackamas County, Oregon, the Wilsonville City Council did hold a public hearing on the Petition and Supplemental Petition of Oregon Electric Railway Company for an Order declaring and authorizing the vacation of portions of streets and alleys situated in the City of Wilsonville, Clackamas County, Oregon, and

WHEREAS, at said public hearing on this matter which was for the purpose of hearing and considering any objections to or remonstrances against the proposed vacation and which was duly and regularly held at the time and place as advertised, no one appeared

either in person or otherwise to object to or remonstrate against the proposed vacation; and at the conclusion of the hearing, the Wilsonville City Council reviewed the matter and concluded that it should be taken under consideration for further study and negotiations with the Oregon Electric Railway Company and its authorized representatives for the purpose of providing a new access way through the new railroad embankment at Second Street and also for the purpose of providing continued private access for the affected private property owners on the west side of the existing railroad right of way, and the City Council therefore continued its study and consideration of the Petition and Supplemental Petition pending further negotiations with the Railway Company; and

WHEREAS, with regard to an access way through the new railroad embankment at Second Street, it has been determined that only a portion of Second Street as described in the Railway Company's Petition and Supplemental Petition should be vacated, and the remainder of that public thoroughfare should be retained as a public street and right of way for access through the new railroad embankment, and for the purposes of such access, the Railway Company has agreed to construct at its own expense and without cost to the City a passage through the railroad embankment to allow pedestrians and small vehicles to pass along the north bank of the river at that point. The passage facilities and their structural details and the commitment of the Oregon Electric Railway Company for the construction and maintenance of the access way on Second Street and undercrossing of the railroad embankment is set forth in the letter of Oregon Electric Railway Company by its attorney, Mr. James Warren Cook, dated April 23, 1974, addressed to the Mayor and City Council of the City of Wilsonville and a copy of that letter is attached hereto and made a part hereof and identified as Exhibit "A". Said

Exhibit also specifies the provisions planned to be made and promised by said Railway Company for access by the property owners situated on the west side of the existing and relocated right of way and which will enable the affected property owners to travel to and from Main Street over the existing public grade crossings at Fifth Street; and

WHEREAS, the Wilsonville City Council having now fully considered this matter and the commitments of the Railway Company and its assurances as contained in the attached Exhibit "A" and being fully advised in the premises and no objections having been made by any one, either at the public hearing previously called and held to consider this matter or thereafter, it has therefore been determined by the Wilsonville City Council that the vacation of those portions of City streets and alleys in the City of Wilsonville, Clackamas County, Oregon, as hereinafter described should be vacated, and that the vacation thereof is in the best interests of the City and the inhabitants thereof. Now, therefore,

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: The following described portions of streets and alleys in the City of Wilsonville, Clackamas County, Oregon, shall be vacated as City streets and public thoroughfares, to-wit:

1. All that portion of 1st Street lying between the existing easterly right of way line of the Oregon Electric Railway Company and the westerly line of Main Street.
2. All that portion of the alley in Block J lying between the north line of 1st Street and the south line of 2nd Street.
3. All that portion of 2nd Street lying between the existing easterly right of way line of the Oregon Electric Railway Company and a line drawn from the southeast corner with the exception of a strip 12 feet in width being 6 feet each side of the centerline of 2nd Street between the existing easterly right of way line of the Oregon Electric Railway Company and the aforementioned line drawn from the southeast corner of Lot 1, Block H to the northeast corner of Lot 1, Block J.
4. All that portion of 3rd Street lying between the existing easterly right of way line of the Oregon Electric Railway

Company and a line drawn from the northeast corner of Lot 1, Block H to the southeast corner of Lot 1, Block F.

5. All that portion of the alley lying between the northerly extension of the easterly line of Lot 1, Block F and the existing easterly right of way line of the Oregon Electric Railway Company.

6. All that portion of 4th Street lying westerly of the northerly extension of the easterly line of Lot 3, Block F and the existing easterly right of way line of the Oregon Electric Railway Company.

The above described streets and alleys are shown in red on attached Exhibit "B". The vacation thereof shall be effective on the thirtieth day after the enactment of this Ordinance following the second and final reading thereof as provided by Section 4, Chapter V of the Wilsonville City Charter.


Section 2: The title to the streets and alley areas described above and hereby vacated shall attach to the lands bordering on such areas in the proportions as provided by Oregon Revised Statutes 271.140.

Section 3: Upon the final passage and adoption of this Ordinance and immediately after it becomes effective, the Wilsonville City Recorder is hereby directed to prepare and file for record with the Clackamas County Recorder a certified copy of this Ordinance and together with a map of the streets and alley ways as vacated. The Wilsonville City Recorder shall also prepare and file a certified copy of this Ordinance and map of the streets and alley ways as vacated with the Clackamas County Assessor and the Clackamas County Surveyor and as more particularly required by the provisions of Oregon Revised Statutes 271.150.

Section 4. Any other Ordinance or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

Passed on first reading of the Wilsonville City Council at a special meeting thereof held on the 25th day of April, 1974; ordered posted in three (3) public and conspicuous places in

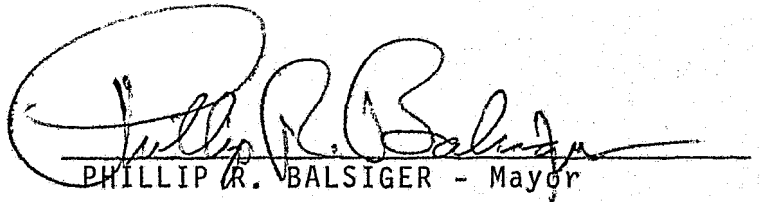
the City of Wilsonville for a period of five (5) consecutive days as required by the Wilsonville City Charter; and to come up for final reading and action of the Council at a regular meeting thereof to be held on the 25th day of April, 1974, at the hour of 8:00 P.M. at the Wilsonville City Hall.


PHILLIP R. BALSIGER - Mayor

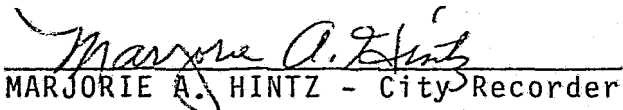
ATTEST:


MARJORIE A. HINTZ - City Recorder

Passed on final reading at a regular meeting of the Wilsonville City Council this 13th day of May, 1974, by the following vote: Yeas 5. Nays 0.


PHILLIP R. BALSIGER - Mayor

ATTEST:


MARJORIE A. HINTZ - City Recorder

*R.R.
Access*

Portland, Oregon
April 23, 1974

Honorable Phillip R. Balsiger
City Council and Representatives
of the City of Wilsonville

Re: Vacation Petition of Oregon Electric Railway Company:
Restatement of Railroad Commitment for Access Structure
and for Continued Private Access

Gentlemen:

As the record of the above entitled proceedings will indicate, and as required by Ordinance Number 42 of the City of Wilsonville entitled:

"An ordinance declaring the vacation of portions of streets and alleys in the City of Wilsonville, Clackamas County, Oregon",

the petitioner, Oregon Electric Railway Company desires to confirm by this letter of restatement, its commitment with respect to the provision (1) for an access way through the railroad's new bridge approach embankment at Second Street; and (2) for continued private access to certain private property owners now situated on the westerly side of the existing railroad right of way. Such commitments had been previously submitted to the City during oral presentations at regular meetings of the City Council and by correspondence to the City dated February 1, 1974, March 25, 1974 and April 1, 1974, all of which relate to the railroad's vacation petition of August 30, 1973 as supplemented on October 13, 1973, and the City's letter of November 20, 1973 relative to access facilities.

ACCESS AT SECOND STREET

With respect to the furnishing of an access way through the new railroad embankment now under construction, the railroad had considered the City's alternative suggestion for the placement of a galvanized metal culvert structure through the new railroad embankment fill at a place within the confines of Second Street. A schematic representation of the culvert access way together with cost estimate had been previously submitted to the City, and a supplementary sketch showing cross section and profile of the structure has been prepared and a copy is attached to this letter. It should be noted that to cover any future lighting requirements of the City within the culvert structure, the railroad will cause anchors or other suitable conduit hangers to be affixed to the inside of the culvert

Honorable Phillip R. Balsiger
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April 23, 1974
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pipe from which lighting conduit and fixtures can be installed by the City when needed. At the time of placement and installation of the culvert, a passageway surface of asphalt over a granular base will be installed, as indicated on the enclosed sketch. A slight slope in the tunnel roadway surface will be provided for drainage purposes.

The railroad will assume the costs of all materials and labor necessary for the original installation and construction of the culvert access way. The City would be obligated to maintain at its own cost the traveled surface within the access way, any lighting facilities and necessary control of pedestrian or vehicular usage of the passageway within Second Street. The City has advised of its acceptance of that responsibility. Finally, it is understood that the railroad and the City will do all things necessary to accomplish this access way project as a part of the street vacation of the railroad, including joint processing of an appropriate application for approval to the Oregon Public Utility Commissioner.

CONTINUATION OF PRIVATE ACCESS

In connection with the railroad's continuation of private access to property owners presently situated on the westerly side of the existing railroad right of way, the railroad restates its commitment as follows. When the new railroad bridge and approach embankment fill is constructed on a realigned right of way, the currently permitted private access across the existing railroad right of way and through the existing trestle approaches to the existing railroad bridge in the general areas immediately beyond First, Second, Third and Fourth Street will cease and terminate. However, as requested by the City, the railroad has made arrangements in connection with a right of way exchange with the Bonneville Power Administration so that private access to those affected private property owners will be continued on the westerly side of the relocated right of way. The continuation of private access will enable the affected private property owners to travel to and from their properties and Main Street over the existing public grade crossing at Fifth Street. We assume that when the installation and construction of the access way referred to above has been completed and is in use by the City, that the same private property owners could also obtain access through the culvert. Aside from that access alternative, the railroad's commitment is to continue the permitted access ways as described in

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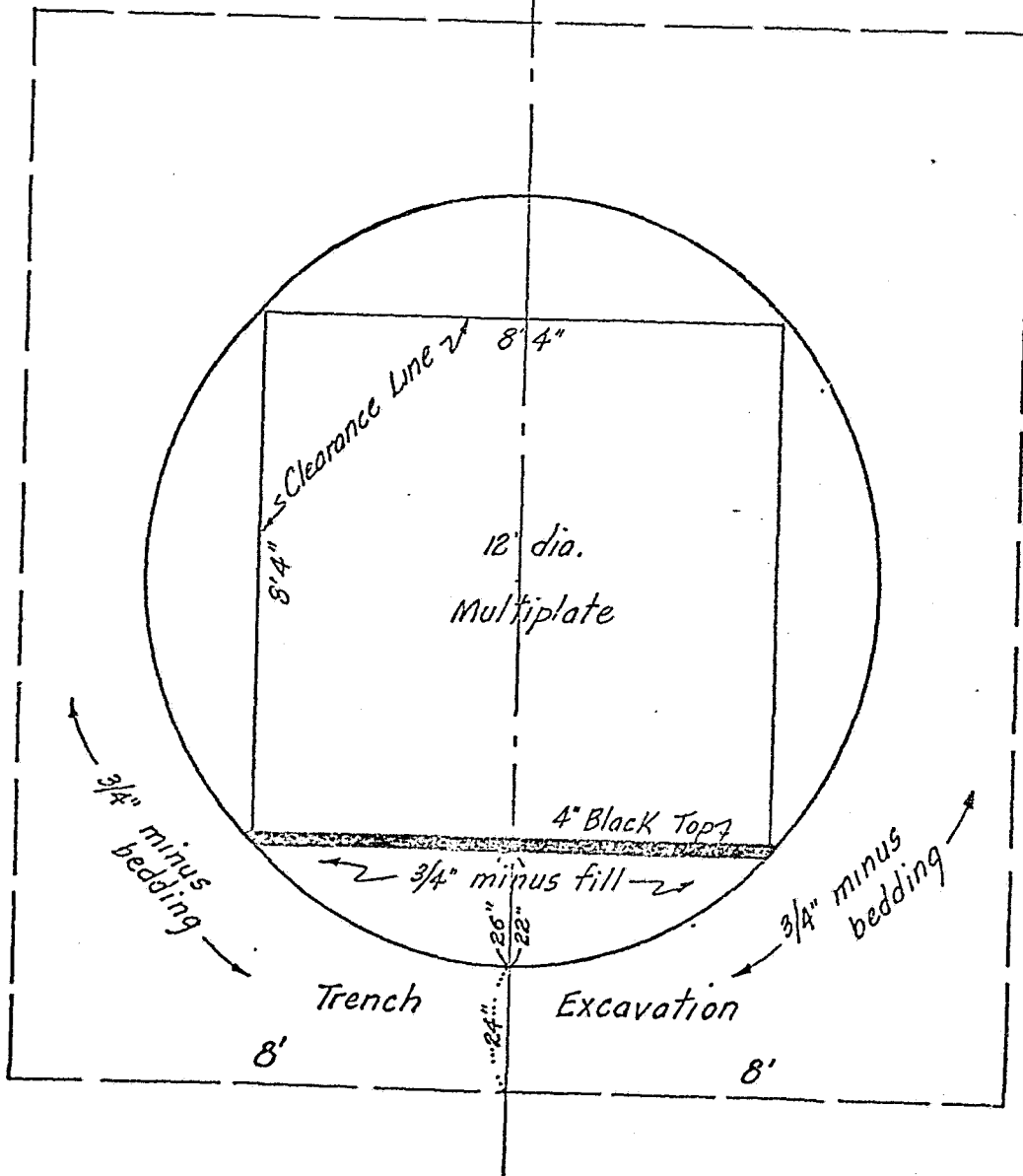
the original vacation petition. The private access would run generally in a northerly-southerly direction on the west side of the realigned railroad right of way. The private property owners would gain ingress and egress to that access way at a point on the southerly edge of Fifth Street between the new railroad alignment and the ravine which exists southerly and westerly of the existing Fifth Street public grade crossing. The private access way immediately south of Fifth Street would be on solely owned railroad property, and beyond in a further southerly direction would be co-extensive with the rights over the Bonneville Power Administration right of way. This private driveway access to be provided by this railroad will have a maximum width of 20 feet and will be initially graded and graveled at the railroad's expense. After the initial installation, the private property owners would be responsible for any required maintenance.

In conclusion, we submit this restatement on access way through the railroad embankment fill and the continuation of private access as the railroad's commitments in connection with the approval of street vacation petition as outlined in City Ordinance Number 42. The attachments to this letter of restatement are to be considered as incorporated and made a part of Exhibit A for attachment to City Ordinance Number 42.

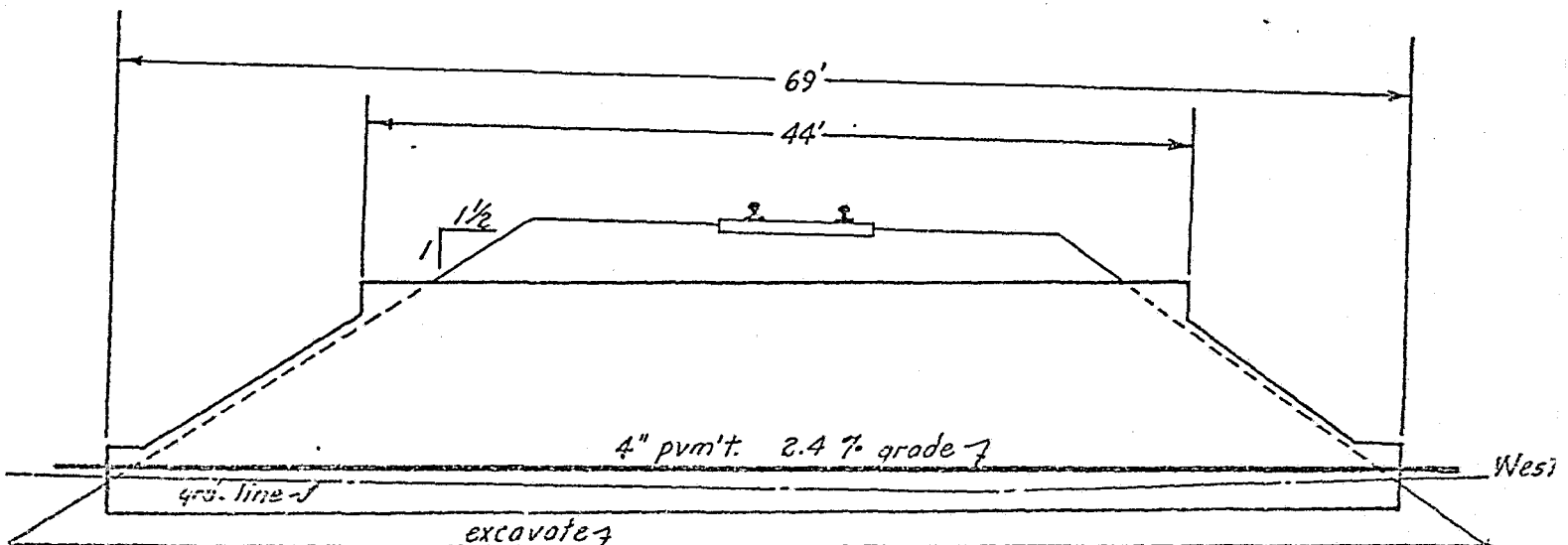
Respectfully submitted,

James Warren Cook
General Attorney and
Authorized Representative
of Petitioner, Oregon Electric
Railway Company

JWC:ca



CROSS SECTION OF PROPOSED UNDERPASS
SCALE: 1" = 3'

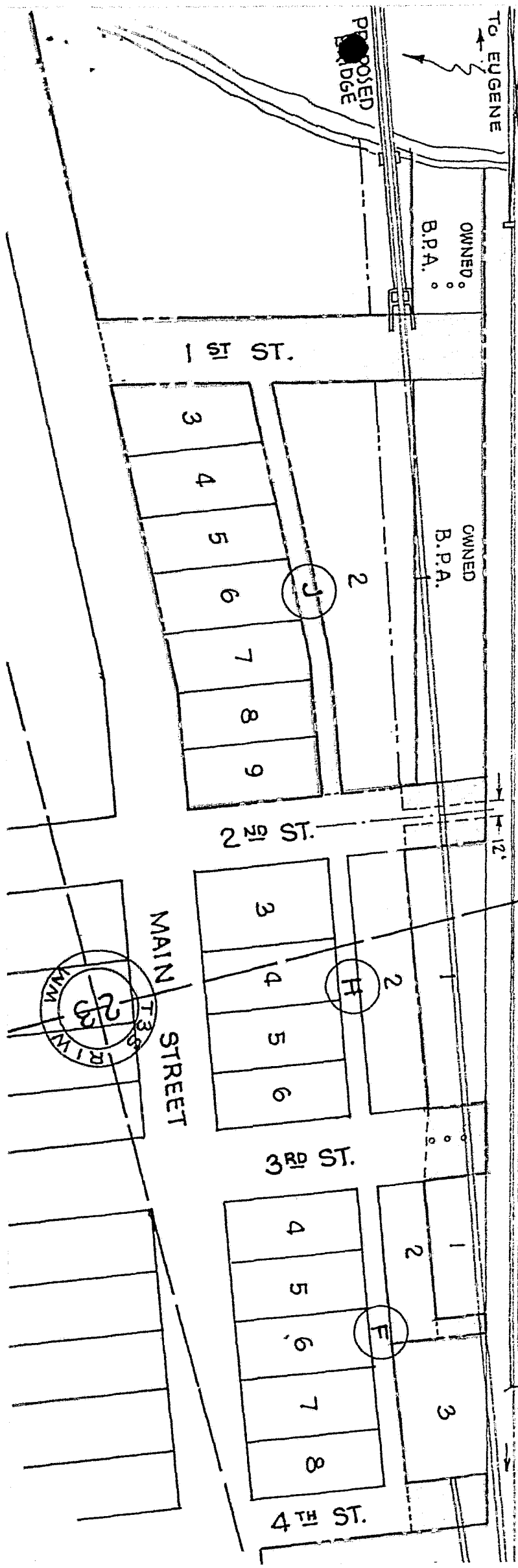


12 diameter Multiplate, 69' long - 5% ellipse (7 gage) - 3 oz. galvanizing

PROFILE OF PROPOSED UNDERPASS

SCALE: 1" = 10'

ATTACHMENT TO EXHIBIT A



WILLAMETTE RIVER

EXIST. BRIDGE

TO EUGENE

PROPOSED BRIDGE

OWNED B.P.A.

OWNED B.P.A.

1 ST ST.

2 ND ST.

3 RD ST.

4 TH ST.

MAIN STREET

PROPOSED ACCESS ROAD TO 5TH ST.

TO PORTLAND



1191+79.00 (43)

LEGEND

- RED- Streets & Alleways to be Vacated
- GREEN-Oregon Electric Ry. Co. R/W Lines
- BLUE- & Proposed Access Rd.

EXHIBIT B
OREGON ELECTRIC RY. CO.
PROPOSED VACATION OF
VARIOUS STREETS AND ALLEYWAYS
WILSONVILLE, OREGON

Office of Director Engineering
 Portland, Ore. Scale: 1"=100'
 4-18-74