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20CV15976

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After Recording, Return to:
Aaron Parker
City of Oregon City
625 Center Street
Oregon City, OR 97045

Clackamas County Official Records
Sherry Hall, County Clerk

2021-067143



\$61.00

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CLR-J Cnt=2 Stn=9 COUNTER1
\$40.00 \$5.00 \$16.00

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

CITY OF OREGON CITY, an Oregon
municipal corporation,

Plaintiff,

v.

JOHN MORRIS FOX and KATHRYN
EILEEN FOX, as Trustees of the Fox
Revocable Trust Dated November 21, 2019;
JOHN MORRIS FOX, an individual;
PAMELA ELLEN FOX-COLLIS, an
individual; and TIM LLOYD FOX, an
individual,

Defendants.

Case No. 20CV15976

STIPULATED GENERAL JUDGMENT

(Condemnation)

AND ORDER OF DISBURSEMENT

(Clerk's Action Required)

This matter comes to the Court upon stipulation of the parties who have settled this case. Plaintiff City of Oregon City (the "City") appears by and through Cynthia M. Fraser of Foster Garvey, PC. Defendants John Morris Fox and Kathryn Eileen Fox, as Trustees of the Fox Revocable Trust Dated November 21, 2019, John Morris Fox, Pamela Eileen Fox-Collis, and Tim Lloyd Fox (collectively "Fox"), appear by and through Brian Best of Olsen Barton LLC.

The parties stipulate, agree, and advise the Court of the following:

The parties have reached an agreement settling the case as memorialized in the Settlement Terms dated April 27, 2021, said pertinent terms incorporated herein and set forth below:

1 1. Landscaping:

2 Landscaping will be reestablished as part of the project in an approximate five foot
3 strip across Molalla Avenue frontage from engineering station 61 plus 75 to
4 engineering station 62 plus 75. The City to install the landscaping and Fox to
5 maintain the landscaping.

6 2. Sign:

7 Fox will alter the overhanging signs to remove any portions currently overhanging
8 the sidewalk by May 25, 2021;

9 That no good cause exists for setting aside the settlement agreement or setting this case for
10 trial;

11 That this stipulated judgment reflects a settlement of all issues raised or that could have
12 been raised in this action;

13 That Fox waives the right of repurchase of the property being acquired for the public
14 purpose pursuant to ORS 35.382(2)(b);

15 That the City, prior to commencement of this action and pursuant to its resolutions,
16 attempted to acquire property by agreement and purchase, but was unable to do so;

17 That the sum total judgment to be paid to Fox for the settlement of this action is
18 \$90,000.00 which includes just compensation and damages, if any, for the acquisition of property
19 described herein;

20 The City deposited the sum of \$11,300.00 with the Clackamas County Circuit Court Clerk
21 on April 23, 2020, for the use and benefit of Fox. That amount is credited towards the total
22 judgment sum of \$90,000.00, leaving a balance due of \$78,700.00, which sum shall be paid to
23 “Olsen Barton Oregon IOLTA FBO Foxes” directly;

24 That the City is now entitled to judgment, appropriating the real property described, to the
25 City of Oregon City, an Oregon municipal corporation, free and clear of all liens and
26 encumbrances, except as hereinafter provided; now, therefore

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3.

The City of Oregon City is granted a Permanent Easement for the sole purpose to construct, reconstruct, operate, and maintain the utility pole located at or about engineering station 61 plus 25 and any overhead utility infrastructure. No additional surface mounted utility structures will be installed without written permission from Grantor. Grantor reserves the right to use the permanent easement area for all uses that do not interfere with or are not inconsistent with use of the subject easement area by the City, including for walkways, plantings, parking, drive isle and related uses.

The real property described herein and in Exhibit A and depicted in Exhibit B is appropriated for the public purposes; title to said acquisition, together with the rights as described herein is vested in the City of Oregon City, an Oregon municipal corporation, free and clear of all liens and encumbrances.

Parcel – Permanent Slope and Public Utility Easement

A parcel of land lying in the Northeast one-quarter of Section 8 and the Samuel N. Vance Donation Land Claim (DLC) No. 51 in Township 3 South, Range 2 East of the Willamette Meridian, Clackamas County, Oregon and being a portion of that property conveyed to John Morris Fox, Pamela Ellen Fox-Collis and Tim Lloyd Fox, in that Bargain and Sale Deed recorded May 21, 2002 as Document No. 2002-048212, Clackamas County Deed Records; said parcel being that portion of said property included in a strip of land variable in width and lying on the westerly side of the centerline of Molalla Avenue, which centerline of is described as follows:

The center line of said road is described as follows:

Beginning at center line Station 38+67.42, said station bears North 76°42'53" West 5,355.98 feet from the one-quarter corner common to Sections 4 and 9, Township 3 South, Range 2 East, Willamette Meridian; thence South 30°16'52" East 4,056.28 feet (Station 79+23.71=Station a 70009+00.00 ahead); thence South 30°16'52" East 272.51 feet to a point of curvature (Station a 70011+72.51); thence long the arc of a 572.96 foot radius curve to the left, through a central angle of 49°48'36", an arc distance of 498.10 feet (the long chord of which bears South 55°11'10" East 482.57 feet) to a point of tangency (Station a 70016+70.16), said point bears South 43°25'20" West 3,831.55 feet from the one-quarter corner common to said Sections 4 and 9.

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The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
59+50.95		66+57.78	40.86 in a straight line to 41.64

Bearings are based on the Oregon Coordinate Reference System – Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 1,788 square feet, more or less, outside the existing right of way.

4.

Fox shall have a judgment for the sum total of \$90,000.00, of which \$11,300.00 is held by the Oregon Judicial Department (OJD) which shall now be paid by the OJD to Fox. The check shall be made payable to "Olsen Barton Oregon IOLTA FBO Foxes" and mailed to the attention of Brian Best, Olsen Barton, LLC, Five Centerpointe Dr., Suite 220, Lake Oswego, OR 97035. The City shall separately issue a check for the remaining amount of \$78,700.00, within thirty (30) days of the City approving the settlement terms with Fox. The check shall be made payable "Olsen Barton Oregon IOLTA FBO Foxes" and mailed to Brian Best, Olsen Barton, LLC, Five Centerpointe Dr., Suite 220, Lake Oswego, OR 97035

5.

The Clerk of the Court shall disburse the City's deposit of the total funds held in the Court's registry, to wit, \$11,300.00, to Fox, without further order of the Court. The check shall be made payable to "Olsen Barton Oregon IOLTA FBO Foxes" and mailed to the attention of Brian Best, Olsen Barton, LLC, Five Centerpointe Dr., Suite 220, Lake Oswego, OR 97035

6.

All claims, counterclaims, and defenses which were raised or could have been raised concerning the subject property are dismissed.

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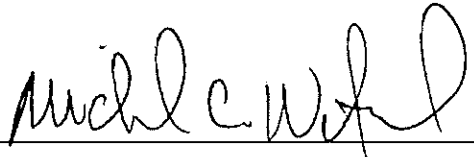
7.

There shall be no right of repurchase of property pursuant to ORS 35.385(2)(b).

8.

No party shall recover from another party additional costs, attorney fees, or expenses incurred herein.

Signed: 5/11/2021 03:53 PM


Circuit Court Judge Michael C. Wetzel

Submitted by:
Cynthia M. Fraser, OSB #872243
E-mail: cynthia.fraser@foster.com
Foster Garvey, PC
121 SW Morrison Street, 11th Floor
Portland, OR 97204
Telephone: (503) 228-3939
Of Attorneys for Plaintiff

IT IS SO STIPULATED:

DATED this 10th day of May, 2021.

FOSTER GARVEY PC

DATED this 10th day of May, 2021.

OLSEN BARTON LLC

By s/ Cynthia M. Fraser
Cynthia M. Fraser, OSB #872243
E-mail: cynthia.fraser@foster.com
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Portland, OR 97204
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Of Attorneys for Plaintiff

By s/ Brian J. Best
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Brian J. Best, OSB #113280
E-mail: brian@olsenbarton.com
5 Centerpointe Drive, Suite 220
Lake Oswego, OR 97035
Telephone: (503) 820-2933
Of Attorneys for Defendants

CERTIFICATE OF READINESS

This proposed **STIPULATED GENERAL JUDGMENT AND ORDER OF DISBURSEMENT** is ready for judicial signature because:

1. ☒ Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
2. ☐ Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
3. ☐ I have served a copy of this order or judgment on each party entitled to service and:
4. ☐ No objection has been served on me.
5. ☐ I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
6. ☐ After conferring about objections, counsel for defendant agreed to independently file any remaining objection.
7. ☐ Service is not required pursuant to ORS 35.252(3).
8. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
9. ☐ Other:

DATED this 10th day of May, 2021.

s/ Cynthia M. Fraser

Cynthia M. Fraser

Of Attorneys for Plaintiff City of Oregon City

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Neil N. Olsen, OSB #053378
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Fax: (503) 820-2933

by Odyssey File & Serve™ and by sending via email a complete and correct copy thereof, at the addresses set forth above, on this 10th day of May, 2021.

s/ Cynthia M. Fraser
Cynthia M. Fraser
Of Attorneys for Plaintiff



Certified True Copy Of The Original
Dated The 13 Day of July 2021
Before me at District, State of Oregon
Notary Public
By: L. Wagner
Total pages 7 pages