

COUNCIL RESOLUTION No. 68-2022**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE PUBLIC NECESSITY TO ACQUIRE A PUBLIC RIGHT-OF-WAY (ROW) AND TEMPORARY CONSTRUCTION EASEMENT TO CONSTRUCT A MULTI-USE TRAIL AND PROVIDE PUBLIC ACCESS TO BOWMAN-BRAE PARK FROM WHERE ELSE LANE.**

WHEREAS Bowman-Brae Park is a 0.69-acre undeveloped neighborhood park located at the intersection of Bowman Street and Brae Street in Milwaukie, Oregon, and

WHEREAS in 2011, the City of Milwaukie (“City”) purchased the land upon which Bowman-Brae Park is located with assistance from Metro’s voter-approved 2006 natural areas bond measure, and

WHEREAS the City and North Clackamas Parks and Recreation District (“NCPRD”) maintain the Bowman-Brae Park pursuant to an intergovernmental agreement (IGA), and

WHEREAS the City and NCPRD issued a final report entitled Bowman-Brae Park Master Plan on April 20, 2015, and the Master Plan was adopted by the City Council through Ordinance 2107 on October 20, 2015, and

WHEREAS the Master Plan provides for the construction of a 12-foot-wide multi-use trail providing public access to the Bowman-Brae Park from Where Else Lane, a public right-of-way (ROW) owned and maintained by the City, and

WHEREAS there is a strip of land between Bowman-Brae Park and Where Else Lane that is privately owned, and

WHEREAS the City has attempted in good faith to negotiate with the property owners to purchase the strip of land between Bowman-Brae Park and Where Else Lane, and

WHEREAS the City’s offers to purchase the strip of land between Bowman-Brae Park and Where Else Lane were rejected by the property owners, and

WHEREAS in order to construct the multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane (the “Project”), it is necessary for the City to acquire real property and property interests, and

WHEREAS the City has identified an approximately 16-foot-wide and 12-foot-long strip of land described in Exhibit A attached hereto and depicted in Exhibit B (hereinafter “Parcel 1”) that is necessary to construct and maintain the multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane, and

WHEREAS the City has identified an approximately 10-foot-wide and 12-foot-long strip of land described in Exhibit C attached hereto and depicted in Exhibit D (hereinafter “Parcel 2”) that is necessary to be used as a temporary construction easement for the construction of the multi-use trail on Parcel 1, and

WHEREAS the City of Milwaukie has authority to acquire property by condemnation under Oregon Revised Statute (ORS) 223.105, 226.320 and 226.380.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, that:

- Section 1. The acquisition of a public ROW over, across, and under Parcel 1 and a temporary construction easement over, across, and under Parcel 2 is necessary to construct the multi-use trail and to provide public access to Bowman-Brae Park from Where Else Lane.
- Section 2. The acquisition of a public ROW over, across, and under Parcel 1 and temporary construction easement over, across, and under Parcel 2 is planned and located in a manner that is most compatible with the greatest public good and the least private injury.
- Section 3. The City Council hereby approves the purchase and/or condemnation of a public ROW over, across, and under Parcel 1 and a temporary construction easement over, across, and under Parcel 2 and authorizes the city manager or their designee to take all actions necessary, including execution of all necessary documents, to complete said purchases or condemnation.
- Section 4. Upon the trial of any suit or action instituted under the provisions of Section 3 above, the City's legal counsel, after consultation with the city attorney, is authorized to make any stipulation, agreement, or admission that in the counsel's judgment may be for the best interests of the Project and the City.

Introduced and adopted by the City Council on **October 18, 2022**.

This resolution is effective immediately.



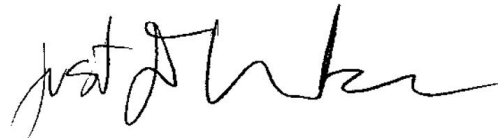
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder



Justin D. Gericke, City Attorney



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6685-07

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

Exhibit A (Parcel 1)

Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeast corner of Lot 19 of the plat of "Pennywood Subdivision"; thence along the southerly line of said Lot 19, North $72^{\circ}51'39''$ West 113.31 feet, to the easterly line of Document Number 2019-056660; thence along said easterly line, South $17^{\circ}21'27''$ West 67.76 feet, to the Point of beginning; thence continuing along said easterly line, South $17^{\circ}21'27''$ West 16.04 feet, to the easterly extension of the southerly right-of-way line of SE Where Else Lane; thence along said extension, North $68^{\circ}21'17''$ West 11.81 feet, to the easterly right-of-way line of SE Where Else lane; thence along said easterly line, North $17^{\circ}12'07''$ East 16.05 feet, to the easterly extension of the northerly right-of-way line of SE Where Else Lane; thence along said easterly extension, South $68^{\circ}21'17''$ East 11.85 feet, to the Point of Beginning.

The above described tract of land contains 189 square feet, more or less.

9/16/2022

REGISTERED
PROFESSIONAL
LAND SURVEYOR

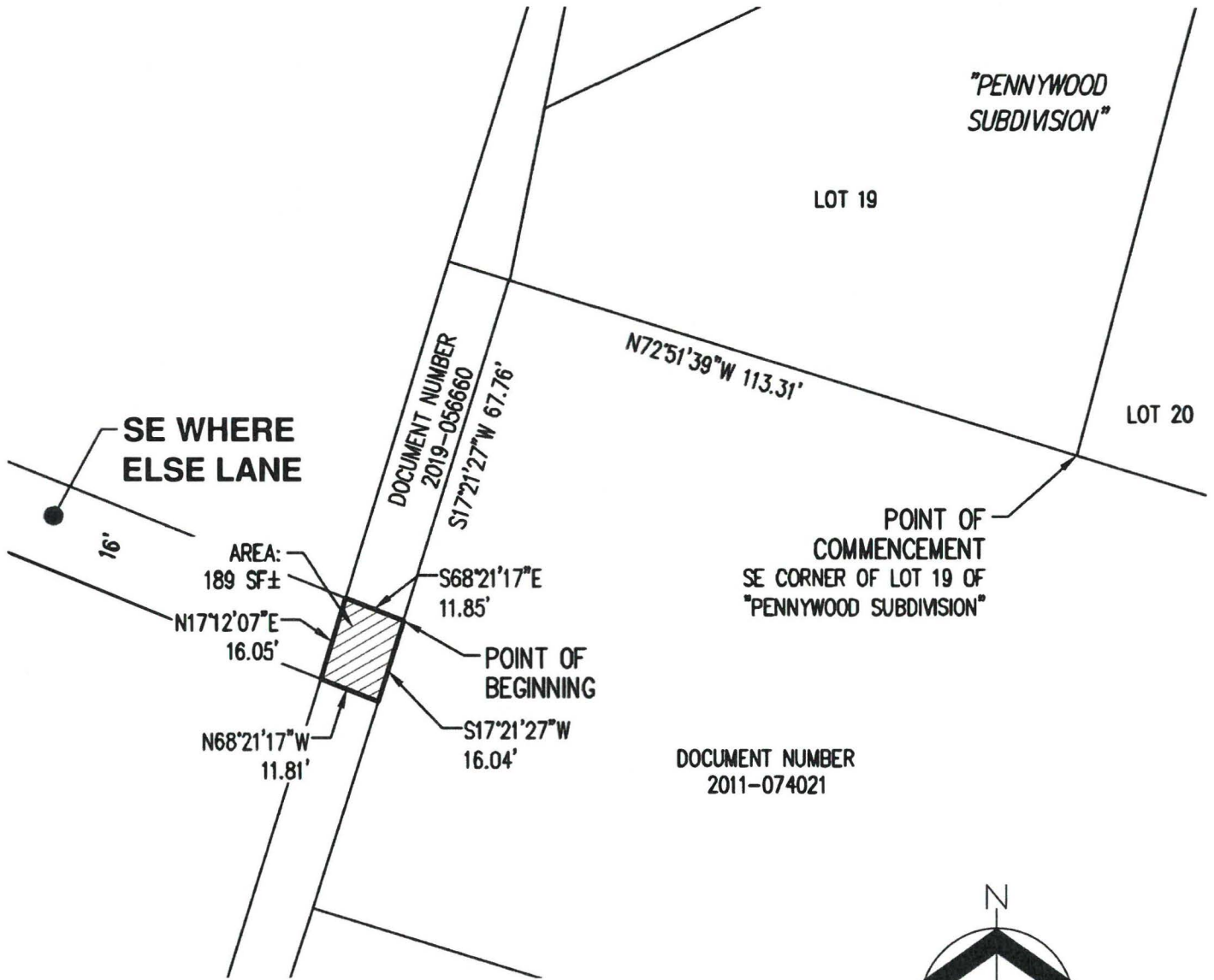
Benjamin R Huff

OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS

RENEWS: 6/30/23

Exhibit B (Parcel 1)

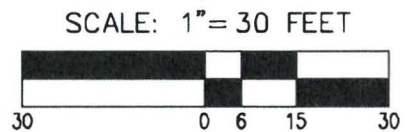
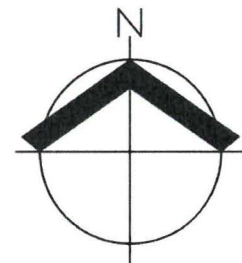
A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Benjamin R Huff
**OREGON
 MARCH 14, 2017
 BENJAMIN R HUFF
 84738PLS
 RENEWS: 6/30/23**

PREPARED FOR
 CITY OF MILWAUKIE
 6101 SE JOHNSON CREEK BOULEVARD
 MILWAUKIE, OR 97206



AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 503.563.6151 WWW.AKS-ENG.COM



MAP OF DESCRIPTION

DATE: 9/16/2022	
DRWN: CC	CHKD: BH
AKS JOB: 6685-07	EXHIBIT B



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AKS Job #6685-07

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

Exhibit C (Parcel 2)

Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeast corner of Lot 19 of the plat of "Pennywood Subdivision"; thence along the southerly line of said Lot 19, North $72^{\circ}51'39''$ West 113.31 feet to the easterly line of Document Number 2019-056660; thence along said easterly line, South $17^{\circ}21'27''$ West 57.76 feet to the Point of Beginning; thence continuing along said easterly line, South $17^{\circ}21'27''$ West 10.00 feet; thence leaving said easterly line, North $68^{\circ}21'17''$ West 11.85 feet to the westerly line of Document Number 2019-056660; thence along said westerly line, North $17^{\circ}12'07''$ East 10.00 feet, thence leaving said westerly line, South $68^{\circ}21'53''$ East 11.88 feet to said easterly line and the Point of Beginning.

The above described tract of land contains 118 square feet, more or less.

9/16/2022

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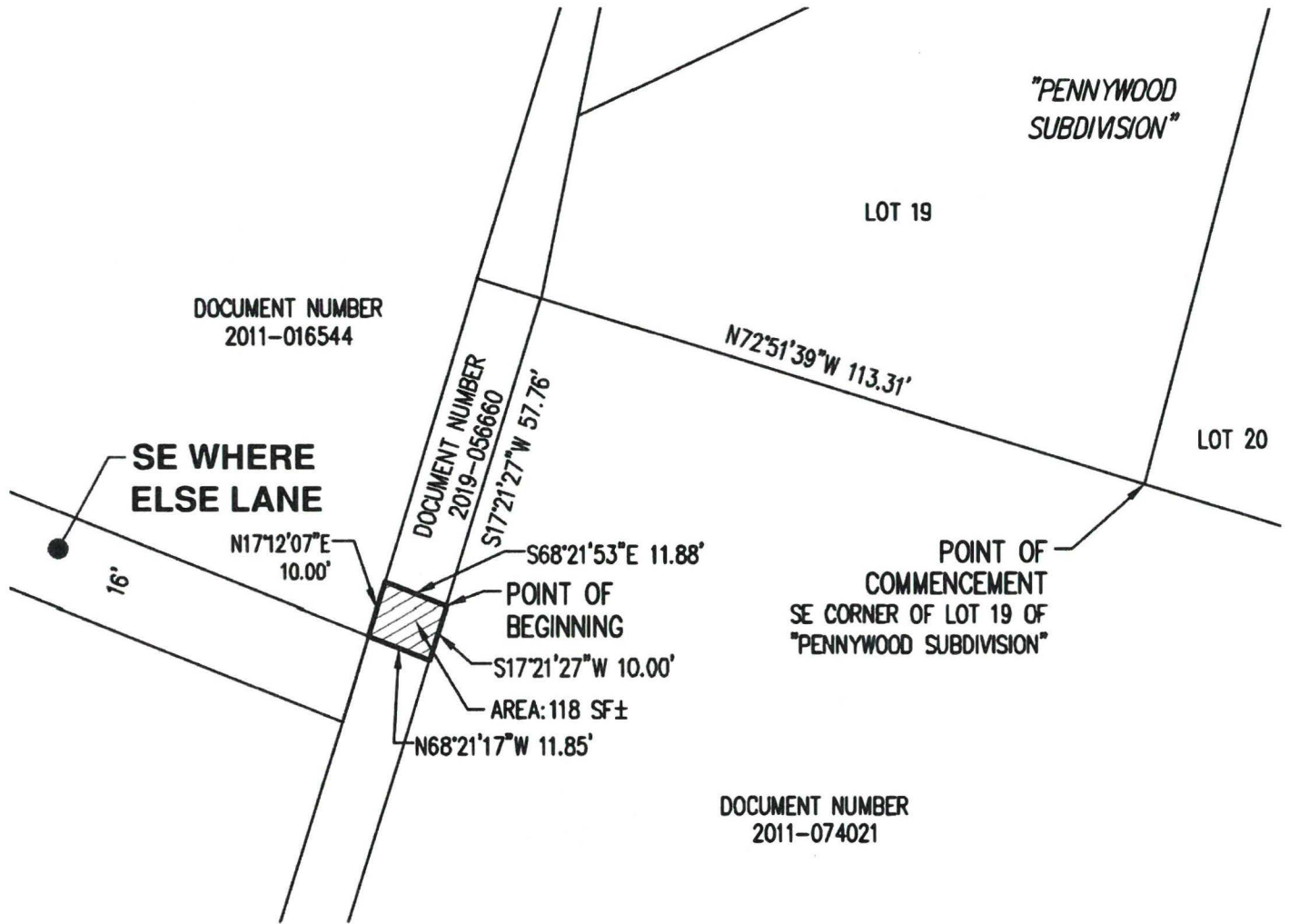
Benjamin R Huff

OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS

RENEWS: 6/30/23

Exhibit D (Parcel 2)

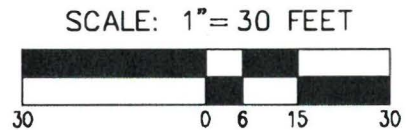
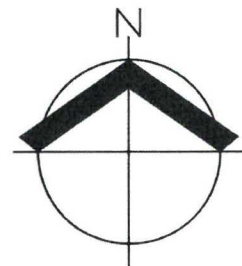
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MARCH 14, 2017
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RENEWS: 6/30/23**

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6101 SE JOHNSON CREEK BOULEVARD
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MAP OF DESCRIPTION

DATE: 9/18/2022	
DRWN: JAY	CHKD: BH
AKS JOB: 6685-07	EXHIBIT B