

**Exhibit A to Ordinance 2364**  
**FINDINGS OF FACT**  
**HERMISTON CITY COUNCIL**  
**VACATION OF A ROAD EASEMENT**  
**SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER**  
**SECTION 02, TOWNSHIP 4 NORTH**  
**September 9, 2024**

**Introduction**

In this matter, the City Council of the City of Hermiston (City Council) approves the vacation of a portion of a road easement on the north line of E Elm Ave. In support of this approval, the City Council adopts the following findings of fact and conclusions of law.

**Procedural Findings**

*A. Initiation of Vacation*

The City Council finds that the City properly initiated the easement vacation. ORS 271.130(1) authorizes the City governing body, the City Council, to initiate a vacation proceeding authorized by ORS 271.080 and to make such vacation without a petition or consent of property owners. On August 12, 2024, the City Council adopted Resolution 2334, which initiated vacation proceedings for road easement located on the north side of E Elm Avenue. Said resolution set the matter for a public hearing on September 9, 2024. The City Council adopted said resolution at a duly noticed public meeting at which a quorum of the City Council was present and voting. On the basis of these facts, the City Council finds that it has properly initiated the vacation.

*B. Public Notice*

The City Council finds that the City properly noticed the proposed easement vacation hearing. ORS 271.110(1) requires the City to publish notice of the public hearing in the City's official newspaper once each week for two consecutive weeks before the hearing. The City caused the East Oregonian to publish public notice of the hearing on August 21 and 28, 2024. ORS 271.110(2) requires the City to post notice of the easement vacation at or near each end of the proposed vacation area at least 14 days before the hearing. The record includes an affidavit and photos demonstrating that the City posted each end of the proposed vacation area on August 21, 2024, which was 14 days before the first hearing in this matter. On the basis of these facts, the City Council finds that the City properly noticed the vacation hearing in this matter.

*C. City Council Proceedings*

The City Council finds that its hearing procedures in this matter complied with applicable law. On September 9, 2024, the City Council conducted a public hearing on this matter. At the commencement of the hearing, the mayor introduced the item and summarized the procedural history and applicable approval criteria. The mayor inquired whether any City Council members needed to disclose any ex parte communications. No members of the City Council declared any ex parte communications, conflicts of interest, or bias. Following these disclosures, the City Council accepted oral and written testimony on the matter. City staff answered questions and addressed issues presented during the public testimony. Then, the City Council closed the public hearing and deliberated. At the conclusion of the deliberations, the City Council approved a motion to approve the findings of fact and to approve vacation of approximately 2,000 feet of road easement on the north side of E Elm Ave. subject to adoption of Ordinance No. 2364.

### **Substantive Findings**

#### ***A. Incorporation***

As findings in support of approval of the easement vacation, the City Council adopts and incorporates by reference the following:

1. City staff report to the City Council of August 12, 2024
2. City staff report to the City Council of September 9, 2024

#### ***B. Standards for Right-Of-Way Vacation***

The City Council finds that it has the authority under ORS 271.130(1) to approve a City initiated vacation when: (1) it has given notice in accordance with ORS 271.110; (2) the owners of a majority of the affected area do not have continuing written objections to the easement vacation; and (3) either: (a) the owners of abutting properties have consented to the easement vacation; or (b) if an owner(s) of abutting property has not consented, the vacation will not substantially affect the market value of that owner's abutting property.

1. The City Council finds that the City gave timely notice through posting and publication in this matter as required by ORS 271.110 per procedural finding B above. The City Council finds that the vacation satisfies this standard.
2. ORS 271.080(2) defines the affected area as the land lying on either side of the easement or portion thereof proposed to be vacated and extending laterally to the next easement that serves as a parallel street, not to exceed 200 feet, and the land for a like lateral distance on either side of the easement for 400 feet along its course beyond each terminus of the part to be vacated. The City Council finds that the City properly identified the affected area in the record. Further, the City Council finds that no owners of the property in the affected area objected. Therefore, the City Council finds that a majority of the owners of the affected area have not objected to the easement vacation. The City Council finds that the easement vacation satisfies this standard.

3. The City Council may not approve the easement vacation without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such abutting property unless the city Council provides for paying damages. The City Council finds that no abutting owners have objections to the easement vacation. Therefore, the City Council finds that it is not required to determine whether the easement vacation will substantially affect the market value of any abutting properties. The City Council finds that the easement vacation satisfies this standard.

#### Conclusion

Based upon the evidence and argument identified above, the City Council finds that the easement vacation satisfies all applicable approval criteria and should be approved.