

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-007**

Authorizing Condemnation and Immediate Possession of Real Property for the Purpose of Widening and Improving NE 223rd Avenue, County Road No. 873; and Constructing Railroad Overpass

**The Multnomah County Board of Commissioners Finds:**

- a. It is necessary for Multnomah County to acquire the real property interests described in the attached Exhibits A through E (the property) for the purpose of widening and improving the safety of NE 223rd Avenue, County Road No. 873 and constructing a new railroad overpass at Milepost No. 13.34 hereinafter referred to as "the Project".
- b. County Road No 873 at this location was last widened and improved in approximately 1916. The Project is designed to provide for an improved right of way of variable width.
- c. Under Federal and State regulations the County is obligated to construct the new railroad overpass structure because the widening of the county road requires the replacement of the existing structure.
- d. The Project has been planned and located in a manner that is most compatible with the greatest public good and the least private injury. Attached is a map identified as Exhibit F which shows the approximate location of the Project and the property interests to be acquired.
- e. It is necessary to acquire immediate possession of the property interests described herein to allow construction to proceed and be completed on schedule and within budgetary limitations.

**The Multnomah County Board of Commissioners Resolves:**

1. It is necessary for Multnomah County to acquire the property interests described in the attached exhibits for the purpose of constructing the Project as discussed above.
2. In the event that no satisfactory agreement can be reached with the owners of the property as to the purchase price, legal counsel is authorized and directed to commence and prosecute to final determination such condemnation proceedings as may be necessary to acquire the property. Such action shall be in accordance with all applicable laws, rules and regulations governing such acquisition.
3. Upon the final determination of any such proceeding, the deposit of funds and the payment of judgment conveying the property to the County is authorized.

4. It is necessary to obtain possession of such property as soon as possible to allow construction to proceed and be completed on schedule within budgetary limitations.
5. Legal counsel is authorized and directed to take such action in accordance with law to obtain possession of the property as soon as possible.
6. There is authorized the creation of a fund in the amount of the estimate of just compensation for the property, which shall, upon obtaining possession of the property, be deposited with the Clerk of the Court wherein the action was commenced for the use of the defendants in the action, and the Director of the Finance Division is authorized to draw a warrant on the Road Fund of the County in such sum for deposit.

ADOPTED this 6th day of January, 2005.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

NE 223rd Avenue  
Union Pacific Railroad  
Item No. 04-62

## **EXHIBIT "A"**

### **In Fee Simple**

A tract of land situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

That portion of the Union Pacific Railroad property lying within a strip of land being 70.00 feet in width, being 35.00 feet on each side of the centerline of NE 223<sup>rd</sup> Avenue, County Road No. 873 subject to that portion of said Union Pacific Railroad property that lies within the existing right-of-way of said NE 223<sup>rd</sup> Avenue. The centerline of County Road No. 873 is based on SN 58417, Multnomah County Survey Records, and by said reference is made a part thereof.

Containing 1,717 square feet more or less.

NE 223rd Avenue  
Anderson  
Item No. 04-35

## **EXHIBIT "B"**

### **In Fee Simple**

"Lots 12 and 'A', Block 6, FAIRVIEW" as described in and conveyed by, a warranty deed to Kirk C. Anderson and Catherine L. Anderson recorded on June 20, 1989 in Book 2213, Page 635, Multnomah County Deed Records, situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., in the City of Fairview, Multnomah County, Oregon.

Containing 8,262 square feet more or less.

## EXHIBIT "C"

### Parcel 1: In Fee Simple

The westerly 20.00 feet of that tract of land conveyed to Smith Memorial Presbyterian Church of Fairview, OR by Quit Claim Deed recorded as Document No. 99-115496, Multnomah County Deed Records, situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

That portion of said "Presbyterian Church" Tract, that lies westerly of a line being 40.00 feet easterly of, when measured at right angles to, the centerline of N.E. 223<sup>rd</sup> Avenue, County Road No. 873\*.

Containing 3,265 square feet more or less.

### Parcel 2: Temporary Easement for Construction

A portion of that tract of land conveyed to Smith Memorial Presbyterian Church of Fairview, OR by Quit Claim Deed recorded as Document No. 99-115496, Multnomah County Deed Records, situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

Commencing at a 4" Brass Disc at the Re-entrant corner of the Dunbar D.L.C. No. 41, being a point on centerline at Station 2+02.66 of N.E. 223<sup>rd</sup> Avenue, County Road No. 873\*; thence N02°09'40"E, along said centerline, a distance of 676.62 feet; thence S87°50'20"E, a distance of 40.00 feet to the point of beginning of said portion; thence N39°59'56"E, a distance of 81.51 feet to a point 90.00 feet easterly of, when measured at right angle to, said centerline of N.E. 223<sup>rd</sup> Avenue; thence N02°09'40"E, a distance of 21.53 feet to a point on the southerly right-of-way line of the Union Pacific Railroad; thence southwesterly along said southerly right-of-way line being the arc of a 1287.63 foot radius curve to the left through a central angle of 2°13'44" (the chord of which bears S88°48'57"W, a distance of 50.09 feet), an arc length of 50.09 feet to a point 40.00 feet easterly of, when measured at right angle to, said centerline; thence S02°09'40"W, a distance of 82.98 feet to the point of beginning.

Containing 2,612 square feet more or less.

## **EXHIBIT "C" (cont.)**

### **Parcel 3: In Fee Simple**

A portion of those tracts of land conveyed to Smith Memorial Presbyterian Church of Fairview, OR described in Book 482, Page 70, recorded on December 15, 1909; Book 1634, Page 369, recorded on December 4, 1953 and Book 737, Page 401, recorded on July 11, 1970; excluding here from those tracts of land described in Book 2184, Page 309 recorded on August 30, 1963 and Book 737, Page 403 recorded on July 11, 1970, Multnomah County Deed Records, also excluding here from that portion lying within N.E. 223<sup>rd</sup> Avenue, County Road 873, situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

That portion of said "Presbyterian Church" Tracts, that lie westerly of a line being 40.00 feet easterly of, when measured at right angle to, the centerline of N.E. 223<sup>rd</sup> Avenue, County Road No. 873\*.

Containing 4,261 square feet more or less.

### **Parcel 4: Temporary Easement for Construction**

A portion of those tracts of land conveyed to Smith Memorial Presbyterian Church of Fairview, OR described in Book 482, Page 70, recorded on December 15, 1909 and Book 1634, Page 369 recorded on December 4, 1953, Multnomah County Deed Records, situated in the N.W. One-quarter of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

Commencing at a 4" Brass Disc at the Re-entrant corner of the Dunbar D.L.C. No. 41, being a point on centerline at Station 2+02.66 of N.E. 223<sup>rd</sup> Avenue, County Road No. 873\*; thence N02°09'40"E, along said centerline, a distance of 387.84 feet; thence S87°50'20"E, a distance of 40.00 feet to the point of beginning of said portion, being a point on the South line of said Book 1634, Page 369 tract; thence N64°02'35"E, along said South line of Book 1634, Page 369 tract, a distance of 22.65 feet to the East corner thereof, also being a point on the South line of Book 482, Page 70 tract; thence N89°47'25"E, along the South line of said Book 482, Page 70 tract, a distance of 40.04 feet to a point being 100.00 feet easterly of, when measured at right angle to, said centerline of N.E. 223<sup>rd</sup> Avenue; thence N02°09'40"E, a distance of 32.32 feet; thence S84°46'50"W, a distance of 31.73 feet; thence N68°53'33"W, a distance of 19.65 feet; thence N20°31'26"W, a distance of 25.79 feet to a point being 40.00 feet easterly of, when measured at right angle to, said centerline; thence S02°09'40"W, a distance of 70.45 feet to the point of beginning.

Containing 2,160 square feet more or less.

\*Bearing, Station and centerline information is based on data per SN 58417, Multnomah County Survey Records, and by said reference is made a part thereof

NE 223rd Avenue  
Gering  
Item No. 04-36

## **EXHIBIT "D"**

### **In Fee Simple**

The easterly 5.00 feet of that tract of land conveyed to Ben A. Gering and Sharon L. Gering by Warranty Deed recorded as Document No. 98-151225, Multnomah County Deed Records, situated in the West One-half of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

That portion of said "Gering" Tract, that lies easterly of a line being 35.00 feet westerly of, when measured at right angles to, the centerline of N.E. 223<sup>rd</sup> Avenue, County Road No. 873.

Containing 297 square feet more or less.

NE 223rd Avenue  
Johnson  
Item No. 04-37

## **EXHIBIT "E"**

### **Parcel 1: In Fee Simple**

The easterly 5.00 feet of that tract of land conveyed to Kurt D. Johnson by Quit Claim Deed recorded as Document No. 2002-149897, Multnomah County Deed Records, situated in the West One-half of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

That portion of said "Johnson" Tract, that lies easterly of a line being 35.00 feet westerly of, when measured at right angles to, the centerline of N.E. 223<sup>rd</sup> Avenue, County Road No. 873.

Containing 528 square feet more or less.

### **Parcel 2: Easement for Construction and Maintenance of Slopes & Utilities**

The westerly 5.00 feet of the easterly 10.00 feet of that tract of land conveyed to Kurt D. Johnson by Quit Claim Deed recorded as Document No. 2002-149897, Multnomah County Deed Records, situated in the West One-half of Section 27, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, more particularly described as follows:

A 5.00 foot strip of land being a portion of said "Johnson" Tract, the West line of said strip being 40.00 feet westerly of, when measured at right angle to, the centerline of N.E. 223<sup>rd</sup> Avenue, County Road No. 873.

Containing 528 square feet more or less.



# EXHIBIT F

