

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: December 13, 2022
PUBLIC HEARING DATE: January 3, 2023

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
David Samaniego, (915) 212-1608

DISTRICT(S) AFFECTED: District 8

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance vacating a portion of Oregon Street located between Blocks 5 and Block 6, Mills Addition, City of El Paso, El Paso County, Texas.

Applicant: Kress Tunnel, LLC, SURW22-00009

BACKGROUND / DISCUSSION:

The applicant is requesting to vacate a subsurface portion of Oregon Street that is located in downtown between Mills Avenue and Texas Avenue. The portion proposed to be vacated is below the street level, to be used as a pedestrian tunnel, with a full utility easement to be retained. The City of El Paso will retain surface rights, to include access for pedestrians, vehicles, and roadway maintenance activities. The City Plan Commission recommended 5-0 to approve the proposed right-of-way vacation request on August 25, 2022. The applicant has provided funds in the amount of \$14,500.00, the amount of the appraised market value of the right-of-way (R.O.W.) being vacated. See attached staff report for additional information.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

Philip E. Etiwe – Planning and Inspections Director

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF OREGON STREET LOCATED BETWEEN BLOCK 5 AND BLOCK 6, MILLS ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, the abutting property owner has requested vacation of a 0.0326 PORTION OF OREGON STREET LOCATED BETWEEN BLOCK 5 AND BLOCK 6, MILLS ADDITION, City of El Paso, El Paso County, Texas; and

WHEREAS, after public hearing the City Plan Commission has recommended a vacation of a 0.0326 acre portion of Oregon Street located within a portion of Oregon Street located between Block 5 and Block 6, Mills Addition, City of El Paso, El Paso County, Texas, and the City Council finds that said portion of right-of-way is not needed for public use and should be vacated as recommended.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That, in consideration of the receipt by the City of El Paso of Twenty-Five And 00/Dollars (\$25.00) and other good and valuable consideration, the sufficiency of which is acknowledged, a 0.0326 acre portion of Oregon Street located within a portion of Oregon Street located between Block 5 and Block 6, Mills Addition, City of El Paso, El Paso County, Texas, as further described in the attached metes and bounds description identified as Exhibit "A" and made a part hereof by reference, be and is hereby vacated, closed and abandoned, subject to the reservation of a full-width utility easement, to include access for maintenance to the roadway, and all surface level improvements.

In addition, the City Manager is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated right of way to Kress Tunnel, LLC.

ADOPTED this ____ day of _____, 2023.

THE CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Russell Abeln
Russell T. Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Eliwe
Philip F. Eliwe, Director
Planning & Inspections Department

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THE STATE OF TEXAS }
 }
COUNTY OF EL PASO } **QUITCLAIM DEED**

That in consideration of the receipt by the **CITY OF EL PASO** of Ten Dollars (\$10.00) and other valuable consideration, the sufficiency of which is acknowledged, **THE CITY OF EL PASO**, has released and quitclaimed and by these presents does release and quitclaim unto Kress Tunnel, LLC (the "Grantee"), all its rights, title, interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. ___, passed and approved by the City Council of the City of El Paso and described as **A PORTION OF OREGON STREET LOCATED BETWEEN BLOCK 5 AND BLOCK 6, MILLS ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, (SUBSURFACE OR SUBTERRANEAN PORTION ONLY)** and the **CITY OF EL PASO** retains its existing surface rights to solely control, operate, and maintain the surface right-of-way for pedestrian and vehicular access, to the subservience of the subsurface property which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

Except for maintenance of the existing subsurface tunnel as described in the attached Exhibits, Grantee shall not construct any additional improvements, or make any additions or alterations on, above, or below the City right-of-way.

WITNESS the following signatures and seal this ____ day of _____, 2023.

CITY OF EL PASO:

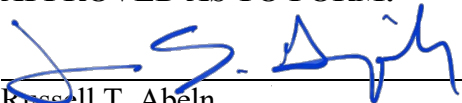
ATTEST:

Tomás González, City Manager


Laura D. Prine, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

For 

Russell T. Abeln
Assistant City Attorney



Philip F. Etiwe, Director
Planning and Inspections Department

(Acknowledgement on following page)

ACKNOWLEDGMENT

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2023,
by Tomás González, as City Manager for the CITY OF EL PASO.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

AFTER FILING RETURN TO:

Kress Tunnel, LLC
123 W. Mills Ave., Suite 600
El Paso, Texas 79901

ORDINANCE NO. _____
ROW Vacation SURW22-00009 – Oregon St. ROW Vacation
22-1007-2967| 1217047 |RTA

ROW Vacation SURW22-00009

Exhibit "A"

METES AND BOUNDS DESCRIPTION

That certain parcel of land, being a portion of Oregon Street located between Block 5 and Block 6, Mills Addition, an addition to the City of El Paso, El Paso County, Texas, more particularly described by metes and bounds as follows:

COMMENCING at a found city monument located 10.00 feet south and east of the centerline intersection of Oregon Street and Mills Avenue, **WHENCE**, a found city monument located 10.00 feet south and east of the centerline intersection of Mills and Kansas Street bears N 56°12'17" E, a distance of 934.80 feet (935.00'-Plat); **THENCE**, S 33°47'43" E, along the monument line of Oregon Street, a distance of 25.00 feet to a point; **THENCE**, N 56°12'17" E, a distance of 25.00 feet to a point for the northwest corner of said Block 5, Mills Addition on the easterly right-of-way line of Oregon Street; **THENCE**, S 33°47'43" E, along the easterly right-of-way line of Oregon Street a distance of 112.39 feet to the **POINT OF BEGINNING** of this description;

THENCE, S 33°47'43" E, along the east right-of-way line of Oregon Street, a distance of 19.32 feet to a point;

THENCE, S 55°28'25" W, a distance of 8.70 feet to a point;

THENCE, S 62°42'14" W, a distance of 29.70 feet to a point;

THENCE, S 55°28'25" W, a distance of 31.72 feet to a point on the westerly right-of-way line of Oregon Street and the east line of said Block 6, Mills Addition;

THENCE, N 33°47'43" W, along said westerly right-of-way line of Oregon Street, a distance of 22.87 feet to a point,

WHENCE, the northeast corner of said Block 6 bears N 33°47'43" W, a distance of 105.99 feet;

THENCE, N 59°18'50" E, a distance of 10.17 feet to a point;

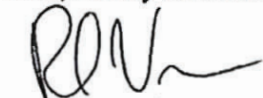
THENCE, N 62°42'14" E, a distance of 52.54 feet to a point;

THENCE, N 55°28'25" E, a distance of 7.64 feet to the **POINT OF BEGINNING**, containing 0.0326 acres more or less.

NOTES:

1. This description is accompanied by a survey plat of even date.
2. Bearings recited are referred to Grid North, Texas Coordinate System - NAD 83, Central Zone - and were derived using GPS relative position techniques. Distances are ground distances using a project scale factor of 1.000231.
3. This description was performed without the benefit of a title report. There may be easements affecting this property which are not shown hereon.

Cobb, Fendley & Associates, Inc.



Raul Vaquera Jr.

Texas RPLS No. 6730

April 27, 2021



Job No. 2102-036-01

SHEET NO. 1 of 2



Texas Engineering Firm No. F-274
Texas Surveying Firm No. 10194619
11427 Rojas Drive, Suite B | El Paso, TX 79936
915.858.1892 | fax 915.858.1896 | www.cobbhendley.com

METES & BOUNDS DESCRIPTION

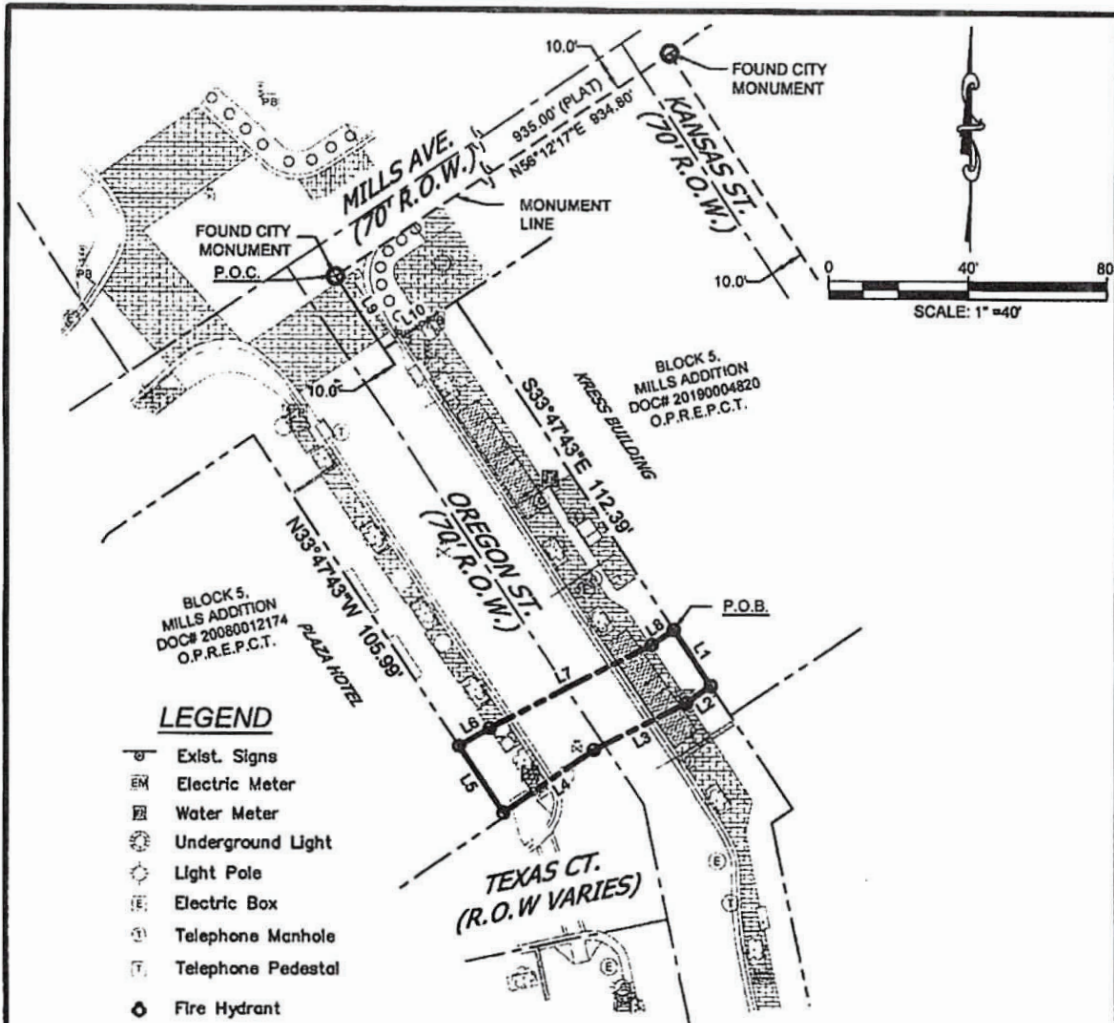
BEING ALL OF BLOCK 46,
MILLS ADDITION,
AN ADDITION TO THE CITY OF EL PASO,
EL PASO COUNTY, TEXAS

© copyright Cobb, Fendley & Associates, Inc.

САМІЙ ВЕРХАС Drawing File: F:\PROJETS\2021\2102-036-01\115 DI 27A PRONPERTIFCUM MDPV DOWNTOWN TUNNFI MAR SURVEYUM CANUM SURVEYUM-036-01-MDPV TUNNFI DW

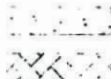
ITEM 3 - GENERAL COMMENTS

Exhibit "B"



LEGEND

- Exist. Signs
- Electric Meter
- Water Meter
- Underground Light
- Light Pole
- Electric Box
- Telephone Manhole
- Telephone Pedestal
- Fire Hydrant
- Gas Meter
- Fiberoptic Handhole



Concrete
Brick Layout

Found Monument (as noted)

P.O.B. Point of Beginning

P.O.C. Point of Commencement

O.P.R.E.P.C.T. Official Public Records
El Paso County, Texas

Line Table		
Line #	Direction	Length
L1	S33° 47' 43"E	19.32'
L2	S55° 28' 25"W	8.70'
L3	S62° 42' 14"W	29.78'
L4	S55° 28' 25"W	31.72'
L5	N33° 47' 43"W	22.87'
L6	N59° 18' 50"E	10.17'
L7	N62° 42' 14"E	52.54'
L8	N55° 28' 25"E	7.64'
L9	S33° 47' 43"E	25.00'



NOTES:

- Bearings shown are referred to Grid North, Texas Coordinate System - NAD 83, Central Zone - and were derived using GPS relative positioning techniques. Distances are ground distances using a project scale factor of 1.000231.
- Bearings and distances shown are as measured in the field.
- This survey was performed without the benefit of a title report. There may be easements affecting this property which are not shown hereon.
- This survey is accompanied by a written description of even date.
- Field work for this survey was completed on June 25, 2021.

Job No. 2102-036-01

SHEET NO. 2 of 2

CobbFendley

Texas Engineering Firm No. F-274
Texas Surveying Firm No. 10194619
11427 Rojas Drive, Suite B | El Paso, TX 79936
915.858.1892 | fax 915.858.1896 | www.cobbfindley.com

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C:\Users\VF\Documents\Files\F-198\PROJECTS\2021\02036 MILLS PLAZA PROJECT\FIG1.MXD DWG:2102-036-01-2.DWG TIT:2102-036-01-2.DWG

PLAT OF SURVEY

A PORTION OF OREGON STREET LOCATED
BETWEEN BLOCK 5 AND BLOCK 6,
MILLS ADDITION,
AN ADDITION TO THE CITY OF EL PASO,
EL PASO COUNTY, TEXAS

ITEM 3 - GENERAL COMMENTS

Oregon Street R.O.W. Vacation

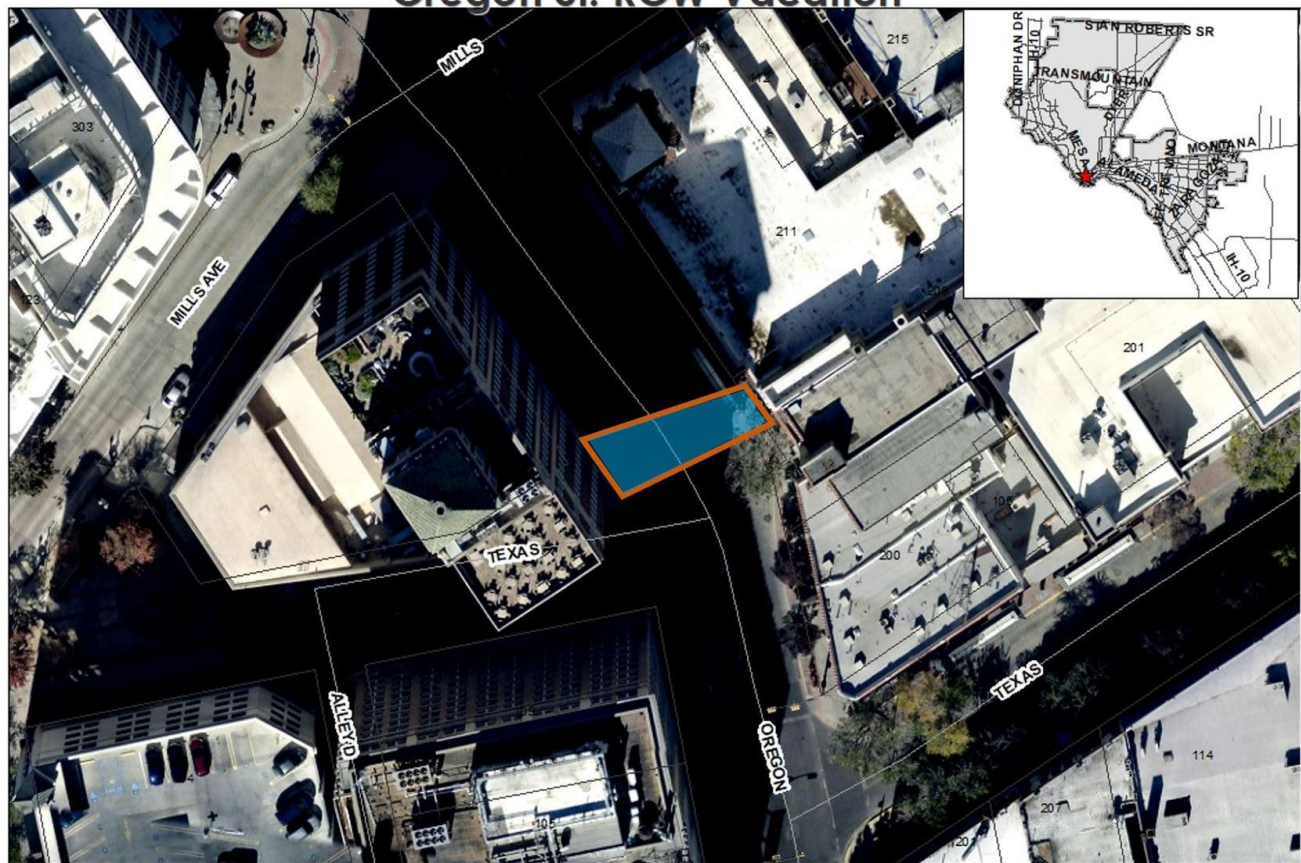
City Plan Commission — August 25, 2022 - **REVISED**



CASE NUMBER/TYPE: SURW22-00009 – RIGHT-OF-WAY VACATION
CASE MANAGER: David Samaniego, (915) 212-1608, SamaniegoDC@elpasotexas.gov
PROPERTY OWNER: Kress Tunnel, LLC
REPRESENTATIVE: Franklin Mountain Management
LOCATION: East of Santa Fe St. and North of San Antonio Ave. (District 8)
PROPERTY AREA: 0.03 acres
ZONING DISTRICT(S): C-5/H (Commercial/Historic)
PUBLIC INPUT: No opposition received as of August 18, 2022

SUMMARY OF RECOMMENDATION: Staff recommendation is **APPROVAL** of the Oregon Street right-of-way vacation.

Oregon St. ROW Vacation



This map is designed for illustrative purposes only. The features depicted here are approximate and more specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim for its accuracy or completeness.



 Proposed R.O.W. vacation area

0 20 40 80 120 160 Feet



Figure A: Proposed plat with surrounding area

DESCRIPTION OF REQUEST: The applicant seeks to vacate a portion of Oregon Street that is located in downtown El Paso between Mills Avenue and Texas Court. The total area that is proposed to be vacated is approximately 0.03 acres in size. The purpose of the right-of-way (R.O.W.) vacation is to allow for the installation of a private, underground tunnel across the full width of Oregon Street. The surface R.O.W. will be retained by the City of El Paso, to include the continued use for vehicular and pedestrian traffic and roadway maintenance activities. All underground utilities will be relocated and any surface improvements will be restored to their former conditions.

CASE HISTORY/RELATED APPLICATIONS: N/A

NEIGHBORHOOD CHARACTER: Surrounding neighborhood characteristics are identified in the following table.

Surrounding Zoning and Use	
North	C-5/H (Commercial / Historic) / Vacant
South	C-5/H (Commercial / Historic) / Retail
East	C-5/H (Commercial / Historic) / Retail
West	C-5/H (Commercial / Historic) / Vacant
Nearest Public Facility and Distance	
Park	San Jacinto Plaza (0.05 miles)
School	Triumph High School – Charter (0.30 miles)
Plan El Paso Designation	
G1, Downtown	
Impact Fee Service Area	
N/A	

PUBLIC COMMENT: Notices of the proposed right-of-way vacation were sent on August 11, 2022 to all property owners within 300 feet of the subject property. In addition, notice was posted in the El Paso Times newspaper on August 14, 2022. As of August 18, 2022, staff has not received any communications regarding this request.

CITY PLAN COMMISSION OPTIONS:

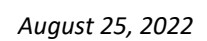
The City Plan Commission has the authority to advise City Council on right-of-way vacation requests. When a request is brought forward to the CPC for review, the Commission may take any of the following actions:

1. **Recommend Approval:** The CPC finds that the proposed vacation request is in conformance with all applicable requirements of Title 19 of the El Paso City Code. **(Staff Recommendation)**
2. **Recommend Approval with Conditions:** The CPC may recommend that City Council impose additional conditions on approval of the request that bring the request into conformance with all applicable requirements of Title 19 of the El Paso City Code.
3. **Recommend Denial:** The CPC finds that the proposed request is not in conformance with all applicable requirements of Title 19 of the El Paso City Code.

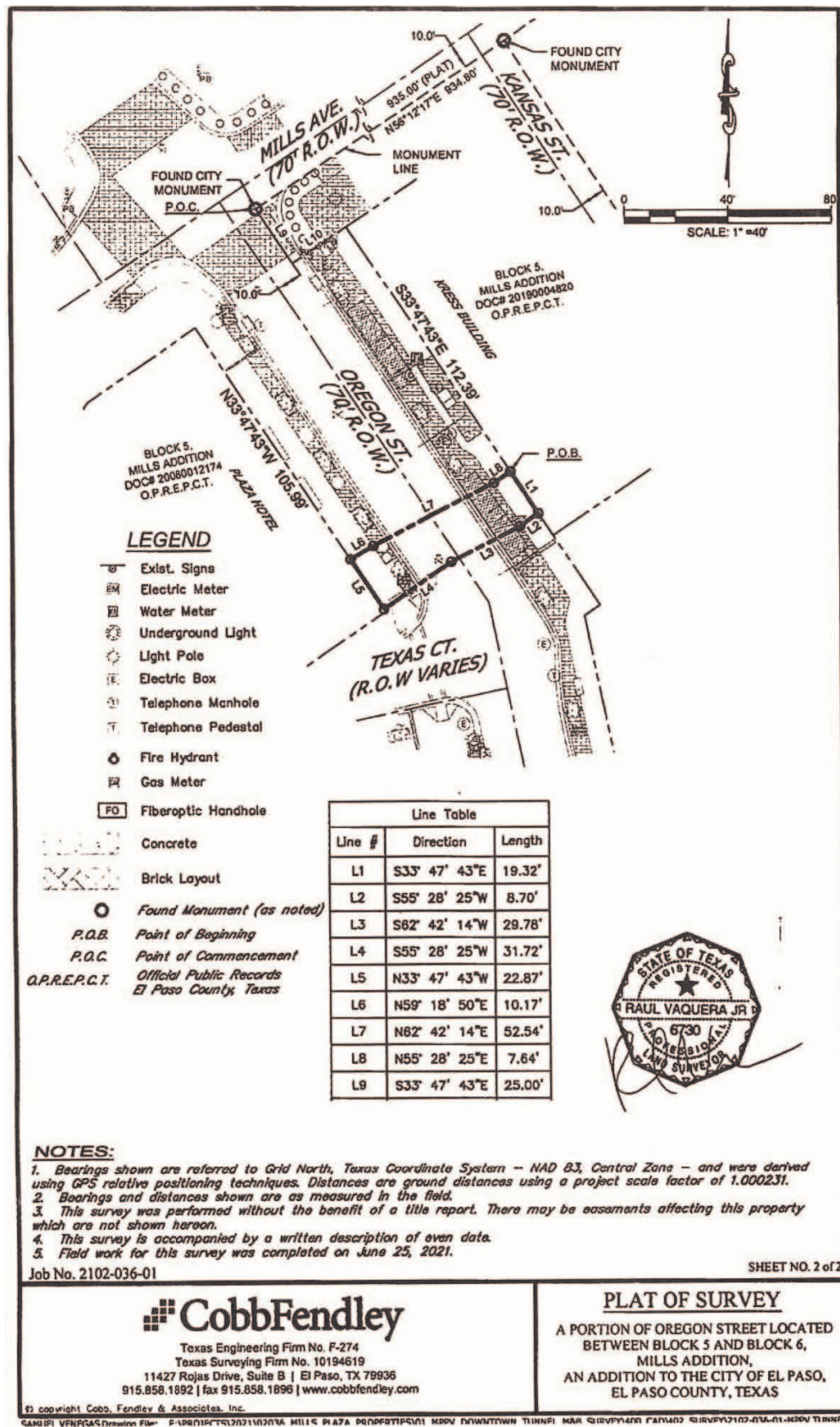
ATTACHMENTS:

1. Aerial Map
2. Survey
3. Metes and Bounds Description
4. Application
5. Department Comments

Oregon St. ROW Vacation



ATTACHMENT 2



METES AND BOUNDS DESCRIPTION

ATTACHMENT 4



VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY APPLICATION

Date: 03/28/2022

File No. SURW22-00009

1. APPLICANTS NAME: Kress Tunnel, LLC
ADDRESS: 123 W. Mills Ave. Suite 600 ZIP CODE: 79901 TELEPHONE: 915-504-7152
2. Request is hereby made to vacate the following: (check one)
Street ☐ Alley ☐ Easement ☐ Other ☒
Street Name(s): Oregon Street Subdivision Name: Mills Addition
Abutting Blocks: Abutting Lots:
3. Reason for vacation request: This is a partial vacation to allow the installation of an underground tunnel in Oregon street. The surface right of way will be retained by the City; but all underground utilities will be relocated to allow the tunnel to cross the full width of the right of way as shown on attached plans. Any removal of surface improvements will be restored to their former conditions.
4. Surface Improvements located in subject property to be vacated:
None ☒ Paving ☐ Curb & Gutter ☐ Power Lines/Poles ☐ Fences/Walls ☐ Structures ☐ Other ☐
5. Underground Improvements located in the existing rights-of-way:
None ☐ Telephone ☒ Electric ☒ Gas ☒ Water ☒ Sewer ☒ Storm Drain ☒ Other ☐
6. Future use of the vacated right-of-way:
Yards ☐ Parking ☐ Expand Building Area ☐ Replat with abutting Land ☐ Other ☒
7. Related Applications which are pending (give name or file number):
Zoning ☐ Board of Adjustment ☐ Subdivision ☐ Building Permits ☐ Other ☐
8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
	Parcel of Land located between block 5 and 6	915-504-7152

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

OWNER SIGNATURE: REPRESENTATIVE SIGNATURE:

REPRESENTATIVE (PHONE): (915) 504-7151

REPRESENTATIVE (E-MAIL): rbransford@fmmep.com

NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.

Planning & Inspections Department
811 Texas | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 212-0085

ATTACHMENT 5

Planning and Inspections Department- Planning Division

Staff recommends approval. The surface roadway must be maintained for vehicular and pedestrian traffic. In addition, the City of El Paso must have access for maintenance to the roadway and all other surface level improvements. Note AT&T, El Paso Water, and El Paso Electric comments regarding continued coordination and in retaining access and utility/drainage easements.

AT&T

AT&T has no objection subject to continue coordination and a utility easement is granted for existing structure that would not require relocation.

El Paso Water

EPWater does not object to the vacation subject to continued coordination with the applicant on the final water/sewer/stormwater to address the outstanding comments. *Utility and drainage easement is to be retained.

El Paso Electric

If EPE existing facilities need to be relocated, then the customer will need to coordinate with our Distribution Engineering Department.

EPE will retain an easement right for any lines we have: "A utility easement along the entire roadway/alleyway will remain in favor of El Paso Electric Company and their successors and assigns for the infrastructure in existence in the roadway/alleyway on the date of this vacating ordinance. The rights granted by this utility easement include rights of access, operation, inspection, repair, replacement with like-kind infrastructure, removal, and maintenance by El Paso Electric Company and their successors and assigns."

Planning and Inspections Department- Land Development Division

We have reviewed subject plats and recommend **Approval**.

The Developer/Engineer shall address the following comments.

1. No objections to proposed right-of-way vacation. All comments made in 5 day review were addressed in Packet Documents.

Streets and Maintenance Department

- Any damaged traffic signal underground utilities shall be restored to their former conditions or better.
- Traffic signal underground utility locates shall be coordinated with the Streets and Maintenance Department.

Parks and Recreation Department

We have reviewed Oregon/Mills Street Right of Way Vacation survey map and on behalf of Parks & Recreation Department we offer "No" objections to this proposed street right of way vacation request.

Fire Department

Recommend approval – no adverse comments.

Sun Metro

No comments received.

Capital Improvement Department

No comments received.

Texas Gas

No comments received.

El Paso County 911 District

No comments received.

Texas Department of Transportation

No comments received.

El Paso County

No comments received.

El Paso County Water Improvement District #1

No comments received.