

RESOLUTION NO. 5289-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A REVOCABLE PERMIT FOR A PRIVATE PROCESS WASTEWATER LINE IN SW POTANO STREET

WHEREAS, the City owns the right-of-way at SW Potano Street; and

WHEREAS, Pacific Foods Properties, LLC has requested to place a private process wastewater line within the right-of-way of SW Potano Street adjacent to 19505 SW 97<sup>th</sup> Street; and

WHEREAS, Pacific Foods needs to construct this process wastewater line to provide pre-treatment of process wastewater prior to entering the public sanitary sewer system; and

WHEREAS, granting the revocable permit is in the public good;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

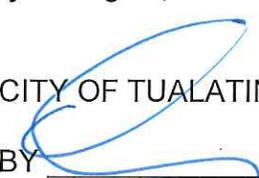
**Section 1.** The City Manager is authorized to execute a Revocable Permit, which is attached as Exhibit 1 and incorporated by reference.

**Section 2. Section 2.** The City Manager is authorized to revoke the permit for any reason and at any time with 180 days prior notice to the permittee.

**Section 3.** This resolution is effective upon adoption.

Adopted by the City Council this 8th day of August, 2016.

CITY OF TUALATIN, OREGON

BY  \_\_\_\_\_

Mayor

APPROVED AS TO FORM

BY  \_\_\_\_\_

City Attorney

ATTEST:

BY  \_\_\_\_\_

City Recorder

After recording return to:  
City of Tualatin, Oregon  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062-7092



**REVOCABLE PERMIT  
(Right-of-Way)**

The City of Tualatin ("City"), pursuant to Resolution No. 5289-16, hereby grants Pacific Foods Properties, LLC ("Permitee") the nonexclusive right to encroach upon and occupy a portion of public right-of-way, as more particularly described in Exhibit A ("Legal Description") and as depicted on Exhibit B ("Map") for the purpose of crossing the right-of-way with a private process wastewater lateral ("Encroachment"), subject to the terms and conditions set forth herein.

The City grants the permit on the condition that Permitee promises and agrees to comply with the following terms, conditions, and restrictions:

1. The Encroachment as constructed must pass inspection by the City confirming it complies with all applicable Codes of the City of Tualatin including, but not limited to, structural safety, traffic, sanitation, land use, and fire requirements.
2. In constructing and maintaining the Encroachment, Permitee agrees to comply with the plans and specifications approved by the City and all applicable permits.
3. Permitee must maintain the Encroachment in good order and must immediately notify the City of any dangers to person or property, or any dangerous conditions, that exist with regard to the Encroachment, which are either known or discovered by Permitee.
4. Permitee assumes all risk of damage to its Encroachment, and any buildings, structures, utilities, or other appurtenances connected to the Encroachment, resulting from, or arising out of, any and all uses of the public right-of-way by the City, its officers, employees, agents, and the general public.

5. Permittee must defend, indemnify, and hold harmless the City, its officers, agents, and employees, against any and all claims for damages of any kind attributable to Permittee and which is caused or alleged to have been caused as a result of the Encroachment or this Permit, whether such damage or injury results from normal operation or accident or any other cause.
6. The placing of the Encroachment in a portion of the aforesaid public right-of-way is nonexclusive and does not give Permittee, or anyone else, any permanent right to its continued or exclusive occupancy.
7. This Permit is revocable by the City, in its sole discretion, for any reason. City will provide Permittee at least 180 days' prior written notice and provide the effective date of the revocation in the notice, On or before the effective date of the revocation, Permittee, at its own expense, will remove the Encroachment from City's right-of-way; and, failing to do so, the City may cause removal of the Encroachment at the cost and expense of Permittee, including any and all legal costs and attorney fees..
8. Permittee's obligations under the provisions of this Permit are binding upon all of the heirs, successors, and assigns of Permittee.
9. In the event Permittee includes more than one person or entity, all such persons or entities are jointly and severally liable for all conditions herein.
10. Any construction within the right-of-way requires a Public Works Permit and compliance with all applicable codes and regulations.

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ACCEPTED, and the conditions hereof acknowledged and agreed to the 1st day of July, 2016.

Permitee:

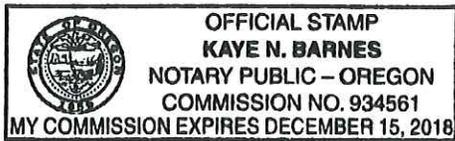
Pacific Foods Properties, LLC

By: Charles W. Eggert

Its: Manager

STATE OF OREGON )  
County of Washington ) ss.

This instrument was acknowledged before me on 7/1, 2016, by Charles W. Eggert, known to me to be the Manager of Pacific Foods Properties, LLC.



Kaye N. Barnes  
Notary Public—State of Oregon  
My commission expires: 12/15/18

Witness my hand this 9 day of August, 2016.

By: Sherilyn Lombos  
City Manager

STATE OF OREGON )  
County of Washington ) ss.

This instrument was acknowledged before me on August 9, 2016, by Sherilyn Lombos, as the City Manager for the City of Tualatin, Oregon.

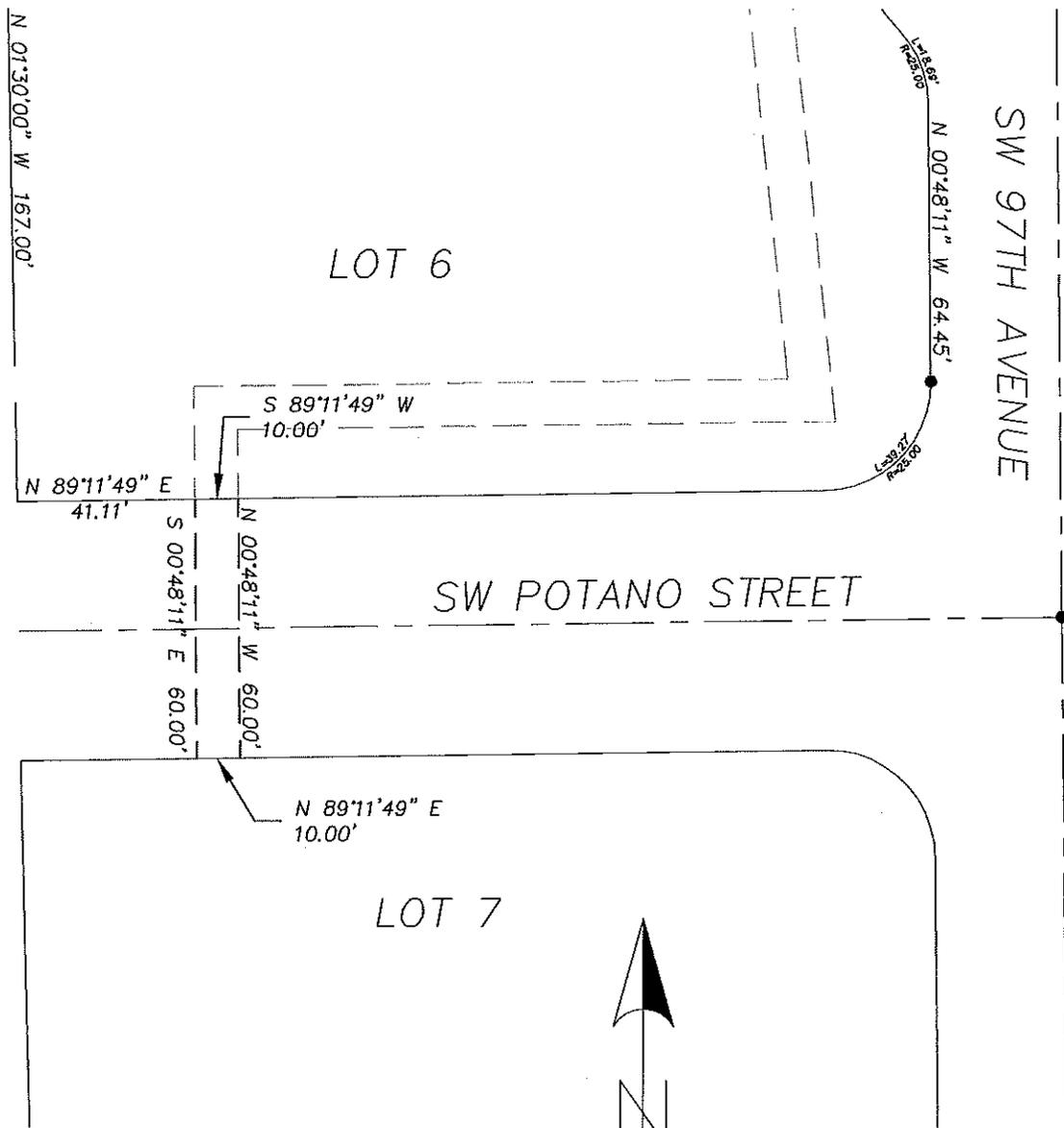


Nicole Morris  
Notary Public—State of Oregon  
My commission expires: 9-18-16

APPROVED AS TO FORM:

By: S-T-J  
City Attorney

EXHIBIT B



1 inch = 40 ft.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 19, 1994  
FREDERIC C. FORD  
2665

12-31-17  
RENEWAL DATE



Ford Engineering, Inc.  
Civil Engineering & Land Surveying

12205 Ioka Way NW  
Silverdale, Washington

Phone (360) 588-2124  
Fax (503) 296-2374

## EXHIBIT A

A STRIP OF LAND LOCATED WITHIN SW POTANO STREET IN THE SW QUARTER OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WM, IN THE CITY OF TUALATIN, WASHINGTON COUNTY OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6 OF THE ARGONAUT PARK SUBDIVISION, THENCE RUNNING ALONG THE SOUTH LINE OF SAID LOT 6 AND THE NORTH RIGHT OF WAY LINE OF SAID SW POTANO STREET NORTH 89°11'49" EAST 41.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 0°48'11" EAST 60.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SAID SW POTANO STREET; THENCE NORTH 89°11'49" EAST ALONG SAID SOUTH LINE 10.00 FEET; THENCE LEAVING SAID SOUTH LINE AND RUNNING NORTH 0°48'11" WEST 60.00 FEET TO SAID NORTH LINE OF SW POTANO STREET; THENCE SOUTH 89°11'49" WEST ALONG SAID NORTH LINE 10.00 FEET TO THE TRUE POINT OF BEGINNING.