



Memo

To: Mayor and Hayden City Council

From: Dulci Kau, City Engineer

Date: 09.29.2026

Agenda Item: Approval of Right-of-Way Contract and Property Use Agreement with Josh Brown and Alicia Brown for the Hayden Avenue and Atlas Road Roundabout.

Agenda Item Location

New Business

Background and Recommended Action or Motion

The City of Hayden plans to construct a roundabout at the intersection of West Hayden Avenue and North Atlas Road. The project requires the acquisition of right-of-way from adjacent parcels to accommodate the expanded roadway. The Project requires 0.012 acres of additional right-of-way and a temporary construction easement on .0349 acres from Kootenai County parcel H405021203AC, located at 9551 North Atlas Road, Hayden, Idaho. The property owner has agreed to the just compensation amount of \$11,139.20 offered by the City.

Motion: Move to authorize the purchase of right-of-way and temporary easement from Josh and Alicia Brown, owners of the real property located at 9551 North Atlas Road for the sum of \$11,139.20 and authorize the Mayor to sign the right-of-way agreement, warranty deed, property use agreement and associated acquisition documents.

Functional Impact of Authorizing

The acquisition of this parcel completes a necessary component of the right of way and easement acquisition for the Hayden Avenue and Atlas Road Roundabout Project.

Functional Impact of Not Authorizing.

If the purchase of this right-of-way and temporary easement is not approved, the acquisition will not be completed, delaying the construction of the projects and likely increasing future cost to the City.

Fiscal Impact

This expenditure is budgeted in GL 130-899-59840-8007 – Hayden/Atlas Intersection Project Land Acquisition

Attachments

Right of Way Agreement, Warranty Deed, and Property Use Agreement – 9551 North Atlas Road
Vicinity Map

After recording return document to:
City of Hayden
8930 N Government Way
Hayden, ID 83835

Right of Way Contract
Parcel: H405021203AC
Alicia & Josh Brown

RIGHT OF WAY CONTRACT

Project: Hayden Avenue & Atlas Road Roundabout Improvement Project

Parcel No: H405021203AC

Property Address: 9551 N. Atlas Road, Hayden, ID 83835

This RIGHT OF WAY CONTRACT ("AGREEMENT"), made this ____ day of _____, 20____ between Josh Allen Brown and Alicia Brown, husband and wife, herein called "GRANTOR," and the City of Hayden, a Political Subdivision of the State of Idaho, 8930 N. Government Way, Hayden, Idaho 83835, herein called "GRANTEE" or the "City"

WHEREAS, The City is engaged in the construction of a transportation project designated as the Hayden Avenue & Atlas Road Roundabout Improvement Project ("Project"), which will affect certain property belonging to Grantor known as Parcel Number stated above, and described on attached **Exhibit A**, and depicted on attached **Exhibit B** (collectively, the "Property").

WHEREAS, The Grantor agrees to the temporary construction easement area depicted in **Exhibit C**.

WHEREAS, The City agrees to remove the pine tree adjacent to the proposed sidewalk, as depicted in **Exhibit C**.

WHEREAS, Grantor herewith delivers to the City a Warranty Deed for right-of-way needs for the area defined by the Legal Description in **Exhibit A** and depicted in **Exhibit B**.

NOW THEREFORE, the parties hereto agree as follows:

1. The City shall pay Grantor and the lienholder(s), if any, such sums of monies as are set out below. Grantor shall notify lienholder(s), if any, of this Contract and it is the Grantor's responsibility to obtain a release of relinquished parcel from his or her lienholder previous to closing on the purchase. Grantor agrees to pay all taxes and assessments due and owing, including a pro-rata share of the taxes owing for the year in which the transaction closes. Payment to Grantor pursuant to this Contract is contingent upon Grantor demonstrating clear title to the Property through use of documents acceptable to the City and Kootenai Title Company, the title company being used by the City for the Project ("Title Company").
2. Grantor shall execute and deliver to City a notarized instrument of conveyance corresponding to the interest being acquired. Closing of this transaction shall occur when all required documents, as well as compensation noted herein, have been submitted to Title Company, lienholder(s), if any, have been satisfied, and Title Company is in a position to provide the required title insurance to City ("Closing").
3. The parties have set forth the whole of their agreement herein, the performance of which constitutes the entire consideration for the grant of said right of way and shall relieve the City of all future claims by the Grantor or obligations of the City related to this Agreement or the construction, location, and grade of the public infrastructure.
4. Grantor represents that to the best of its knowledge no hazardous materials have been stored or spilled on the subject property during its ownership or during previous ownerships at least in so

far as Grantor has observed or has been informed. In the alternative, if the Grantor has knowledge of storage or spill of hazardous materials on the subject property, that information is set out below. This sale is conditional upon full disclosure of any such information.

5. **INGRESS and EGRESS:** Grantor agrees to enter into a temporary construction easement for the purpose of ingress and egress for construction of sidewalks, curbs and gutters, drainage facilities, tree removal and yard restoration, utility relocation, approaches, or any other item requiring minor encroachment on the Grantor's remaining property during construction. Said easement to terminate upon completion of construction.
6. **LEGAL and PHYSICAL POSSESSION:** Grantor agrees to give the City legal and physical possession of the Property on the date of payment. 90 days for possession is waived.
7. As of the closing date of this transaction, the land area described and defined herein is under the ownership of City. Grantor, its agents or assigns, is required to keep such area free of any personal property, and any garbage, refuse, or other debris. Notice is hereby provided that construction activities, including utility relocation activities, may occur at any time after ownership of the property has transferred to City.
8. City and Grantor acknowledge that relocation activities will occur on the Property from and after Closing and the City will coordinate any such construction activities described herein with the ongoing relocation activities until completed.
9. In consideration of the interest being conveyed, the City shall pay the Grantor for Right of Way and Easements as follows:

Type	Size (Sq. Ft)	Size (Acres)	Amount
Right-of-Way		0.012	\$8,704.00
Permanent Easement		N/A	
Temporary Easement		0.0349	\$2,435.20
Improvements:	- Tree Removal - 24' wide concrete approach extending 25' beyond the proposed sidewalk		
Total Compensation	\$11,139.20		

10. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho. Venue for any dispute or proceeding to enforce this Agreement shall be brought in the County of Kootenai, State of Idaho.
11. **MODIFICATION:** No modification of this Agreement shall be valid or binding unless such modification is in writing, duly dated, and signed by all parties.
12. **BINDING EFFECT:** This Agreement shall inure to the benefit of and shall be binding upon not only the parties hereto, but also upon their respective heirs, successors, representatives and assigns. The terms of this Agreement, to the extent they are in addition to, and not in conflict with, the terms of the Deed, shall survive Closing.

13. EXECUTION OF DOCUMENTS: The parties hereby agree to execute, and record where appropriate, any and all documents necessary to effectuate this transaction.
14. ENTIRE AGREEMENT: This instrument constitutes the entire agreement between the Parties and inures to the benefit of their respective heirs, descendants, successors, assigns and legal representatives. Neither party shall be bound by any terms, conditions, statements or representations, oral or written, not herein contained. Each party hereby acknowledges that in executing this Agreement he/she has not been induced, persuaded or motivated by any promise or representation made by the other party, unless expressly set forth herein. All previous negotiations, statements and preliminary instruments by the parties or their representatives are merged in this instrument.
15. LEGAL REVIEW: In entering into this Agreement, each party represents and warrants that it has relied upon the legal advice of its attorneys, who are its attorneys of choice, and that the terms, conditions and effects of this Agreement have been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them.
16. INCORPORATION OF RECITALS: The Recitals set forth above are incorporated in this Agreement as if set forth fully herein.
17. EFFECTIVENESS: This Agreement shall become effective upon the date that it is made and entered into by the parties.
18. BREACH OF AGREEMENT: Each party agrees that, in the event of any breach by them of the terms, provisions, and obligations of this Agreement, that party shall pay as damages to the other party or parties, the amount of the damages, expenses, attorney fees and costs associated with remedying any such breach of the Agreement.
19. SIGNATURE: The undersigned have read and understand this Settlement Agreement. Signatures to this Agreement may be obtained in counterpart, each of which shall be considered as an original.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

GRANTEE:

On _____, 20____

By: _____
Alan Davis, Mayor

ATTEST:

Abbi Sanchez, City Clerk

GRANTOR:

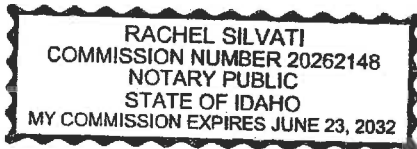
By: Alicia Brown
Alicia Brown, Owner

By: Josh Allen Brown
Josh Allen Brown, Owner

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 21 day of September, 2026, before me,
Rachel Silvati, a Notary Public in and for said State, personally appeared
Josh Brown and Alicia Brown, husband and wife, known or
identified to me to be the individuals who executed the instrument and acknowledged to me that they
executed the same.

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



Rachel Silvati
Notary Public for the State of Idaho
Residing at Spokane County
My commission expires 6/23/2032

EXHIBIT A

Legal Description – Josh Brown – Alicia Sailas

That portion of the northeast quarter of Section 21, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho described as follows:

Commencing at a 3 1/2 inch aluminum cap marking the northeast corner of said Section 21, said monument bears N 00°49'59" E a distance of 2645.90 feet from a 3 1/4 inch aluminum cap marking the East quarter corner of said Section 21; Thence along the East line of said northeast quarter, S 00° 49' 59" W a distance of 200.43 feet; Thence N 89° 10' 01" W a distance of 30.00 feet to the westerly right of way of Atlas Road and the **TRUE POINT OF BEGINNING**;

Thence along said West right of way, S 00° 49' 59" W a distance of 129.96 feet to the South line of the North half of said Tract 203;

Thence along said South line, N 88° 30' 56" W a distance of 4.13 feet;

Thence N 00° 49' 59" E a distance of 124.19 feet to the beginning of a curve to the left, having a radius of 291.94 feet;

Thence northerly along said curve, through an arc length 5.78 feet, through a central angle of 01° 08' 02", a chord bearing of N 00° 15' 58" E and a chord distance of 5.78 feet to the North line of the South 130 feet of the East 124 feet of the North half of the East half of Tract 203 of the Amended Plat of Hayden Lake Irrigated Tracts, recorded in Book C of Plats, Page 66, records of Kootenai County;

Thence along said North line, S 88° 30' 33" E a distance of 4.18 feet to the **TRUE POINT OF BEGINNING**.

Contains 536 square feet or 0.012 acres more or less.



Digitally signed by
Michael L Hathaway
Date: 2026.08.21
11:57:18-07'00'

30' 55'

HAYDEN AVE

16 15

21 22

N89°10'01"W
30.00'

S88°30'33"E
4.18'

L=5.78' R=291.94'
Δ=1°08'02"

CB=N00°15'58"E
CD=5.78'

AMENDED HAYDEN LAKE IRRIGATED TRACTS

N00°49'59"E
124.19'

S00°49'59"W 200.43'

ATLAS ROAD

TPOB

S00°49'59"W 129.96'

30' 30'

TRACT 203

N88°30'56"W
4.13'

536 SQ FT
0.012 ACRES

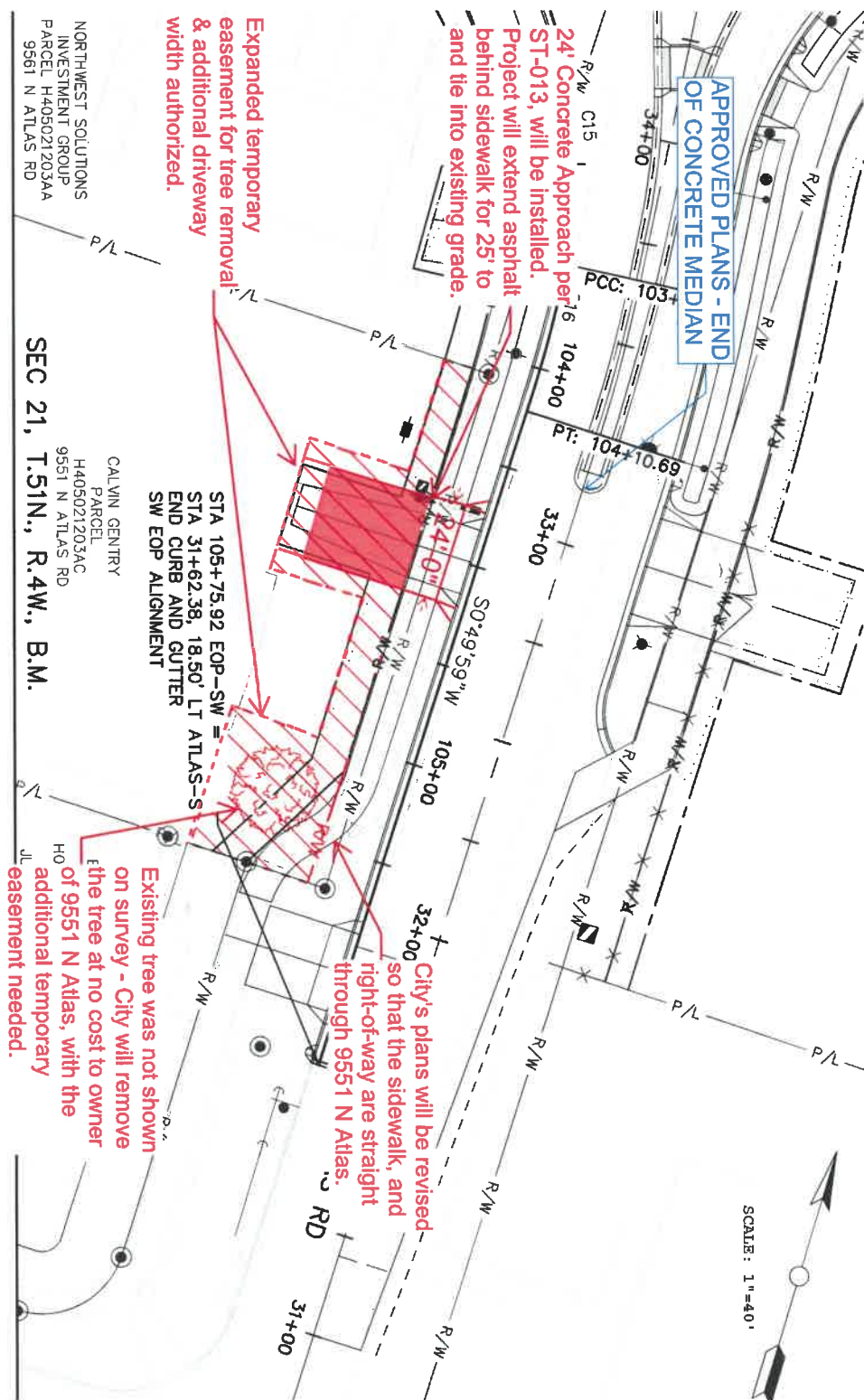
Digitally signed by
Michael L Hathaway
Date: 2026.08.21
11:57:43-07'00'

LAND SURVEYOR
318
OF IDAHO
HATHAWAY

SCALE: 1"

1 OF 1

EXHIBIT C - RIGHT-OF-WAY CONTRACT 9551 N ATLAS RD
TEMPORARY CONSTRUCTION EASEMENT, TREE REMOVAL &
DRIVEWAY



WARRANTY DEED

FOR VALUE RECEIVED, **Josh Allen Brown and Alicia Brown**, husband and wife, hereinafter called "GRANTOR", hereby grants, sells, and conveys unto the **City of Hayden, Kootenai County, a Political Subdivision of the State of Idaho**, 8930 N. Government Way, Hayden, Idaho 83835, hereinafter called "CITY" the premises described in EXHIBIT A and depicted in EXHIBIT B.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the CITY, that he/she/they is/are the Owner(s) in fee simple of said premises; that they are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject to those made, suffered, or done by the CITY; current taxes, levies, assessments, easements, reservations and right of way of view and covenants, conditions, restrictions, easements, reservations, dedications, right of way, and agreements of record and that he/she/they will warrant and defend the same from all lawful claims whatsoever.

DATED. September 21st, 2026

CITY:

Acceptance by the City of Hayden

On _____, 2026

By: _____
Alan Davis, Mayor

GRANTOR:

By: [Signature]
Josh Allen Brown, Owner

By: Alicia Brown
Alicia Brown, Owner

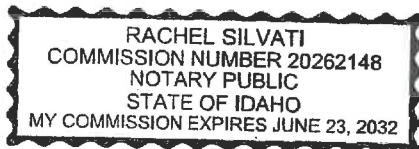
ATTEST:

Abbi Sanchez, City Clerk

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 21 day of September, 2026, before me,
Rachel Silvati, a Notary Public in and for said State, personally appeared
Josh Brown and Alicia Brown, husband and wife, known or identified
to me to be the individuals who executed the instrument and acknowledged to me that they executed the
same.

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



Rachel Silvati
Notary Public for the State of Idaho
Residing at Spokane County
My commission expires 6/23/2032

EXHIBIT A

Legal Description – Josh Brown – Alicia Sailas

That portion of the northeast quarter of Section 21, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho described as follows:

Commencing at a 3 1/2 inch aluminum cap marking the northeast corner of said Section 21, said monument bears N 00°49'59" E a distance of 2645.90 feet from a 3 1/4 inch aluminum cap marking the East quarter corner of said Section 21; Thence along the East line of said northeast quarter, S 00° 49' 59" W a distance of 200.43 feet; Thence N 89° 10' 01" W a distance of 30.00 feet to the westerly right of way of Atlas Road and the **TRUE POINT OF BEGINNING;**

Thence along said West right of way, S 00° 49' 59" W a distance of 129.96 feet to the South line of the North half of said Tract 203;

Thence along said South line, N 88° 30' 56" W a distance of 4.13 feet;

Thence N 00° 49' 59" E a distance of 124.19 feet to the beginning of a curve to the left, having a radius of 291.94 feet;

Thence northerly along said curve, through an arc length 5.78 feet, through a central angle of 01° 08' 02", a chord bearing of N 00° 15' 58" E and a chord distance of 5.78 feet to the North line of the South 130 feet of the East 124 feet of the North half of the East half of Tract 203 of the Amended Plat of Hayden Lake Irrigated Tracts, recorded in Book C of Plats, Page 66, records of Kootenai County;

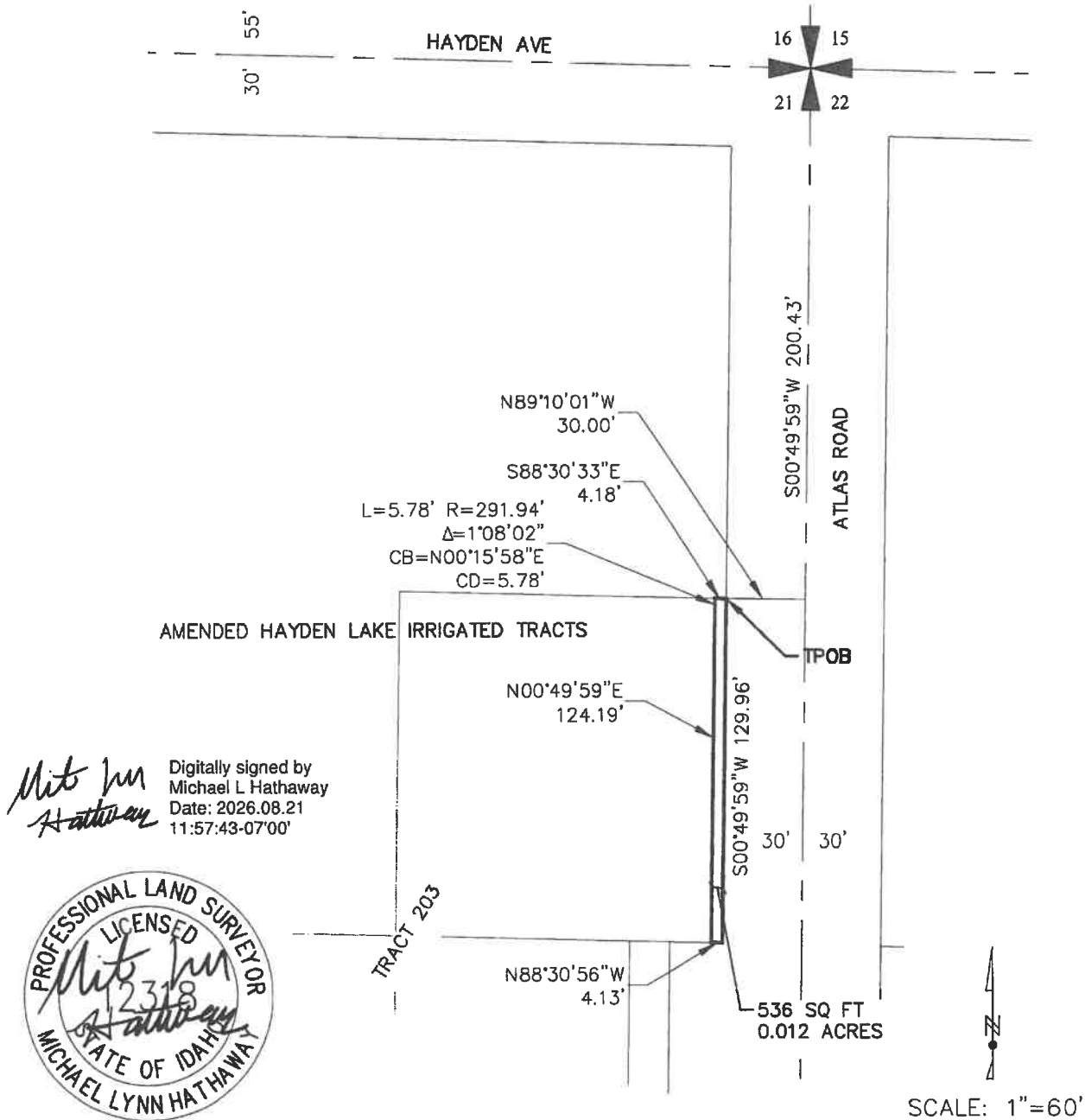
Thence along said North line, S 88° 30' 33" E a distance of 4.18 feet to the **TRUE POINT OF BEGINNING.**

Contains 536 square feet or 0.012 acres more or less.



Digitally signed by
Michael L Hathaway
Date: 2026.08.21
11:57:18-07'00'

EXHIBIT B
RIGHT OF WAY - JOSH BROWN AND ALICIA SAILAS
LOCATED IN THE NORTHEAST QUARTER OF
SECTION 21, TOWNSHIP 51 NORTH, RANGE 4 WEST,
CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO



WELCH-COMER
ENGINEERS | SURVEYORS

www.welchcomer.com 208-664-9382
330 E. Lakeside Ave, Suite 101 (toll free) 877-815-5672
Coeur d'Alene, ID 83814 (fax) 208-664-5946

EXHIBIT B - RIGHT OF WAY
JOSH BROWN AND ALICIA SAILAS
PROPOSED RIGHT OF WAY
H405021203AC

PROJECT NO.: 41014.020
DESIGNED BY: MLH
DRAWN BY: RVR
DWG: 41014.020EX01.DWG
DATE: 08/21/2026
SHEET NO: **1 OF 1**

PROPERTY USE AGREEMENT

This PROPERTY USE AGREEMENT, is made this _____ day of _____, 2026 by and between Josh Allen Brown and Alicia Brown, husband and wife, (“OWNER”) and the City of Hayden, (“CITY”), a Political Subdivision of the State of Idaho, 8930 N. Government Way, Hayden, Idaho 83835 and CITY and OWNERS may be referred to individually as “PARTY” or collectively as “PARTIES.”

WHEREAS, the CITY intends to construct the Hayden Avenue and Atlas Road Roundabout Improvement Project (“PROJECT”). This agreement is necessary for grading and constructing the PROJECT adjacent to the OWNER’s property. The CITY and the OWNER are in the process of right-of-way acquisition and providing just compensation.

WHEREAS, the OWNER grants access during utility relocation and construction of the PROJECT as shown in EXHIBIT C for parcel number H-0000-022-3225, also known as 3140 W Hayden Avenue, Hayden, Idaho 83835, of the OWNER’s property.

NOW, THEREFORE, the PARTIES agree as follows:

1. The PARTIES agree that the PROJECT serves a public purpose and that the purpose is necessary for the public’s use.
2. The PARTIES agree to allow access, right of ingress/egress, and property use to the property during relocation of utilities, construction of underground and overhead utilities, grading, and asphalt vehicular facilities, drainage facilities, yard restoration, or any other item requiring encroachment on the OWNER’s property during construction of the PROJECT.
3. The private utility (fiber, gas, power, phone) are relocating at the request of the CITY and this agreement extends to these private companies and their subcontractors in the area illustrated in Exhibit A. CITY’s contractors, utility providers, and their subcontractors accessing the property pursuant to the agreement remain subject to the same limitations and restoration obligations applicable to the City.
4. CITY agrees that the area disturbed with the PROJECT, will be restored to existing condition, except for the permanent improvements to be installed with the PROJECT.
5. CITY, and their contractors agree to hold Workers' Compensation per Idaho State Statute and have at least one million dollars in comprehensive general liability and automobile liability coverage.
6. The PARTIES agree that this agreement expires once the PROJECT has finished construction.
7. The PARTIES agree that this agreement shall run with the land and shall be binding upon their heirs and assigns and shall be recorded in the Kootenai County Recorder’s office.

It is expressly intended that the PROPERTY USE AGREEMENT granted herein shall be in full force and effect and shall bind the OWNER, his heirs, successors, and assigns until the right of way and easement have been closed and recorded. The OWNER does hereby consent with the CITY that they lawfully own and possess the aforementioned property, and that they have a good and lawful right to convey such use. The PARTIES have had sufficient opportunity to consult with legal counsel of their own choice.

IN WITNESS WHEREOF, the PROPERTY USE AGREEMENT has been executed by the respective PARTIES, or by their duly authorized officers or agents, the day and year first above written.

CITY OF HAYDEN

Alan Davis, Mayor

ATTEST:

Abbi Sanchez, City Clerk

OWNERS

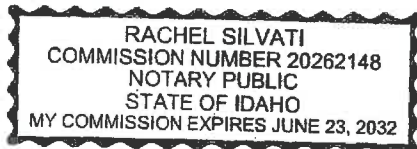
Josh Allen Brown, Owner

Alicia Brown
Alicia Brown, Owner

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 21 day of September, 2026 before me,
Rachel Silvati, a Notary Public in and for said State, personally appeared
Josh Brown and Alicia Brown, husband and wife, known or
identified to me to be the individuals who executed the instrument and acknowledged to me that they
executed the same.

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



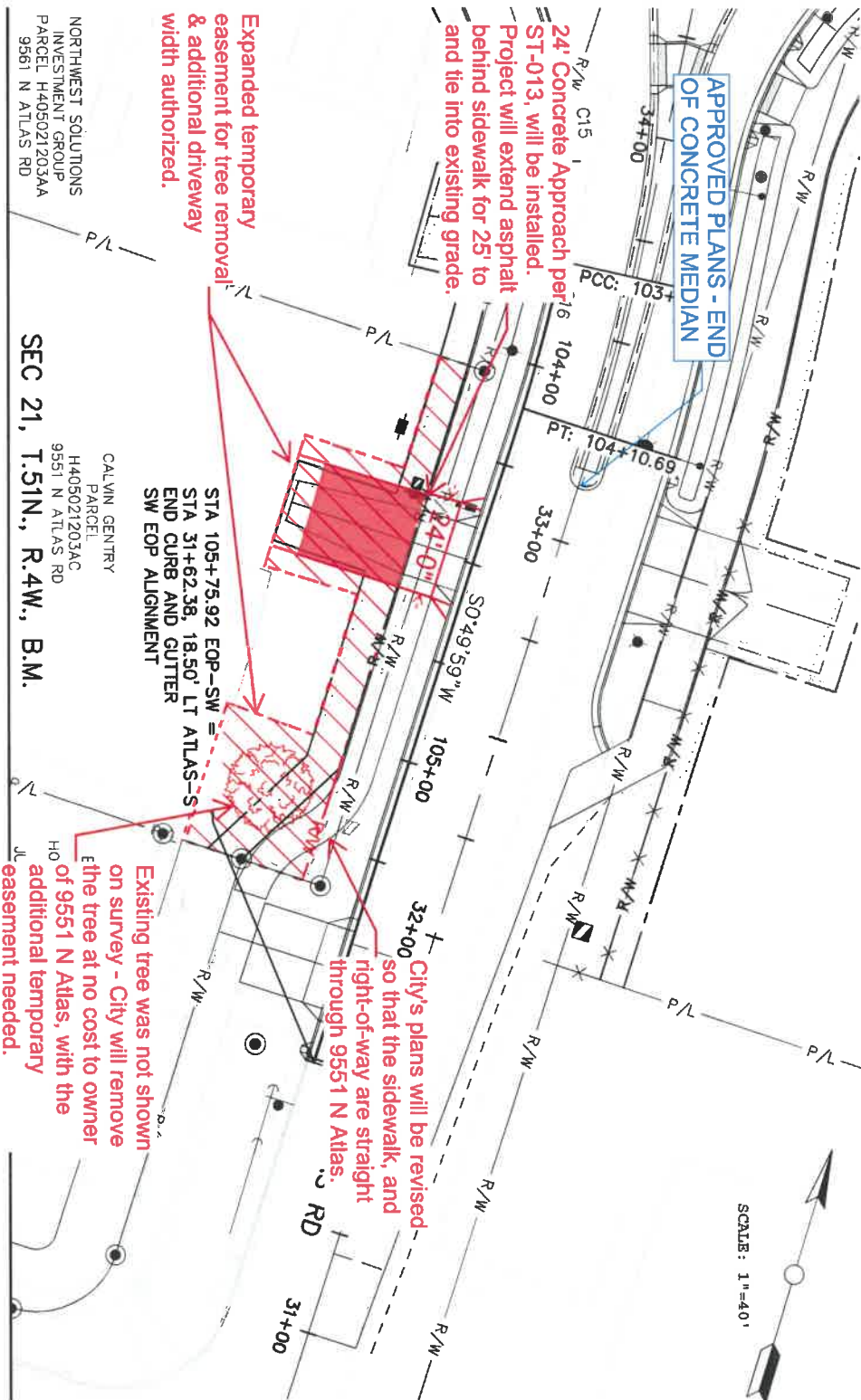
Rachel Silvati

Notary Public for the State of Idaho

Residing at Spokane County

My commission expires 6/23/2032

EXHIBIT C - RIGHT-OF-WAY CONTRACT 9551 N ATLAS RD TEMPORARY CONSTRUCTION EASEMENT, TREE REMOVAL & DRIVEWAY





Vicinity Map 9551 N. Atlas Road

