



**COUNCIL ORDINANCE NO. 20709**

**AN ORDINANCE VACATING PREMIER STREET AND A PORTION OF FIRST AVENUE WEST, ALL LOCATED WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK, AND PROVIDING FOR AN EFFECTIVE DATE.**

**ADOPTED: April 22, 2024**

**SIGNED: April 23, 2024**

**PASSED: 8:0**

**REJECTED:**

**OPPOSED:**

**ABSENT:**

**EFFECTIVE: May 24, 2024**



## ORDINANCE NO. 20709

### AN ORDINANCE VACATING PREMIER STREET AND A PORTION OF FIRST AVENUE WEST, ALL LOCATED WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK, AND PROVIDING FOR AN EFFECTIVE DATE.

#### The City Council of the City of Eugene finds that:

**A.** The City Council of the City of Eugene approved an agenda scheduling a public hearing at 5:30 p.m. on April 15, 2024, for the purpose of hearing protests and remonstrances to the proposed vacation of the following described rights-of-way:

The rights-of-way identified as Premier Street and a portion of First Avenue West, all located within the plat of Pioneer Resources Business Park, which are more particularly described on Exhibit A and depicted on Exhibit B attached to this Ordinance.

**B.** Notice was duly and regularly given of the public hearing and, on April 15, 2024, the City Council held a public hearing and heard all objections to the proposed vacation.

#### THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

**Section 1.** The City Council of the City of Eugene finds that notice of the public hearing on the proposed vacation was published and posted as required by law, that consents required by EC 9.8710(6) and ORS 271.080(2) and statements of concurrence to the vacation from affected utility providers have been filed in the proceedings, and that vacation of the rights-of-way described in Exhibit A and depicted on Exhibit B attached to this Ordinance is in the public interest, as described in the Findings attached as Exhibit C to this Ordinance and hereby adopted in support of this Ordinance.

**Section 2.** The rights-of-way described on Exhibit A and depicted on Exhibit B attached to this Ordinance are hereby vacated, except that the the City reserves a public utility easement for the entire area described in Exhibit A. The vacated rights-of-way shall revert pursuant to the statutes of the State of Oregon.

**Section 3.** The City Recorder is directed to file a certified copy of this Ordinance, including all attachments, with the Recorder of Lane County, Oregon. In addition, a certified copy of this Ordinance shall be filed with the Lane County Assessor and a certified copy shall be filed with the Lane County Surveyor.

**Section 4.** Notwithstanding the effective date of ordinances as provided in the Eugene Charter of 2002, this ordinance shall be come effective 30 days from the date of passage by the Eugene City Council and approval by the Mayor, or upon the recording of the public utility easement described in Section 2 of this Ordinance, in a form acceptable to the City Manager, whichever is later.

**Passed by the City Council this**

**22nd day of April, 2024.**

  
\_\_\_\_\_  
City Recorder

**Approved by the Mayor this**

**23 day of April, 2024.**

  
\_\_\_\_\_  
Mayor

**EXHIBIT A**

RIGHT-OF-WAY VACATION  
JOB NO. 2300110  
OCTOBER 12, 2023

**LEGAL DESCRIPTION**

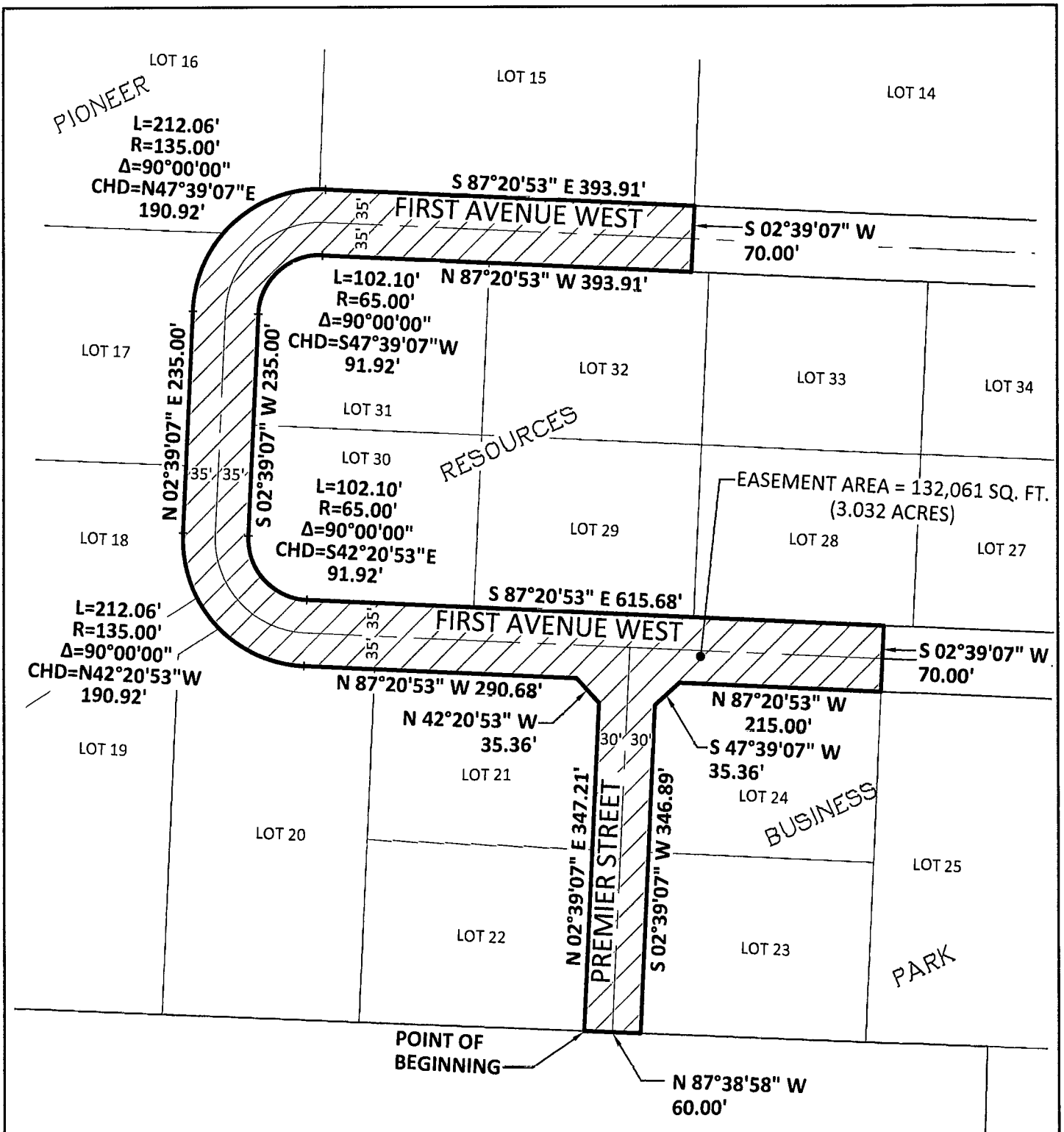
A TRACT OF LAND BEING A PORTION OF FIRST AVENUE WEST (70 FEET WIDE) AND PREMIER STREET (60 FEET WIDE) ALL LYING WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK, RECORDED JUNE 29, 1998 IN FILE 75, SLIDE 662, LANE COUNTY SURVEY RECORDS, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 17 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN, CITY OF EUGENE, LANE COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF LOT 22, SAID PLAT OF PIONEER RESOURCES BUSINESS PARK, SAID POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF PREMIER STREET (60 FEET WIDE); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 02°39'07" EAST 347.21 FEET; THENCE NORTH 42°20'53" WEST 35.36 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST (70 FEET WIDE); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 290.68 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF 135.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS NORTH 42°20'53" WEST 190.92 FEET) AN ARC DISTANCE OF 212.06 FEET TO A POINT ON WESTERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 02°39'07" WEST 235.00 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 135.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS NORTH 47°39'07" EAST 190.92 FEET) AN ARC DISTANCE OF 212.06 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°20'53" EAST 393.91 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 70.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 393.91 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS SOUTH 47°39'07" WEST 91.92 FEET) AN ARC DISTANCE OF 102.10 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 235.00 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS SOUTH 42°20'53" EAST 91.92 FEET) AN ARC DISTANCE OF 102.10 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°20'53" EAST 615.68 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 70.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FIRST AVENUE WEST; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 215.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID PREMIER STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 47°39'07" WEST 35.36 FEET; THENCE SOUTH 02°39'07" WEST 346.89 FEET TO THE SOUTHERLY LINE SAID PLAT OF PIONEER RESOURCES BUSINESS PARK, SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF LOT 23 OF SAID PLAT; THENCE ALONG SAID SOUTHERLY LINE NORTH 87°38'58" WEST 60.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 132,061 SQUARE FEET OR 3.032 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS IS PER THE PLAT OF PIONEER RESOURCES BUSINESS PARK, RECORDED JUNE 29, 1998 IN FILE 75, SLIDE 662, LANE COUNTY SURVEY RECORDS.

THE TRACT OF LAND IS SHOWN ON THE ATTACHED EXHIBIT MAP AND BY THIS REFERENCE MADE A PART THEREOF.



SCALE: 1" = 150'



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<b>EXHIBIT B - MAP</b> RIGHT-OF-WAY VACATION	DATE: OCTOBER 12, 2023
	DRAWN BY: JTD
SE 1/4 SECTION 28 / TOWNSHIP 17 SOUTH / RANGE 4 WEST / W.M. CITY OF EUGENE / LANE COUNTY / OREGON	CHECKED BY: JRD
	PROJECT NO. 2300110
	SHEET: 3 OF 3

**FINDINGS IN SUPPORT OF VACATING PREMIER STREET AND A PORTION OF FIRST AVENUE WEST, ALL LOCATED WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK**

**APPLICATION OVERVIEW**

**Name (File Number):** Pioneer Business Park (VRI 23-1)

**Applicant:** McDougal Bros Investments LLC

**Subject Property:** Premier Street and a portion of First Avenue West.

**Zoning:** Abutting property zoned I-3 Heavy Industrial

**Location:** 3.032 acres of improved right-of-way located within the Pioneer Business Park.

**BACKGROUND**

McDougal Bros Investments, LLC (the applicant) filed a request for vacation of Premier Street and a portion of First Avenue West, both of which are improved public rights-of-way, to allow installation of a private gated street and fencing to help secure the industrial properties along these streets.

The area proposed to be vacated, a total of 3.032 acres or 132,061 square feet, includes approximately 1,245 linear feet of First Avenue West public right-of-way, as well as all 383 linear feet of Premier Street. The requested vacation is for rights-of-way within the Pioneer Resources Business Park Subdivision Plat, recorded June 29, 1998, with Lane County Deeds and Records. First Avenue West, more commonly referred to as West 1st Avenue, currently serves as a loop road providing access to the industrially zoned parcels abutting the street. Premier Street is a stub street extending from West 1st Avenue to the south, serving several other vacant industrial parcels.

In order to ensure access to existing utility services, the applicant has proposed a public utility easement for the entire area to be vacated.

**FINDINGS**

The vacation process serves as a means to evaluate the need for public ways as land develops and uses change over time, and to address the manner in which the City may dispense with public ways. Public ways are defined by the Eugene Code as follows: "Any street, road, alley,

right-of-way, pedestrian or bicycle easement or accessway, or utility easement for public use that is controlled by the city, county, or state.”

This request for vacation is being considered in accordance with Sections 9.8700 – 9.8725 of the Eugene Code (EC) and Oregon Revised Statutes (ORS) 271.080 – 271.230 and processed pursuant to EC 9.7445 – 9.7455. EC 9.8710(3) requires that any vacation of an improved right-of-way be considered and decided upon by the City Council in accordance with the procedures in EC 9.7455 through 9.7455. The public hearing is being conducted consistent with quasi-judicial procedures in State law and as set forth in EC 9.7065 – 9.7095.

When right-of-way is vacated, ORS 271.140 generally requires ownership of the land underlying the vacated right-of-way to revert back to owners of the adjacent lands from which it was originally dedicated. EC 9.8710(5) requires the applicant to pay a special assessment to the City equal to the assessed value of the real property and any costs incurred by the City in the construction of public improvements as determined by the City Manager. The applicant has paid the required assessment.

In accordance with ORS 271.080, the applicant has provided evidence of consent to the vacation from owners of at least two-thirds of the property within the affected area. In this case, the affected area per State law is the land lying on either side of the vacated area to the next lateral street, and 400 feet beyond each terminus of the rights-of-way to be vacated. Based on the signed consent forms submitted with the application, the applicant has obtained consent for the proposed vacation from the property owners of approximately 78 percent of the affected area, which exceeds the requirements of ORS 271.080 and EC 9.8710.

Public Works has reviewed this application and the surrounding facilities and infrastructure affected by the request. Concurrences from franchise utilities, including Eugene Water and Electric Board, have been included with the application. The rights-of-way in their current condition include underground wastewater and other utilities services. To ensure the City and utility companies have the necessary perpetual access for the operation and maintenance of public utilities that remain in the vacated area, the applicant has proposed a Public Utility Easement (PUE) over the entire area to be vacated.

### **Compliance with Approval Criterion**

Per EC 9.8725, the sole approval criterion for these vacations requires the City Council to find that approval of the requested vacation is in the public interest. The full text of the approval criterion is provided below, with findings demonstrating compliance:

**EC 9.8725: Approval Criteria for the Vacation of Improved Public Right-of-Way, Public Ways Acquired with Public Funds, and Undeveloped Subdivision and Partition Plats. The city council shall approve, or approve with conditions and reservations of easements, the vacation of improved public right-of-way, public ways acquired with public funds, or undeveloped subdivision and partition plats, or portions thereof, including public right-of-**



**way and improved public easements located therein, only if the council finds that approval of the vacation is in the public interest.**

The following findings demonstrate that vacation of Premier Street and a portion of First West Avenue is in the public interest. This determination is based on the conclusion that vacation of the improved rights-of-way will provide an opportunity for the efficient use of land and will not negatively impact the transportation system, surrounding uses, or emergency access. As referenced by the applicant, the purpose of the vacation request is to allow a private gated street and fencing to help secure the industrial properties along these streets.

The vacation of the rights-of-way will allow for flexible and efficient use of lands zoned for heavy industrial uses, which may facilitate future economic stimulation in the long undeveloped site. As detailed in the application materials, many of the lots adjacent to the requested right-of-way vacation have been deemed uninhabitable due to the former landfill site and legal court settlement (Frontier Recovery LLC vs. Lane County, Oregon), which required that no permanent human occupancy on the footprint of the landfill be allowed. The result is that there are very limited uses allowed on the site. Vacation of the right-of-way further limits potential negative impacts on humans from the existing landfill and will allow for flexible use of a site constrained by detrimental historic uses.

Regarding public interest in managing City resources, the streets have been subject to settling and deterioration since their installation. Upon vacation, right-of-way maintenance will no longer be the responsibility of the City. The elimination of this maintenance cost for the City will allow for resources to be allocated to other street and maintenance projects. The vacation of the rights-of-way will also allow for controlled access onto the property. The applicant cites documented illegal activities on these streets that create an unsafe environment. As a result of the vacation, access to the area can be managed by the property owners. While not guaranteed, a possible outcome of controlled access is a reduction in calls for City police, fire, and parking services associated with activities occurring within the rights-of-way.

**Conclusion**

The applicant's requested vacation of the rights-of-way for Premier Street and a portion of First West Avenue is in the public interest, based on the above findings and the terms of the ordinance.