

CITY OF SHERWOOD, OREGON

RESOLUTION NO. 266

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERWOOD DECLARING THE NECESSITY OF ACQUIRING A CERTAIN SEWER LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT IN CONNECTION WITH THE CEDAR CREEK LOCAL IMPROVEMENT DISTRICT, AUTHORIZING FURTHER NEGOTIATION FOR THE ACQUISITION THEREOF, COMMENCEMENT OF CONDEMNATION PROCEEDINGS TO ACQUIRE SAID EASEMENT, AND AUTHORIZING THE ACQUISITION OF IMMEDIATE OCCUPANCY, POSSESSION AND USE OF THE PROPERTY FOR THE PURPOSES FOR WHICH IT IS APPROPRIATED

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WHEREAS, by virtue of the laws of the State of Oregon and the Charter and ordinances of the City of Sherwood, Oregon, the City is authorized and empowered to acquire by purchase, or by the exercise of eminent domain, real property within or without its boundaries in fee simple or any lesser interest therein for a public purpose; and

WHEREAS, the City Council has determined that the Cedar Creek Local Improvement District (hereafter "project") is necessary for the health, safety and welfare of the residents of the city, and the project has been planned, approved and undertaken in a manner which is most compatible with the public good and which will result in the least private injury; and

WHEREAS, the project provides for the construction of sanitary sewer lines necessary to provide a sanitary sewage collection system to the southwest quadrant of the City of Sherwood to service existing and proposed residential and industrial areas within the city's urban growth area lying in the Cedar Creek drainage basin; and

WHEREAS, the city finds it necessary to acquire a permanent easement and temporary construction easement over and across certain properties as described in Exhibit "A" (hereafter "easements") attached hereto and by this reference made a part hereof, for the purpose of constructing, maintaining, and using the sewer improvement, and that the location of said easements has been determined such that there will be the least possible interference with the owners' use and enjoyment of the property, consistent with the engineering and cost requirements of the project; and

WHEREAS, the city finds that where satisfactory agreements cannot be reached as to fair market value of the easements, condemnation proceedings should be instituted to acquire the easements in order to protect the health, safety and welfare of the residents of the city and to carry out the purposes and activities of the project as planned; and

WHEREAS, the City Attorney or his designate should be authorized to institute such proceeds as necessary for condemnation of the easements; and

WHEREAS, in connection with carrying out such project, it is necessary that the city have the right to immediate entry, possession, occupancy and use of the property to be condemned as easements as described in Exhibit A in order that the construction of the project may stay on schedule and within budgetary limitations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERWOOD, OREGON:

Section 1. The City Council of the City of Sherwood, Oregon hereby finds and declares that it is necessary to acquire permanent easements and temporary construction easements for the purpose of carrying out the project by constructing, reconstructing, maintaining, repairing, and using a sanitary sewer line improvement over and across, in and through certain tracts and parcels of land located within

located within and without the corporate boundaries of the city in Washington County, Oregon, more particularly described in Exhibit A hereto attached.

Section 2. The City Attorney or his designate is authorized to negotiate further with the owners of the property as to the amount of compensation to be paid for acquisition of the above described easements.

Section 3. In the event no satisfactory agreement can be reached with the owner of the property as to the purchase price of the easements, the City Attorney of his designate is authorized and directed to commence and prosecute to final determination such proceedings as may be necessary to acquire the necessary interest in the property. Such action shall be in accordance with all applicable laws, rules and regulations governing such acquisition.

Section 4. Upon trial of any suit instituted for the condemnation of any easement described above, the City Attorney or his designate is hereby authorized to make such stipulation, agreement or admission as in his judgment may be in the best interest of the city.

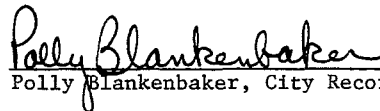
Section 5. Upon final determination of any such proceedings, the deposit of funds and payment of judgment conveying any necessary easements to the city is hereby authorized.

Section 6. The city hereby finds it necessary to obtain immediate possession, occupancy, entry and use of the property necessary for the easements in order that construction of the project may proceed on schedule and within budgetary limitations. The City Attorney or his designate is hereby authorized in accordance with all applicable laws and regulations to take appropriate steps to acquire immediate possession of such property.

Section 7. There is hereby authorized the creation of a fund in the amount estimated to be just compensation for such easements, which shall, upon obtaining possession of the easements, be deposited with the Clerk of the Court wherein the action was commenced for the use of defendants in the suit.

PASSED by the City Council this 22 day of June, 1983.

ATTEST:

  
Polly Blankenbaker, City Recorder

ATTEST:

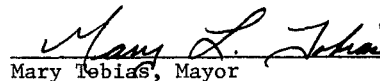
  
Mary Tobias, Mayor

EXHIBIT A

SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that

hereinafter termed Grantors, for and in consideration of the sum of Five Hundred Dollars (\$500.00), do hereby grant, bargain, sell and convey to the CITY OF SHERWOOD, OREGON, a municipal corporation duly organized and existing under the laws of the State of Oregon, hereinafter termed "Grantee", the following described interest in real property in the County of Washington, State of Oregon:

PERMANENT EASEMENT (See also easement map, Exhibit A hereto)

A perpetual right-of-way and easement for underground sewer line purposes on, over, across, under, along, within and through the lands of Grantors, including the right of ingress thereto and egress therefrom at all reasonable times by agents, contractors, and employees of Grantee, and the right to excavate for, construct, reconstruct and maintain a sewer line. Said right-of-way and easement for sewer line purposes is described as follows:

A strip of land 20 feet in width situated in the southeast quarter of Sec. 31, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon, being 10 feet each side of the following described centerline:

Beginning at an iron bar (1/2 inch x 1-3/4 inch) found at the east quarter corner of said Section 31, said point being common to the northeast corner of that tract of land described in deed to Robert A. Bousquet and Barbara J. Bousquet recorded November 22, 1969 in Book 744, Page 460 Washington County Deed Records; thence along the north line of said tract, South 89°32'50" West, 49.31 feet to the true point of beginning of the herein described centerline; thence leaving said north line, South 8°04'53" East, 81.91 feet to south line of said tract and the terminus of said easement centerline, said point bears South 83°16'45" West, 38.24 feet from the southeast corner thereof, TOGETHER WITH a temporary easement for construction purposes described below.

TEMPORARY EASEMENT

A strip of land 100 feet in width, being 50 feet each side of the above-described centerline.

Said temporary easement is automatically extinguished following Grantee's acceptance of completed sewer in the adjacent permanent easement.

TO HAVE AND TO HOLD the above described and granted premises unto the Grantee and its assigns forever.

IN WITNESS WHEREOF, the grantors have affixed their signatures this

\_\_\_\_ day of June, 1983.

\_\_\_\_\_  
ROBERT BOUSQUET

\_\_\_\_\_  
BARBARA BOUSQUET

STATE OF OREGON )  
County of Washington ) ss.

June \_\_\_\_\_, 1983. Personally appeared the above-named ROBERT BOUSQUET

and BARBARA BOUSQUET and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

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Notary Public for Oregon  
My commission expires

ANDERSON, DITTMAN & ANDERSON  
ATTORNEYS AT LAW  
TIGARD PROFESSIONAL CENTER  
8865 S. W. CENTER STREET  
P. O. BOX 23006, TIGARD, OREGON 97223  
503 - 639-1121

JUN 15 1983

FRED. A. ANDERSON  
DERRYCK H. DITTMAN  
ROGER F. ANDERSON

June 14, 1983

Tad Milburn  
City of Sherwood  
PO Box 167  
Sherwood OR 97140


Dear Tad:

Enclosed is a copy of my letter to Mr. and Mrs. Robert Bousquet along with the resolution which needs to be passed by the city council as a condition precedent to initiating condemnation action. The city, at least 20 days prior to initiating condemnation, must submit a written offer of purchase from the property owner. That offer of purchase must have been made pursuant to resolution authorizing acquisition of the property. Therefore, it is important that this resolution be passed at the next council meeting in order to get the Bousquet acquisition in procedural posture such that we can proceed to file and ask for an order of immediate possession in the event we are unable to reach an agreement with the property owners.

If you have any questions, please give me a call.

Very truly yours,

ANDERSON, DITTMAN & ANDERSON

  
Derryck H. Dittman

DHD:o

ANDERSON, DITTMAN & ANDERSON  
ATTORNEYS AT LAW  
TIGARD PROFESSIONAL CENTER  
8865 S. W. CENTER STREET  
P. O. BOX 23006, TIGARD, OREGON 97223  
503 - 639-1121

FRED. A. ANDERSON  
DERRYCK H. DITTMAN  
ROGER F. ANDERSON

June 13, 1983

Mr. and Mrs. Robert Bousquet  
825 S. Sherwood Boulevard  
Sherwood, Oregon 97140

Dear Mr. and Mrs. Bousquet:

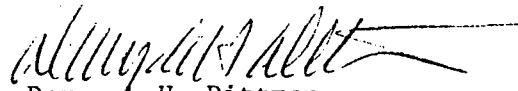
This office represents the City of Sherwood. As you are aware, the city has been negotiating with you for acquisition of a sanitary sewer line easement on, over, under and through that portion of your property described on the attached form of easement document, marked Exhibit A, which by this reference is included in my letter. Discussion has been had regarding provision of a domestic service stub out for your future use in the event you annex to the city, etc., but to date an agreement has not been reached between yourselves and the city. Therefore, it is necessary that the city make a formal offer to you as hereafter set forth.

The City of Sherwood does hereby offer you the sum of \$500 for the temporary and permanent easement rights described in Exhibit A attached to this letter.

This offer and the compensation herein expressed is intended to cover the interest of all owners, purchasers, lessees, and tenants in possession or other parties claiming any right, title or interest in the easement areas described in the attached exhibit.

It would be appreciated if you would respond hereto as soon as practicable, as in the absence of acceptance of this proposal or counter proposal from you acceptable to the city, the city will necessarily have to have the question of compensation determined in condemnation proceedings in court.

Very truly yours,

  
Derryck H. Dittman  
Attorney for City of Sherwood

DHD:o

CERTIFIED MAIL Receipt No. P364 401 933