

RESOLUTION NO. 1023

A RESOLUTION AUTHORIZING SETTLEMENT OF CITY OF CANBY VS. JANICE AND ONNI BUGNI, CLACKAMAS COUNTY CASE NO. CV08030420, BASED UPON A STIPULATED GENERAL JUDGMENT ENTERED INTO BETWEEN ALL PARTIES AND APPROVED BY THE COURT

WHEREAS, the City of Canby, a Municipal Corporation, sought to use its power of eminent domain to condemn road right-of-way for the purpose of widening S. Walnut Street in the Pioneer Industrial Park in Canby, Oregon. After several failed attempts to acquire the necessary property, located at 470 S. Walnut Street, through negotiation with the owners, Janice and Onni Bugni, the City commenced a legal action in Clackamas County Circuit Court, Case No. CV08030420, on March 17, 2008, seeking to condemn the property, and

WHEREAS, on the day of trial, the parties reached a settlement of the issues involved and entered into a Stipulated General Judgment, later approved by the Court, which is attached hereto as Exhibit "A" and by this reference incorporated herein, and

WHEREAS, by the terms of Exhibit "A" of the Stipulated General Judgment, the City of Canby will pay the Bugni's the total sum of ONE HUNDRED SEVENTY FIVE THOUSAND FIVE HUNDRED DOLLARS (\$175,500.00) for title to the property. Payment is to be made not later than April 30, 2009. Defendants shall execute any and all documents reasonably necessary to transfer their interest in the property to the City of Canby, now therefore

IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

1. The Stipulated General Judgment, attached hereto as Exhibit "A", and by this reference incorporated herein, between the City of Canby and Janice and Onni Bugni is approved by the Canby City Council. The City shall pay the total sum of ONE HUNDRED SEVENTY FIVE THOUSAND FIVE HUNDRED DOLLARS (\$175,500.00) to the Bugni's for the property.
2. The City Administrator and City Attorney are hereby authorized to take any actions necessary to complete the transfer of the property from the Bugni's to the City of Canby.

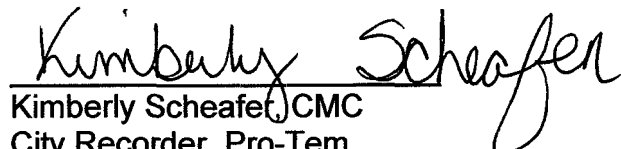
This Resolution shall take effect on April 15, 2009.

ADOPTED this 15th day of April, 2009, by the Canby City Council.



Melody Thompson - Mayor

ATTEST:



Kimberly Scheafel CMC
City Recorder, Pro-Tem

EXHIBIT "A"

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

CITY OF CANBY, an Oregon municipal
corporation,

Plaintiff,

v.

JANICE BUGNI and ONNI BUGNI,
wife and husband,

Defendants.

Case No. CV08030420

**STIPULATED
GENERAL JUDGMENT**

Come now Plaintiff and Defendants and stipulate the entry of a Judgment according to the following terms:

1. Plaintiff is hereby awarded fee title to the property identified in Exhibit "A" attached hereto (hereinafter "Property").
2. Plaintiff is to pay Defendants the total sum of ONE HUNDRED SEVENTY FIVE THOUSAND FIVE HUNDRED DOLLARS (\$175,500.00) for title to the Property, \$125,500.00 of which has been delivered to Defendants consistent with the terms of the Stipulated Order of Early Possession, leaving a final payment to Defendants of FIFTY

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THOUSAND DOLLARS (\$50,000.00). Payment of said \$50,000.00 is to be made not later than April 30, 2009.

- 3. Defendants shall execute any and all documents reasonably deemed by Plaintiff to be necessary to transfer their interest in the Property to Plaintiff.
- 4. Defendant's counterclaims are dismissed with prejudice as against Plaintiff, its officers, employees, agents and insurers.
- 5. Defendants hereby waive their right to repurchase the Property consistent with ORS 35.385(2)(b).

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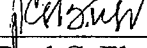
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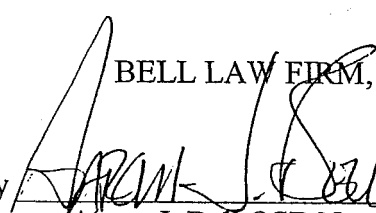
1 6. Each party is to bear its own costs, disbursements, expert and attorney fees.
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4 **IT IS SO STIPULATED:**


5 BEERY, ELSNER & HAMMOND LLP

6
7 By 
8 Paul C. Elsner, OSB #82047
9 Of Attorneys for Plaintiff

BELL LAW FIRM, PC

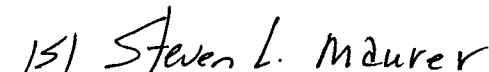
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11 By 
12 Aaron J. Bell OSB No. 871649
13 Attorney for Defendants

14 HODGKINSON STREET LLC

15
16 By: 
17 Martha J. Hodgkinson OSB # 862099
18 Of Attorneys for Plaintiff

19 **IT IS SO ORDERED AND ADJUDGED:**

20 DATED this 16th day of April, 2009.

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The Honorable Steven L. Maurer
Clackamas County Circuit Court Judge

JUDGMENT PREPARED BY:
Paul C. Elsner OSB NO. 820476

EXHIBIT A

Janice and Onni Bugni

A Portion of Township 3 South,
Range 1 East, Section 34, Tax Lot 2800

Sequoia Parkway Roadway Dedication

Legal Description

A portion of that tract of land conveyed to Janice Bugni and Onni Bugni, wife and husband, in deed recorded under fee number 2005-117466 Clackamas County Deed Records, in Section 34, Township 3 South, Range 1 East of the Willamette Meridian (hereinafter "Bugni Tract"), more particularly described as follows: Beginning at the northwest corner of Bugni Tract under said fee number, said point also being 15 feet east when measured perpendicular to the centerline of South Walnut Street; thence easterly along the northern boundary of said tract to a point 56 feet east when measured perpendicular to the centerline of South Walnut Street; thence south paralleling the western property line 391 feet, more or less to a point of curvature, said point being 65 feet north when measured perpendicular from the centerline of Township Road; thence along a curve left with radius of 34 feet and arc length of 53.41 feet to an angle point said point being 90 feet east when measured perpendicular to the centerline of South Walnut Street and 31 feet north when measured perpendicular to the centerline of Township Road; thence south 11 feet to the southern boundary of said Bugni tract; thence west 60 feet along the south boundary of said Bugni tract to the southwest corner of said tract; thence north along the western property line of said Bugni tract to the point of beginning, said dedication containing 18,344 square feet more or less.