



00308916201601205890180184

Resolution 1022-16

BY THE COUNCIL: BEAUMONT, HIGGINS, MITCHELL, AND SOUZA

RESOLUTION AUTHORIZING THE ABANDONMENT AND VACATION OF A PORTION OF A PLAT CREATING A TEN FOOT (10') EASEMENT FOR PUBLIC UTILITIES, DRAINAGE, AND IRRIGATION EASEMENT ADJACENT TO LOT 9 OF THE OMEGA PLAZA SUBDIVISION, GARDEN CITY, ADA COUNTY, IDAHO; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Note 8 on sheet 1 of the Omega Plaza Subdivision recorded with Ada County Recorder's Office, Book 93 Pages 11276-11277 establishes the following easement: "All lots are hereby designated as having a permanent public utilities, drainage and irrigation easement over the ten (10') adjacent to the exterior boundary."

WHEREAS, Gary and Lori Asin have petitioned the Garden City Council to vacate a portion of the easement created by Note 8 on the Omega Plaza Subdivision plat adjacent to Lot 9.

WHEREAS, Gary and Lori Asin has filed with the City, **Exhibit A** herein after the easement, which further describes the easement to be vacated and contains a legal description and vacation exhibit.

WHEREAS, in accordance with Idaho Code §50-1306A Vacation of Plats- Procedure the Council does hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. On October 10, 2016 Gary and Lori Asin has filed with the City and petitioned the Garden City Council to vacate a portion of the Omega Plaza Plat. This petition, attached to this Resolution as **Exhibit B**, set forth particular circumstances of the requests to vacate; contains a legal description of the easement to be vacated; and relinquishment of any rights to the easement by:
 - a. Idaho Power
 - b. Intermountain Gas
 - c. Cable One
 - d. Century Link
 - e. Thurman Mill Irrigation District
 - f. Beneficiary of drainage

2. Omega Plaza Subdivision is in the jurisdictional boundaries of the City of Garden City.

3. The request does not affect public right-of-way.
4. The request was reviewed by:
 - a. The City Engineer
 - b. Garden City Development Services
 - c. Garden City Water Division
 - d. Garden City Sewer Division
 - e. Garden City Environmental Division
 - f. Garden City Attorney
5. A public hearing was scheduled for November 14, 2016.
6. Written notice of public hearing on said petition was given, by certified mail with return receipt, on or prior to October 21, 2016, more than ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition.
7. Such notice of public hearing and the intent was published October 24, 2016 and October 31, 2016 In the Idaho Statesman, the official newspaper of the City. The publish dates were two successive weeks more than seven (7) days prior to the hearing.
8. A public hearing was held November 14, 2016. There were no written comments. Oral testimony was received by Pat Tealey in favor of the request on behalf of the applicant.
9. The City Council by formal motion, approved the request with the following restrictions deemed necessary in the public interest:
 - a. Fees to cover the cost of publication shall be paid by the petitioner.
 - b. The recipient of the drainage rights of the easement shall be identified, and consent to vacate shall be provided by such recipient to be recorded with this resolution.
 - c. Consent to vacate shall be provided by Century Link to be recorded with this resolution.

CONCLUSIONS OF LAW:

WHEREAS, in accordance with Idaho Code §50-1306A the Council does hereby make the following findings of fact and conclusions of law:

1. It is the opinion of the City Council of Garden City that the portion of the subject easement is no longer needed by the City.

2. The vacation of the easement is in order and does not adversely affect present and future citizens.
3. Any unresolved claim to easement will be a matter between the property owner and the claimant.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF GARDEN CITY, IDAHO the part there of the Omega Plaza Subdivision Plat that creates the easement adjacent to Lot 9 for the purposes of a 10' permanent public utilities, drainage and irrigation easement be vacated, and as further described in the attachments to this resolution. All other portions and parts of the Omega Plaza subdivision are to remain in effect.

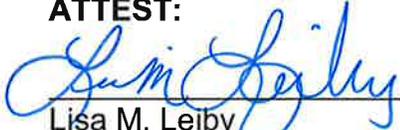
BE IT FURTHER RESOLVED, that the City of Garden City relinquishes any and all of their rights to the easement described here within.

BE IT FURTHER RESOLVED, that upon the adoption and approval of this Resolution the appropriate Garden City staff is hereby directed to proceed to take those steps necessary to implement the subject vacation.

This Resolution shall be in full force and effect upon its passage and approval by the City of Garden City.

ADOPTED and APPROVED by the Mayor of the City of Garden City, Idaho, this 14th day of November, 2016.

ATTEST:



Lisa M. Leiby
CITY CLERK

APPROVED:



John G. Evans
MAYOR





**TEALEY'S LAND
SURVEYING**

12594 W. Explorer Drive, Suite 150 • Boise, Idaho 83713
(208) 385-0636
Fax (208) 385-0696

Project: Tealey's, Omega
Date: September 19, 2016

**DESCRIPTION OF
EASEMENT VACATION
FOR LOT 9, OMEGA SUBDIVISION**

A strip of land being the Northeasterly 10.00 feet of Lot 9 of Block 1 of Omega Plaza Subdivision as on file in Book 93 of plats at Pages 11276 & 11277 in the Office of the Recorder for Ada County, Idaho, said parcel being situated in the NW 1/4 of Section 31, T.4N., R.2E., B.M., Garden City, Ada County, Idaho and more particularly described as follows:

BEGINNING at the Easterly corner of said Lot 9, marked by an iron pin; thence along the Southeasterly line of said Lot 9
South 34°22'00" West 10.00 feet to a point; thence along a line parallel with the Northeasterly line of said Lot 9
North 55°38'00" West 90.00 feet to a point on the Northwesternly line of said Lot 9; thence along said Northwesternly line
North 34°22'00" East 10.00 feet to the Northerly corner of said Lot 9; thence along said Northeasterly line of Lot 9
South 55°38'00" East 90.00 feet to the **POINT OF BEGINNING**.

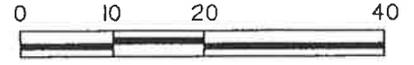
Said Parcel of Land Contains 900 Square Feet, more or less.



Exhibit A

EASEMENT VACATION EXHIBIT

A PORTION OF LOT 9, BLOCK 1, OMEGA PLAZA SUBDIVISION,
LYING IN THE NW 1/4, SECTION 31, T.4N., R.2E., B.M.,
GARDEN CITY, ADA COUNTY, IDAHO



SCALE IN FEET
1" = 20'

10' EASEMENT TO
BE VACATED

LOT 1

FENCE

CONCRETE

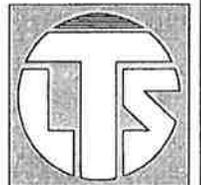
CELL TOWER SITE

LOT 9

EDGE OF CONC.

CHAINLINK FENCE ON
CONCRETE CURB
AROUND CELL TOWER
SITE

LOT 10



PLAT OF Bk 93 Pg 11276
OMEGA PLAZA SUBDIVISION
 A PORTION OF THE NW 1/4 OF SECTION 31,
 T.4N., R.2E., B.M.
 GARDEN CITY, ADA COUNTY, IDAHO
 2005



LEGEND

- BOUNDARY LINE
- CENTER LINE
- SECTION LINE
- EASEMENT LINE
- STORM DRAINAGE EASEMENT
- RIGHT OF WAY LINE
- PLATTED LOT LINE
- LOT NUMBER
- FOUND/SET BRASS CAP
- FOUND ALLURBIA CAP
- FOUND 5/8" IRON PIN (AS NOTED)
- SET 5/8" X 30" IRON PIN w/CAP
- FOUND 1/2" IRON PIN
- SET 1/2" X 24" IRON PIN w/CAP
- CALCULATED POINT

NOTES:

1. LOT 1, BLOCK 1 IS HEREBY DESIGNATED AS BEING COVERED BY A PERMANENT EASEMENT PUBLIC UTILITIES, GARDEN CITY SANITARY SEWER AND WATER EASEMENT.
2. LOT 1, BLOCK 1 IS DESIGNATED AS A COACH LOT AND SHALL BE PAVED AND LIGHTED BY THE OREGA PLAZA SUBDIVISION HOMEOWNERS ASSOCIATION.
3. THE DEVELOPMENT OF THIS PROPERTY SHALL BE IN COMPLIANCE WITH THE GARDEN CITY ZONING ORDINANCE.
4. MINIMUM BUILDING SETBACK LINES SHALL BE IN ACCORDANCE WITH THE GARDEN CITY ZONING ORDINANCE AT THE TIME OF SUBDIVISION.
5. ANY REZONING OF THIS PLAT SHALL CONFORM TO THE APPLICABLE ZONING REGULATIONS IN EFFECT AT THE TIME OF SUBDIVISION.
6. OTHER THAN THE ADA COUNTY HIGHWAY DISTRICT APPROVED ACCESS POINT, DIRECT LOT ACCESS TO EAST SUN STREET IS PROHIBITED. APPROVED ACCESS POINT BEING THE PROLONGATION OF THE CENTERLINE OF N. SHERMAN AND
7. ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT PUBLIC UTILITIES, DRAINAGE, SEWAGE AND GARDEN CITY STREET LIGHT EASEMENT OVER THE TEN (10') ADJACENT TO ANY PUBLIC STREET. THIS EASEMENT SHALL NOT PRECLUDE THE CONSTRUCTION OF HARD-SURFACED DRIVEWAYS AND WALKWAYS TO EACH LOT.
8. ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT PUBLIC UTILITIES, DRAINAGE AND SEWAGE EASEMENT OVER THE TEN (10') ADJACENT TO THE EXTERIOR BOUNDARY.
9. LOT 1, BLOCK 1 IS HEREBY DESIGNATED AS BEING A PRIVATE ROAD WITH A PERPETUAL EASEMENT FOR DRIVERS/DRIVERS ACCESS, AND STORM DRAINAGE TO RUN WITH THE LAND IN FAVOR OF ALL LOT OWNERS WITHIN THE OREGA PLAZA SUBDIVISION. SAID LOT OWNERS SHALL HAVE AN UNDIVIDED INTEREST IN THE PRIVATE ROAD, AND THE OREGA PLAZA SUBDIVISION HOMEOWNERS ASSOCIATION SHALL MAINTAIN AND OPERATE THE PRIVATE ROAD.
10. THE LAND WITHIN THIS PLAT IS NOT WITHIN AN EASEMENT DISTRICT AS DEFINED IN IDAHO CODE 30-3005, AND THE REQUIREMENTS IN I.C. 30-3005 ARE NOT APPLICABLE.
11. ALL STORM DRAINAGE TO REMAIN ON SITE.
12. STORM DRAINAGE EASEMENTS DEPICTED ON THIS PLAT ARE FOR THE USE AND BENEFIT OF THE OREGA PLAZA SUBDIVISION HOMEOWNERS ASSOCIATION, AND SHALL BE MAINTAINED BY SAID HOMEOWNERS ASSOCIATION.

LINE TABLE

LINE	LENGTH	BEARING
L1	77.25	S 27° 10' 30" W
L2	77.25	S 27° 10' 30" W
L3	42.00	S 20° 15' 00" W
L4	134'	S 24° 10' 30" W

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C1	1000.00	02° 18' 44"	40.95	S 25° 03' 18" W	40.95
C2	284.50	02° 29' 39"	4.79	S 27° 10' 30" W	4.79
C3	1000.00	02° 18' 44"	39.77	S 25° 03' 18" W	39.75
C4	284.50	02° 29' 39"	23.84	S 27° 10' 30" W	23.82
C5	134.50	02° 40' 48"	19.00	S 20° 15' 00" W	19.00
C6	134.50	02° 40' 48"	19.00	S 20° 15' 00" W	19.00
C7	1000.00	02° 18' 44"	39.99	S 25° 03' 18" W	39.97



KEPT TO RECORD OF SURVEY No. 6984

TEALEY'S LAND SURVEYING

8701 SUGAR BUSH RD. GARDEN CITY, IDAHO 83703
 208-385-0436

Project No. 2622 Sheet 1 of 2

CRP# DIST. No. 104030367
 25/30
 36/31

CRP# DIST. No. 10453433

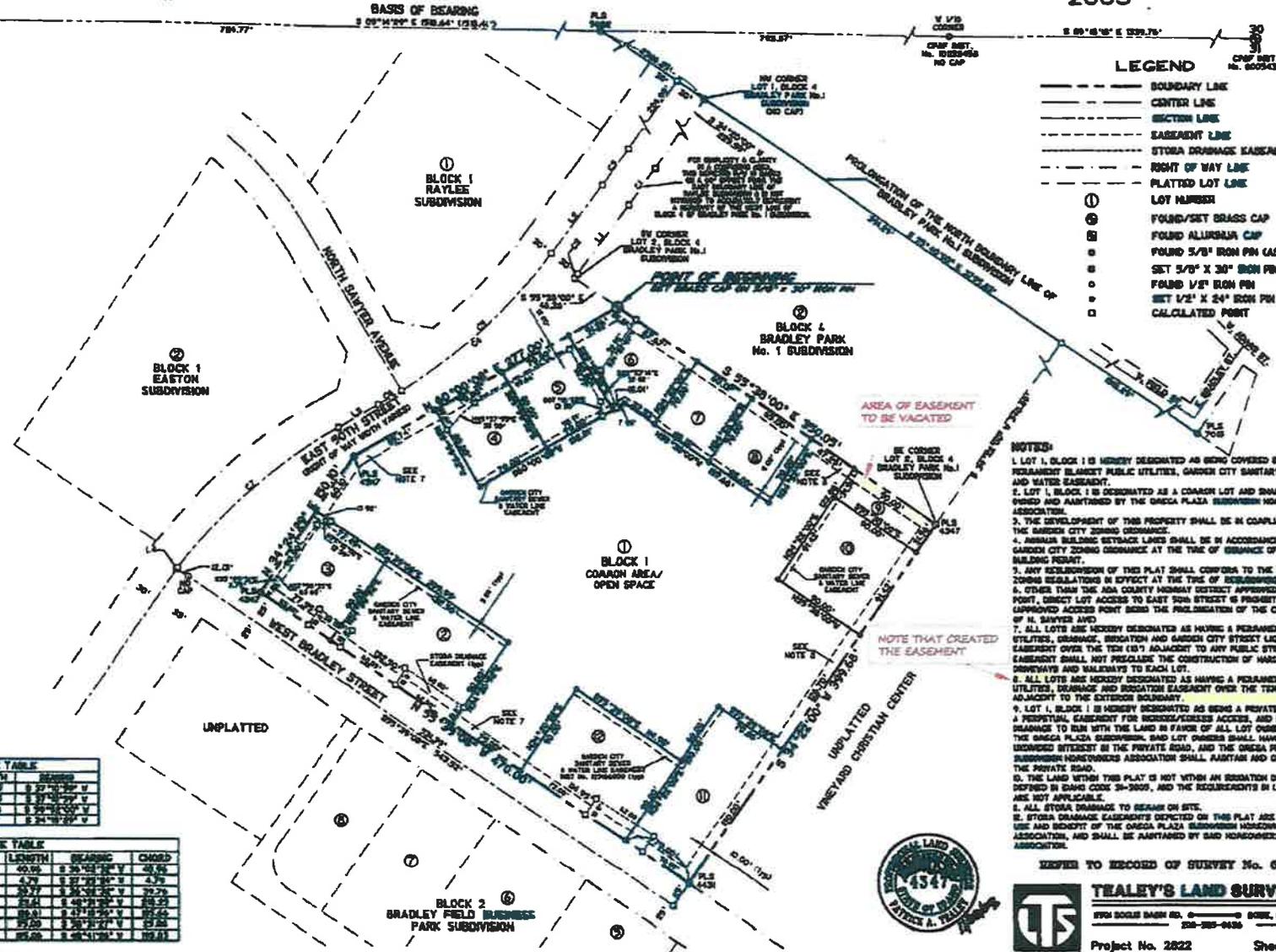


Exhibit B



**TEALEY'S LAND
SURVEYING**

12594 W. Explorer Ste.#150 –Boise, ID 83713

(208) 385-0636

Fax (208) 385-0696

Garden City Planning Dept.
City Hall
6015 Glenwood
Garden City , Idaho 83714

Attn. Jenah Thornborrow

RE: Easement Vacation Lot 9 Omega Plaza Sub.

The applicant, Gary and Lori Asin wish to vacate the 10' Public Utility Drainage and Irrigation Easement along the Northerly line of Lot 9 of Omega Plaza Sub. This Easement was created by Note No. 5 on the recorded Plat.

Lot 9 has an existing Cell Tower that is leased to a cell phone service provider. The cell tower was built and in place before Omega Subdivision was developed and platted. The easement that was granted by the Plat inadvertently created an encroachment into the existing improvements of the cell tower facility.

This problem came to light as a result of a planned improvement to the existing cell tower. The applicant is requesting vacation of the easement in order to cure that problem, and to facilitate future construction plans.

All utilities and the irrigation and drainage districts have been contacted and have agreed to relinquishment of their easement rights.

See attached exhibits for further clarification.

Patrick A. Tealey
PLS #4347



208

ACCOMMODATION ONLY

QUITCLAIM DEED

FOR VALUE RECEIVED

John W. Moody and Betty L. Moody, husband and wife

do/does hereby convey, release, remise, and forever quitclaim unto:

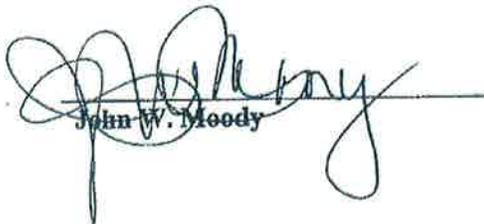
Gary C. Asin and Lori J. Asin, husband and wife,

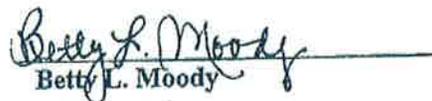
whose current address is: 3382 W. Verdant Pl, Star, ID 83669

An undivided 50% interest in and to the following described premises, to-wit:

Lot 9 in Block 1 of OMEGA PLAZA SUBDIVISION, according to the official Plat thereof, filed in Book 93 of Plats at Pages 11276 and 11277, records of Ada County, Idaho.

Dated: 6-11-08


John W. Moody


Betty L. Moody

STATE OF IDAHO, COUNTY OF ADA, ss.

On this 11 day of JUNE in the year of 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared

JOHN W. MOODY AND BETTY L. MOODY

known or identified to me to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: 

Name: KIMBERLY A. OLSON
Residing at: BOISE IDAHO





November 17th 2016

City of Garden City
6015 N. Glenwood St.
Garden City, Idaho, 83714

SUBJECT: Vacation

Project Name: Garden City ID. Easement Release (Omega Plaza Subdivision Lot 9)

Parcel Number: R6532210090

Re: Request for the vacation of the existing 10' Public Utility Easement on Lot 9 Block1, , within the Omega Subdivision. The location is NW ¼ of Section 31, T4N, R2E, Ada County Idaho

Dear City of Garden City,

QWEST CORPORATION d/b/a CENTURYLINK has reviewed the request of the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation. CenturyLink will release the southerly 6 feet of the northerly 10 feet of the westerly 80 feet of the existing 10' PUE described above.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

This vacation response is submitted **WITH THE STIPULATION** that if CenturyLink facilities are found within the vacated area as described, the Applicant will relocate the facilities at Applicant's expense and within guidelines set by CenturyLink and all regulating entities. All relocations will be done under the supervision of a CenturyLink Inspector.

Respectfully,

Mary Hutton

**Thank you,
Mary Hutton
Network Real Estate
WEST REGION
602.630.7778 Office
480.415.4302 Cell
602.246.1326 Fax
Mary.Hutton1@centurylink.com**



**TEALEY'S LAND
SURVEYING**

12594 W. Explorer Drive, Suite 150 • Boise, Idaho 83713
(208) 385-0636
Fax (208) 385-0696

Project: Tealey's, Omega
Date: September 19, 2016
Revised: November 10, 2016
Revised: November 18, 2016

**DESCRIPTION OF
EASEMENT VACATION FOR CENTURY LINK
FOR LOT 9, OMEGA SUBDIVISION**

A strip of land being a portion of the Northeasterly 10.00 feet of Lot 9 of Block 1 excepting the Southeasterly 10.00 feet thereof, of Omega Plaza Subdivision as on file in Book 93 of plats at Pages 11276 & 11277 in the Office of the Recorder for Ada County, Idaho, said parcel being situated in the NW 1/4 of Section 31, T.4N., R.2E., B.M., Garden City, Ada County, Idaho and more particularly described as follows:

COMMENCING at the Easterly corner of said Lot 9, marked by an iron pin; thence along the Northeasterly line of said Lot 9

North 55°38'00" West 10.00 feet to a point; thence along a line parallel with the Southeasterly line of said Lot 9

South 34°22'00" West 4.00 feet to the **POINT OF BEGINNING**; thence continuing

South 34°22'00" West 6.00 feet to a point; thence along a line parallel with said Northeasterly line of Lot 9

North 55°38'00" West 80.00 feet to a point on the Northwestern line of said Lot 9, thence along said Northwestern line

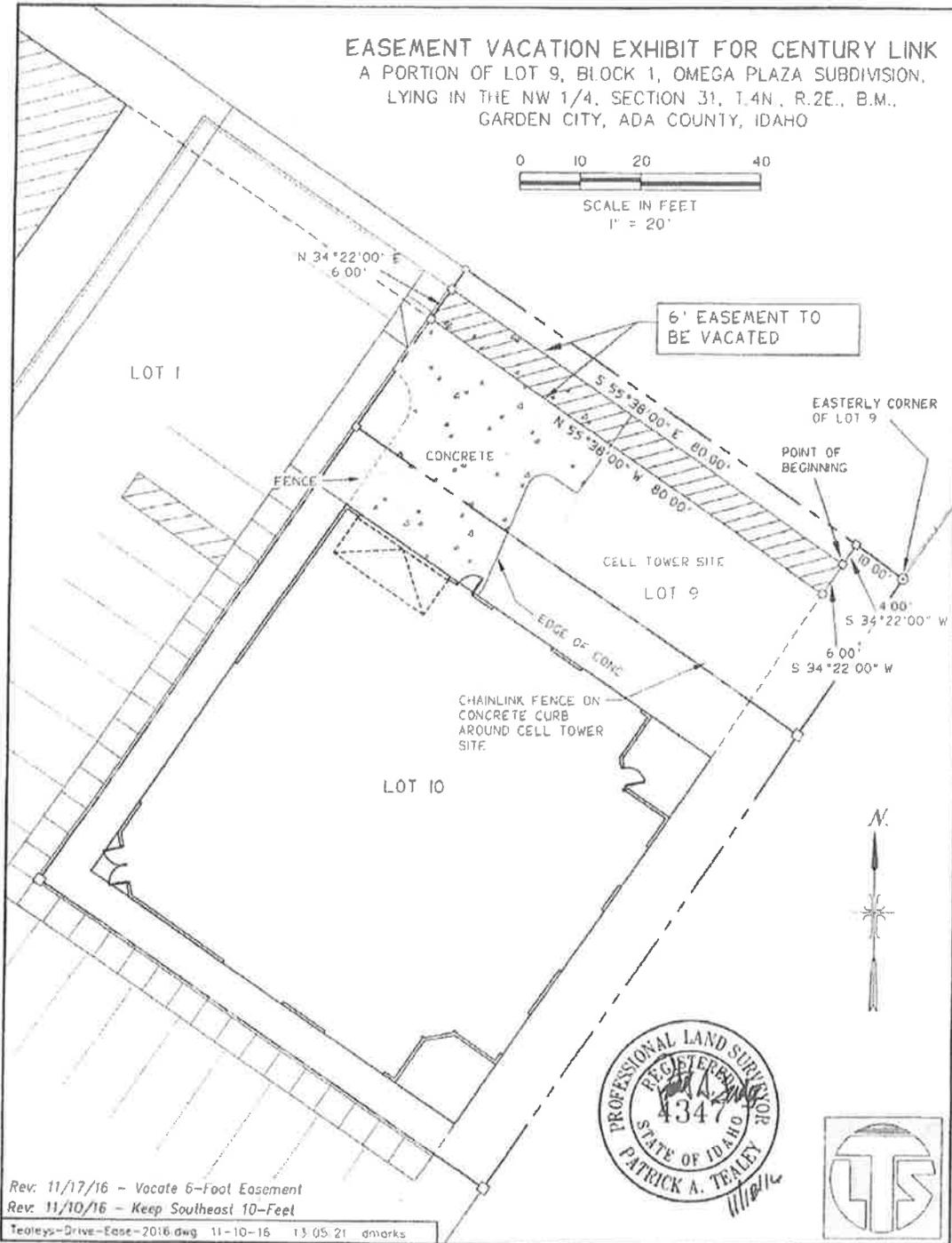
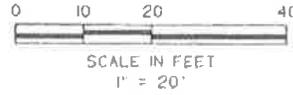
North 34°22'00" East 6.00 feet to a point; thence leaving said line along a line parallel with said Northeasterly line of Lot 9

South 55°38'00" East 80.00 feet to the **POINT OF BEGINNING**.

Said Parcel of Land Contains 480 Square Feet, more or less.



EASEMENT VACATION EXHIBIT FOR CENTURY LINK
 A PORTION OF LOT 9, BLOCK 1, OMEGA PLAZA SUBDIVISION,
 LYING IN THE NW 1/4, SECTION 31, T.4N., R.2E., B.M.,
 GARDEN CITY, ADA COUNTY, IDAHO



Rev: 11/17/16 - Vacate 6-foot Easement
 Rev: 11/10/16 - Keep Southeast 10-Feet
 Tealeys-Drive-Ease-2016.dwg 11-10-16 13 05 21 dmarks



**TEALEY'S LAND
SURVEYING**

12594 W. Explorer Drive, Suite 150 • Boise, Idaho 83713
(208) 385-0636
Fax (208) 385-0696

Project: Tealey's, Omega
Date: September 19, 2016

**DESCRIPTION OF
EASEMENT VACATION
FOR LOT 9, OMEGA SUBDIVISION**

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BEGINNING at the Easterly corner of said Lot 9, marked by an iron pin; thence along the Southeasterly line of said Lot 9

South 34°22'00" West 10.00 feet to a point, thence along a line parallel with the Northeasterly line of said Lot 9

North 55°38'00" West 90.00 feet to a point on the Northwesterly line of said Lot 9; thence along said Northwesterly line

North 34°22'00" East 10.00 feet to the Northerly corner of said Lot 9; thence along said Northeasterly line of Lot 9

South 55°38'00" East 90.00 feet to the POINT OF BEGINNING.

Said Parcel of Land Contains 900 Square Feet, more or less.



208

ACCOMMODATION ONLY

QUITCLAIM DEED

FOR VALUE RECEIVED

John W. Moody and Betty L. Moody, husband and wife

do/does hereby convey, release, remise, and forever quitclaim unto:

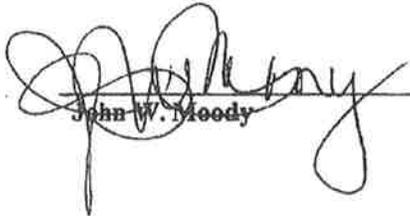
Gary C. Asin and Lori J. Asin, husband and wife,

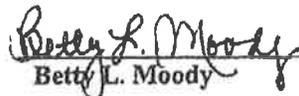
whose current address is: 3382 W. Verdant Pl, Star, ID 83669

An undivided 50% interest in and to the following described premises, to-wit:

Lot 9 in Block 1 of OMEGA PLAZA SUBDIVISION, according to the official Plat thereof, filed in Book 93 of Plats at Pages 11276 and 11277, records of Ada County, Idaho.

Dated: 6-11-08


John W. Moody


Betty L. Moody

STATE OF IDAHO, COUNTY OF ADA, ss.

On this 11 day of JUNE in the year of 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN W. MOODY AND BETTY L. MOODY

known or identified to me to be the person(s) whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: 

Name: KIMBERLY A. OLSON
Residing at: BOISE IDAHO





October 3, 2016

Via Electronic Mail: ptealey@tealeys.com

Tealey's Land Surveying
Attn: Patrick Tealey
12594 W. Explorer Drive, Suite 150
Boise, Idaho 83713

Re: Relinquishment of a portion of 10' public utility easement located along the northeast border of Lot 9, Block 1, Omega Plaza Subdivision.

Situated in the NW 1/4 of Section 31, Township 4 North, Range 2 East, Boise Meridian, Ada County, Idaho.

Dear Mr. Tealey:

This is in response to the Relinquishment Application submitted to Idaho Power Company on September 28, 2016, regarding the possible relinquishment of a certain area of platted utility easement located along the northeast border of Lot 9, Block 1 of Omega Plaza Subdivision, as described in Exhibit A (the "Utility Easement Area").

Idaho Power's review of the relinquishment request indicated that there are no facilities with the Utility Easement Area. As such, Idaho Power agrees to relinquish what easement rights are found within the Utility Easement Area.

Thank you once again for providing Idaho Power Company the opportunity to review and comment upon the subject petition for relinquishment.

Sincerely,

A handwritten signature in blue ink that reads "Mary K. Alandt".

Mary K. Alandt
Associate Real Estate Specialist
Land Management and Permitting Department
(208) 388-2699
malandt@idahopower.com

Relinquishment of Easement for Omega Plaza Northerly Line Lot 9, Block 1

CABLE ONE, Relinquishes any and all of their rights to the following described easement.

A strip of land being the Northeasterly 10.00 feet of Lot 9 of Block 1 of Omega Plaza Subdivision as on file in Book 93 of plats at Pages 11276 & 11277 in the Office of the Recorder for Ada County, Idaho, said parcel being situated in the NW 1/4 of Section 31, T.4N., R.2E., B.M., Garden City, Ada County, Idaho and more particularly described as follows:

See attached exhibit(s)

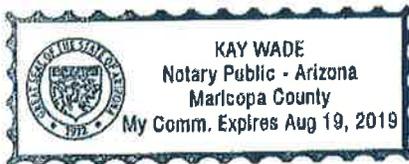
CABLE ONE

by: *John D. Gosch*
(type name and title)
John D. Gosch
VP West Division

State of ~~Idaho~~ **ARIZONA**)
) ss.
County of ~~Ada~~ **MARICOPA**)

On this 22nd day of SEPTEMBER, in the year of 2016, before me, a Notary Public in the State of ~~Idaho~~ **ARIZONA**, personally appeared John D. Gosch known or identified to me to be the person whose name is subscribed to the within instrument, who, being by me first duly sworn, did depose and say that he/she is VICE PRESIDENT of Cable One and that he/she executed the foregoing instrument on behalf of said firm for the use and purposes stated therein.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written..



Kay Wade
Notary Public for State of ~~Idaho~~ **ARIZONA**
Residing at MARICOPA Co, AZ
My Commission expires Aug 19, 2019

Relinquishment of Easement for Omega Plaza Northerly Line Lot 9, Block 1

Thurman Mill District. Relinquishes any and all of their rights to the following described easement.

A strip of land being the Northeasterly 10.00 feet of Lot 9 of Block 1 of Omega Plaza Subdivision as on file in Book 93 of plats at Pages 11276 & 11277 in the Office of the Recorder for Ada County, Idaho, said parcel being situated in the NW 1/4 of Section 31, T.4N., R.2E., B.M., Garden City, Ada County, Idaho and more particularly described as follows:

See attached exhibit(s)



Thurman Mill District

by: Adam Reno, VP Thurman Mill
(type name and title)

State of Idaho)
) ss.
County of Ada)

On this 2 day of November, in the year of 2016, before me, a Notary Public in the State of Idaho, personally appeared Adam Reno/VP TM known or identified to me to be the person whose name is subscribed to the within instrument, who, being by me first duly sworn, did depose and say that he/she is Adam Reno of Century Link and that he/she executed the foregoing instrument on behalf of said firm for the use and purposes stated therein.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written..



James D Cox
Notary Public for State of Idaho
Residing at Base, IDAHO
My Commission expires 8-29-19