

ORDINANCE NO. 1461

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, declaring certain City property commonly referred to as South 208th Street, 17th Avenue South, and 16th Avenue South within the City of Des Moines and previous vacated portions of 16th Avenue South, 17th Avenue South, South 209th Street, and South 208th Street as surplus to the needs of the City and authorizing the sale of these properties to the South County Correctional Entity, subject to the Applicant's compliance with requirements set forth herein. Further an easement is hereby granted to Puget Sound Energy.

WHEREAS, the Des Moines City Council by Ordinance No. 1460 vacated certain City rights-of-way within and adjoining real properties which had been acquired by the Port of Seattle (hereinafter "POS") and real properties acquired by the State of Washington (hereinafter "WSDOT". All of these properties are now subject to an eminent domain action by the City of Des Moines (hereinafter "the City") under King County Superior Court Cause Number 09-2-09463-2 KNT to facilitate the construction of misdemeanor jail facility to be operated by the South County Correctional Entity (hereinafter "SCORE", a Public Development Authority) formed by an interlocal agreement between the Cities of Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac and Tukwila (hereinafter "Member Cities"), and

WHEREAS, once the City has acquired fee interest in the property subject to the eminent domain action from the POS and WSDOT, the City will transfer the property to SCORE, and

WHEREAS, when the City transfers the property to SCORE, the City will retain control over the property segments described in Sections 2 and 3 of this Ordinance, and

WHEREAS, SCORE requires a consolidated site not bisected by City owned property to construct the proposed misdemeanor jail facility, and

WHEREAS, the City no longer requires the use of the property for roadway purposes, and

WHEREAS, staff researched the origin of City roadways within the SCORE Condemnation Area and determined that some streets are not dedicated as public rights-of-way, but rather are deeded property for public street purposes, and

WHEREAS, Puget Sound Energy has existing facilities in South 208th Street subject to this Ordinance which will continue to provide service to other properties and require easements to be granted to allow for their continued use, and

WHEREAS, no utilities are located in the portions of 17th Avenue South, and 16th Avenue South further described in Section 2 of this ordinance, and

WHEREAS, no apparent municipal use of the said public streets continues to exist, but the SCORE has reason to convert the roadways in order to construct a misdemeanor jail facility, and

WHEREAS, RCW 39.33.010 specifies, "The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned," and

WHEREAS, The City of Des Moines and SCORE are political subdivisions of the State and as such are eligible to transfer and sell properties to each other pursuant to RCW 39.33.010, and

WHEREAS, RCW 39.33.020 states that the City of Des Moines must hold a public hearing to provide public notice prior to disposing of surplus property having an estimated value greater than fifty thousand dollars, and

WHEREAS, the City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1103 fixing the public hearing for July 9, 2009, to be followed by City Council action, and

WHEREAS, The City Council conducted a public hearing on July 9, 2009 and provided for public testimony regarding the declaration to surplus public property and the sale of said property to the Port of Seattle, and

WHEREAS, notice of the public hearing was given in accordance with RCW 39.33.020 including a news release to printed and electronic media, providing a description of the future intended use of said property declared surplus, and providing notice within at least 10 days but no greater than 25 days prior to the hearing, and

WHEREAS, the Council finds that there is no public need sufficient to maintain City ownership of the property legally described in section 2 of this ordinance labeled as delta 2, 3, 4, 6, 7, and 8 on the map marked Exhibit "A" to this Ordinance, and previously vacated right-of-way owned in fee by the City legally described in Section 3 of this Ordinance, and it is in the public interest to surplus these properties and sell them to SCORE for the construction of a misdemeanor jail facility, now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Findings adopted. Based on the evidence presented, the City Council adopts the following findings of fact:

(1) The public rights-of-way which are the subject of this Ordinance consist of segments of roadways commonly referred to as South 208th Street, South 209th Street, 16th Avenue South, and 17th Avenue South located within the "SCORE Condemnation Area" which is generally geographically bounded on the north by

the Des Moines city limits, on the east the SR-509 right-of-way, on the south by Des Moines Creek Park and its associated slopes and open spaces, and on the west by Lots 5 - 8 of the Cordell Tract Plat; and

(2) The public right-of-way described in Section 3 of this Ordinance that was dedicated by the Amended Plat of Part of Seeley's Addition was dedicated to the public in 1890; and

(3) The public right-of-way described in Section 3 of this Ordinance that was dedicated by the Amended Plat of Part of Seeley's Addition is improved for transportation purposes, has previously been opened for transportation purposes, and is not subject to vacation by operation of law under the Laws of 1889-90; and

(4) The public right-of-way described in Section 3 of this Ordinance that was dedicated by the Amended Plat of Part of Seeley's Addition was vacated under Ordinance 1460; and

(5) The eminent domain action under King County Superior Court Cause Number 09-2-09463-2 KNT included the north half of South 208th Street condemning the adjacent property owner's (POS) interest in that portion of the Amended Plat of Part of Seeley's Addition; and

(6) Once the City completes the eminent domain process it will obtain the fee interest to the property that was dedicated by the Amended Plat of Part of Seeley's Addition.

(7) That portion of the South 208th Street labeled as delta 3 on Exhibit "A" dedicated by the Amended Plat of Part of Seeley's Addition shall be owned by the City of Des Moines in fee upon successful completion of the eminent domain action under King County Superior Court Number 09-2-09463-2-0KNT instead of attaching to the property north of the right-of-way that originally dedicated the right-of-way requiring the City to also sale the underlying fee to this portion of the roadway.

(8) That portion of 16th Avenue South vacated under Ordinance 1460 adjacent to the property deeded to the City under King County Deed 4554396 in 1955 identified as delta 7 attached by operation of law to property owned by the City.

(9) Those portions of 17th Avenue South and South 209th Street vacated under Ordinance 1460 adjacent to the property deeded to the City under King County Deed 4579511 in 1955 identified as delta 6 attached by operation of law to property owned by the City.

(10) City ownership of the public properties which are described in Sections 2 and 3 of this Ordinance are not necessary for present and future use by public utilities because present and future needs for use by public utilities will be met by appropriate easements retained by the City; further described in Section 4 of this Ordinance; and

(11) The public properties which are the subject of this Ordinance are surplus to the present and future needs of the citizens of the City of Des Moines for transportation purposes; and

(12) It is in the public interest to sell these properties and allow them to be aggregated with surrounding properties to provide for the construction of the proposed SCORE Facility, regional misdemeanor jail facility; and

(13) The City Council found as part of Ordinance 1456 that the acquisition of the properties adjacent to the roadways described in Sections 2 and 3 of this Ordinance are critical to the construction and maintenance of the SCORE facility that will provide correctional services to the above described Member Cities, and it is in the public interest to acquire such properties; and

(14) The transfer of these segments of property is necessary to complete the construction of said SCORE Facility; and

(15) Said SCORE Facility is a superior use to the current unused roadways; and

Sec. 2. Surplus and sale of public property. Subject to the requirements set forth in this Ordinance, the following legally described public properties as labeled as delta 2,3,4,6,7, and 8 and depicted on the attached map (incorporated herein by this reference) entitled Exhibit "A" are declared surplus:

SOUTH 208th STREET: The North 30 feet of the Northeast Quarter, of the Northeast Quarter, of the Northeast Quarter, of the Northeast Quarter of Section 8 Township 22 N Range 4 E, W.M. King County Washington lying easterly of the westerly line extended northerly of Lots 1 - 4 of Cordell Tracts, according to the Plat thereof filed in volume 64 of Plats, Page 70, Records Of King County, Washington; Together with The South 30 feet of the South Half of the Southwest Quarter, of the Southwest Quarter, of the Southwest Quarter of Section 4 Township 22 N Range 4 E, W.M. King County Washington; Together with The South 30 feet of the South Half of the Southeast Quarter, of the Southwest Quarter of the Southwest Quarter of Section 4 Township 22 N Range 4 E, W.M. King County Washington Lying Westerly of SR 509 Right-Of-Way as shown on Washington State Department Of Transportation Right-Of-Way Plan SR 509 MP 19.43 To MP 23.87, Dated December 1, 1969.

16th AVENUE SOUTH: That portion of Lot 10, Block 1 of the Glen Echo Addition, as record in Volume 53 of Plats, Page 91, Records of King County, Washington described as follows: Beginning at the Northwest corner of said Lot 10; thence along the

west line of said Lot 10 S 1° 06' 00" W 52.92 feet; thence along a 40 foot radius curve to the left a tangent bearing N 42° 30' 40" E an arc distance of 57.82 feet to the point of beginning.

17th AVENUE SOUTH: That portion of Lot 10, Block 2 of the Glen Echo Addition, as record in Volume 53 of Plats, Page 91, Records of King County, Washington described as follows: Beginning at the Southeast corner of said lot; thence N 88° 23' 37" W along the South line of said lot a distance of 5.65 feet to a point of a curve and true point of beginning; thence along the arc of a curve to the right with a radius of 75.01 feet a distance of 117.17 feet to a point of tangency; thence S 1° 06' 00" W along the West line of said lot a distance of 74.35 feet to the Southwest corner of said lot; thence S 88° 23' 37" E along South line of said lot 74.35 feet to the true point of beginning.

Sec 3. Vacated Property Also Requiring Surplus and Transfer. The following properties were dedicated rights-of-way that following the approval of Ordinance 1460 and the eminent domain action under King County Superior Court Cause Number 09-2-09463-2 KNT are owned by the City in fee and depicted on the attached map (incorporated herein by this reference) entitled Exhibit "B" are declared surplus and requiring no additional compensation as compensation is provided for in Ordinance 1460:

South 208th Street: That portion of the South 208th Street as shown on Amendatory Plat of Part of Seeley's Addition according to the Plat thereof filed in volume 6 of Plats, Page 66, Records of King County, Washington lying easterly of the westerly line extended northerly of Lots 1 - 4 of Cordell Tracts according to the Plat thereof filed in volume 64 of Plats, Page 70, Records Of King County, Washington vacated under Ordinance 1460; further illustrated as Item 1 on Exhibit "B".

South 209th Street That Portion of vacated South 209th Street described as follows: Beginning at the Southeast corner of Lot 10 Block 2 of the Glen Echo Addition, as recorded in Volume 53 of Plats, Page 91, Records of King County, Washington; thence N 88° 23' 37" W along the South line of said Lot a distance of 5.65 feet to a point of a curve and the true point of beginning; thence S 1° 06' 00" W 30.00 feet; thence N 88° 23' 37" W 104.35 feet; thence N 1° 06' 00" E 30.00 feet; thence S 88° 23' 37" E 104.35 feet to the true point of beginning; further illustrated as Item 2 on Exhibit "B".

16th Avenue South: That portion of vacated 16th Avenue South described as follows: Beginning at the Northwest corner of Lot 10 Block 1 of the Glen Echo Addition, as recorded in Volume 53 of Plats, Page 91, Records of King County, Washington; thence along the west line of said Lot 10 S 1° 06' 00" W 52.92 feet; thence N 88° 54' 00" W 30.00 feet; thence N 1° 06' 00" E 52.92 feet; thence S 88° 54' 00" E 30.00 feet to the point of beginning; further illustrated as Item 3 on Exhibit "B".

17th Avenue South: That Portion of vacated 17th Avenue South described as follows: Beginning at the Southeast corner of Lot 10 Block 2 of the Glen Echo Addition, as recorded in Volume 53 of Plats, Page 91, Records of King County, Washington; thence N 88° 23' 37" W along the South line of said Lot a distance of 5.65 feet to a point of a curve; thence along the arc of a curve to the right with a radius of 75.01 feet a distance of 117.17 feet to a point of tangency and the true point of beginning; thence S 1° 06' 00" W along the West line of said Lot a distance of 74.35 feet to the Southwest corner of said Lot; thence N 88° 23' 37" W 30.00 feet; thence N 1° 06' 00" E 74.35 feet; thence S 88° 23' 37" E 30.00 feet to the true point of beginning; further illustrated as Item 2 on Exhibit "B".

Sec. 4. Conditions of the surplus. The property declared surplus and transferred under this Ordinance shall be subject to the following conditions:

(1) SCORE shall be required to compensate the City of Des Moines for purchase of the surplus property legally described in Section 2 of this Ordinance. SCORE shall not be required to compensate the City of Des Moines for purchase of the surplus property legally described in Section 3 of this Ordinance as compensation for these properties was provided for in Ordinance 1460.

(2) For properties described in Section 2 of this Ordinance agree that the fair market value for the surplus property is a fixed value of \$6.36 per square foot. This valuation was established in accordance with the methodology adopted in the "Summary Appraisal Report of The Proposed SCORE Jail Site - Port of Seattle Properties" and in the "Summary Appraisal Report of The Proposed SCORE Jail Site - WSDOT Properties" both prepared by Allen Brackett Shedd.

(3) The parties agree that the square footage for all surplus property requiring compensation is 26,721.06 square feet.

(4) SCORE shall deposit \$169,945.94 (26,721.06 square feet multiplied by \$6.36) in an interest bearing escrow account

with interest accruing to the City for the payment of land legally described in Section 2 of this Ordinance within 90 days of Council action on this Ordinance. If the funds are not deposited by the close of business on the 90th day the City Council action on this Ordinance shall be deemed void and have no legal effect and the underlying rights of way vacation shall be deemed denied.

(5) The purchase of vacated rights-of-way under this Ordinance shall include ownership of all inactive and non-functioning improvements to city streets, including but not limited to, pavement and drainage systems. It is the sole responsibility of the purchaser to remove and properly dispose of these inactive and non-functioning improvements.

(6) A simultaneous escrow closing will occur shortly after the City completes the eminent domain action under King County Superior Court Cause Number 09-2-09463-2 KNT and transfers the property acquired under said cause number to SCORE.

(7) The purchase of the properties under this Ordinance shall include ownership of all inactive and non-functioning improvements to city streets, including but not limited to, pavement and drainage systems. It is the sole responsibility of the purchaser to remove and properly dispose of these inactive and non-functioning improvements.

(8) The City Manager is directed to finalize this Ordinance and its recording only upon receipt of final payment by the SCORE and fulfillment of all conditions set forth in this Ordinance.

(9) An easement is granted by the City of Des Moines to Puget Sound Energy and its successors and assigns for the operation, construction, repair, and maintenance of existing above ground electrical utility improvements as constructed across and through the following described real property further illustrated in Exhibit C (incorporated herein by this reference):

An easement, varying in width, in that part of the Southwest Quarter of Section 4, and the Southeast Quarter of Section 5, and the Northeast Quarter of Section 8, and the Northwest Quarter of Section 9, all in Township 22 North, Range 4 East, W.M., described as follows:

Commencing at the section corner common to said Sections 4, 5, 8, and 9; thence North 85°30'23" West along the South line of said Southeast Quarter of Section 5 a distance of 163.09 feet to the Northerly extension of the West line of Lot 1 of Cordell Tracts as recorded in Volume 64 of Plats, Page 70, records of King County, Washington, and the Point of Beginning; thence North 1°05'50" East along said West line extended a distance of 24.04 feet to the Northerly right-

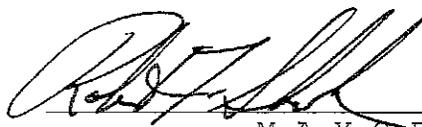
of-way margin of S. 208th Street; thence South 85°30'23" East along said Northerly margin a distance of 163.05 feet to the East line of said Southeast Quarter of Section 5; thence North 0°59'32" East along said East line a distance of 5.96 feet; thence South 88°26'00" East along said Northerly margin a distance of 783.31 feet; thence South 1°34'00" West 29.37 feet; thence North 88°48'56" West 150.80 feet; thence North 88°23'43" West 319.81 feet; thence North 87°44'29" West 360.40 feet; thence North 87°15'39" West 114.68 feet; thence North 1°05'50" East 1.79 feet to the Point of Beginning.

Sec. 5. Severability-Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this Ordinance.

Sec. 6. Recordation. Upon satisfactory completion of the eminent domain action under King County Superior Cause Number 09-2-09463-2 KNT, the City Clerk shall cause a certified copy of this Ordinance to be recorded in the records of the King County Recorder.

Sec. 7. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law subject to the City's completion of the eminent domain action under King County Superior Cause Number 09-2-09463-2 KNT and transfer of property subject to said eminent domain action to SCORE.

PASSED BY the City Council of the City of Des Moines this 9th day of July, 2009 and signed in authentication thereof this 9th day of July, 2009.

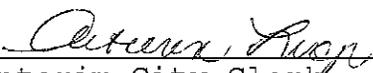

MAYOR

APPROVED AS TO FORM:



City Attorney

ATTEST:



Interim City Clerk

Effective Date: August 8, 2009

Published: July 14, 2009

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1461, Adopted July 9, 2009.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance declares certain City property commonly referred to as South 208th Street, 17th Avenue South, and 16th Avenue South within the City of Des Moines and previous vacated portions of 16th Avenue South, 17th Avenue South, South 209th Street, and South 208th Street as surplus to the needs of the City and authorizes the sale of these properties to the South County Correctional Entity, subject to the Applicant's compliance with requirements set forth herein; and further grants an easement to Puget Sound Energy.

The full text of the ordinance will be mailed without cost upon request.

Denis Staab
City Clerk

Published: July 14, 2009

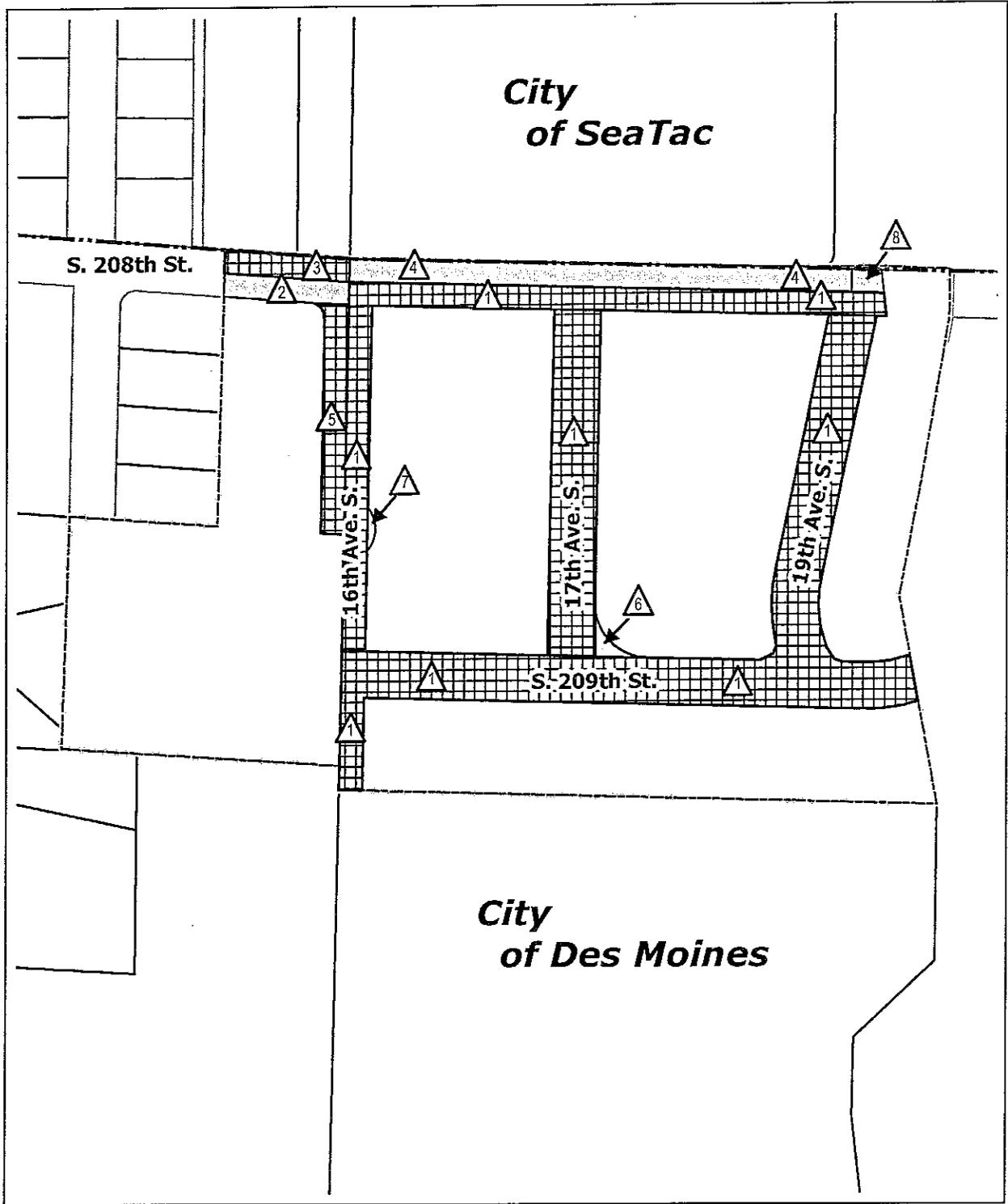


Exhibit A
Ordinance 1461



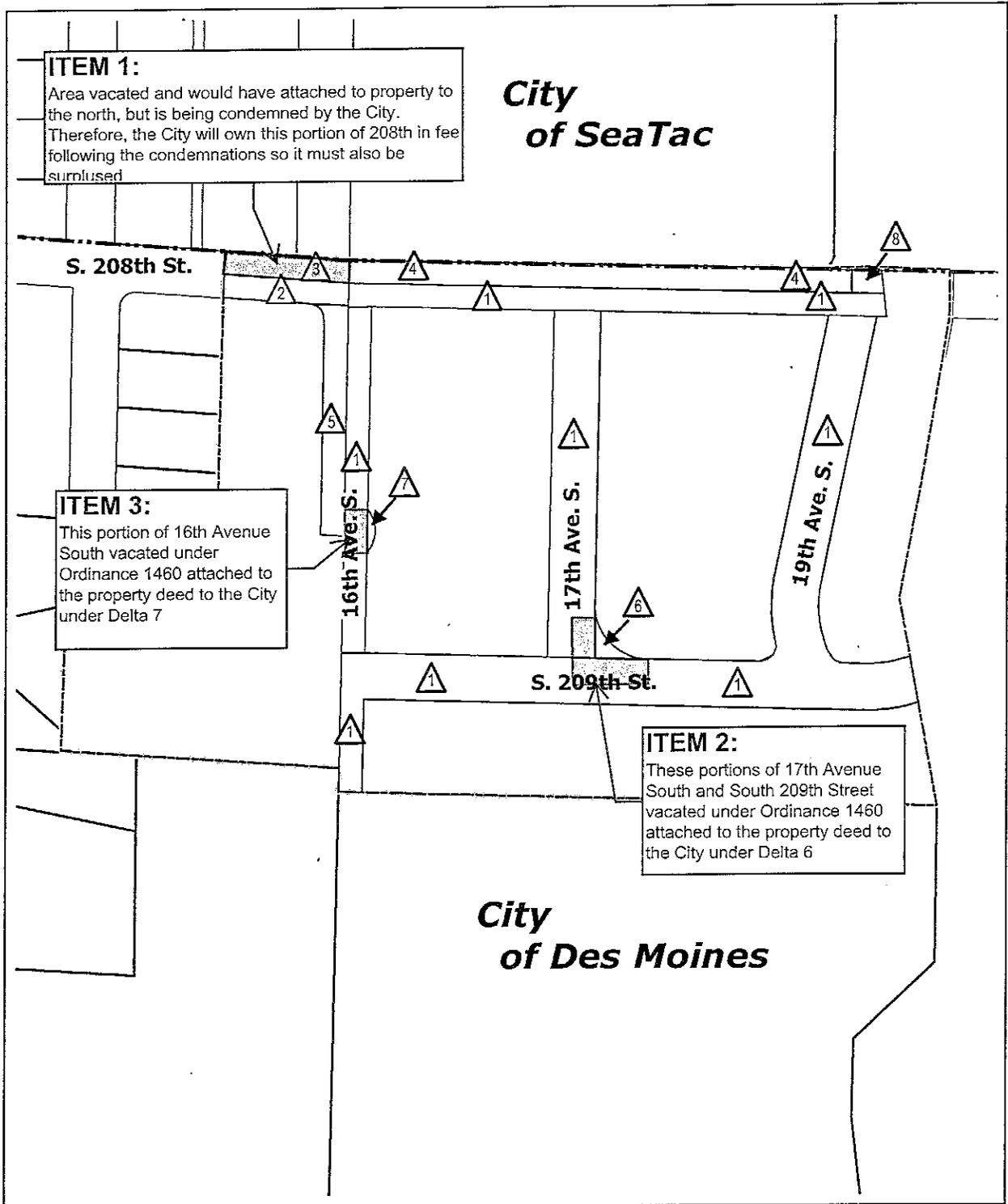


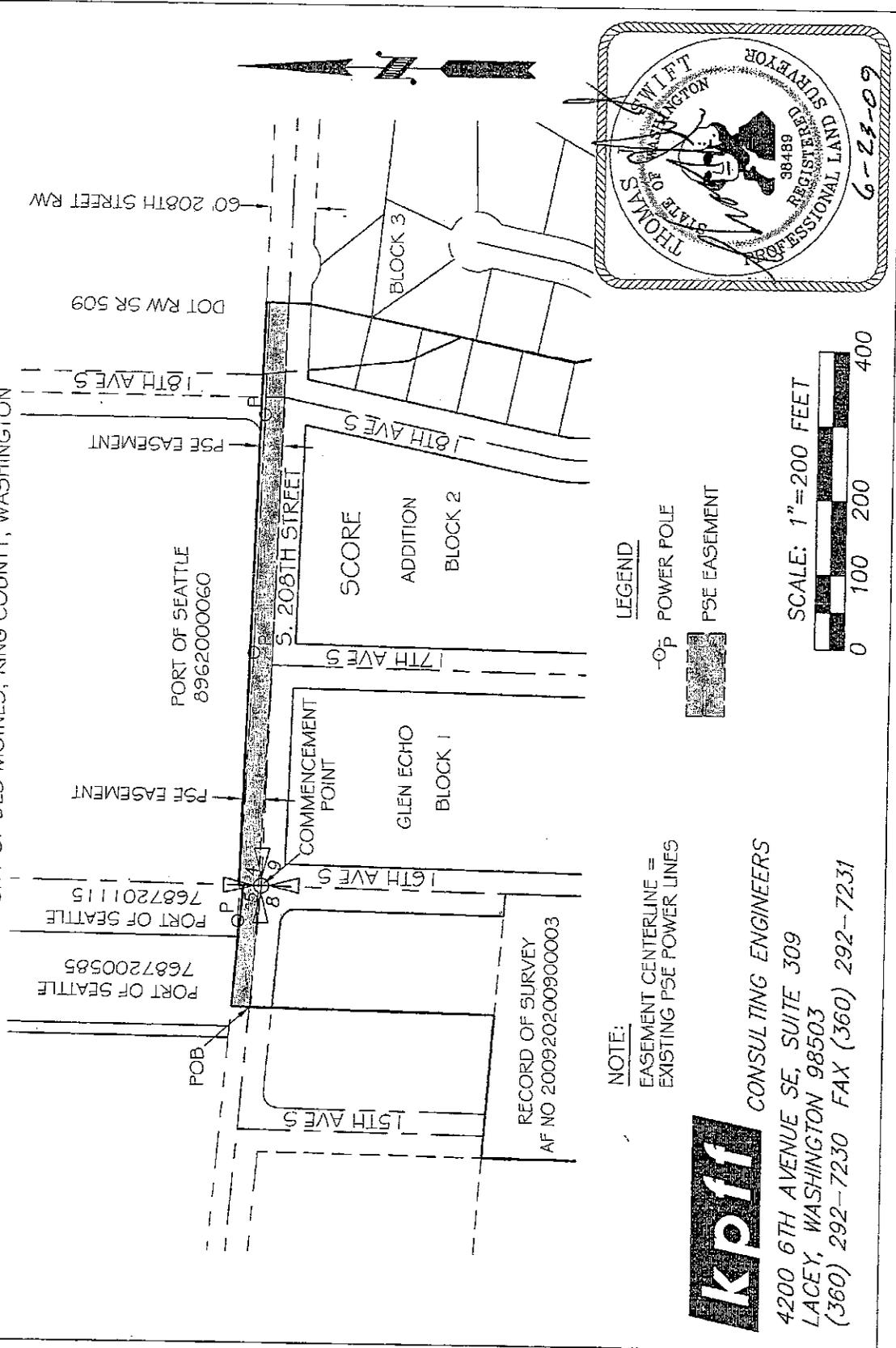
Exhibit B
Ordinance 1461



EXHIBIT C

PSE EASEMENT EXHIBIT

SECTIONS 4, 5, 8 & 9, TOWNSHIP 22N, RANGE 4 EAST, W.M.
CITY OF DES MOINES, KING COUNTY, WASHINGTON



PORT OF SEATTLE
7687200585

PORT OF SEATTLE
7687201115

PORT OF SEATTLE
8962000060

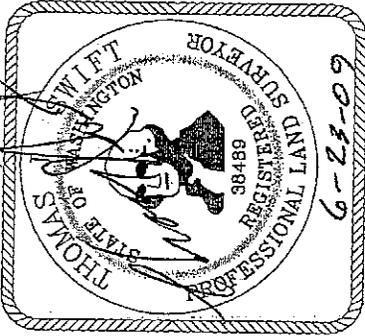
DOT RW SR 509

RECORD OF SURVEY
AF NO 200920200900003

NOTE:
EASEMENT CENTERLINE =
EXISTING PSE POWER LINES

LEGEND
-o-p POWER POLE
PSE EASEMENT

SCALE: 1"=200 FEET
0 100 200 400



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