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JUDG-JUDG Pgs=12 Stn=68 ATJN
\$60.00 \$11.00

\$71.00

Title of Document: Stipulated General Judgment

Plaintiff: CITY OF GRESHAM, a municipal corporation of the State of Oregon

Defendant: Margaret Elizabeth Jones, as Trustee of the Margaret Elizabeth Jones Trust
u/a dated July 17, 2001

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

CITY OF GRESHAM, a municipal corporation
of the State of Oregon,

Plaintiff,

v.

Margaret Elizabeth Jones, as Trustee of the
Margaret Elizabeth Jones Trust u/a dated July
17, 2001,

Defendant.

Case No. 20CV15534

STIPULATED GENERAL JUDGMENT

This matter having come regularly before the Court; and the Plaintiff City of Gresham (“City”) appearing by and through David J. Ross, Senior Assistant City Attorney, and the Defendant Margaret Elizabeth Jones, as Trustee of the Margaret Elizabeth Jones Trust u/a dated July 17, 2001 (“Jones”) appearing by and through Neil N. Olsen and Brian J. Best of the law firm of Olsen Barton LLC, the parties stipulate, agree, and advise the Court of the following:

The parties have reached an agreement settling and resolving the case as memorialized in the Memorandum of Settlement dated May 25, 2021, said pertinent terms incorporated herein and set forth below:

1. The total amount to be paid to Jones for the settlement of this action and for the City’s acquisition of the property interests described herein in Exhibits 1–3, including a two-year temporary construction easement terminating no later than April 16, 2022, shall be \$107,500.00, inclusive of attorney’s fees, expenses, and costs. The City deposited the sum of \$37,800.00 with the Multnomah County Circuit Court on or about May 14, 2020, which amount Jones withdrew on or about July 14, 2020 and is credited towards the sum of \$107,500.00, leaving a

1 balance of \$69,700.00, which has been paid to “Olsen Barton LLC Oregon
2 IOLTA Trust FBO Jones;”

- 3 2. The City shall trim or remove trees above the sidewalk, examine the slope next to
4 the sidewalk and mitigate if reasonably necessary, and shall reconstruct the
5 driveway on the Jones’ property in kind or better condition than prior to the City’s
6 condemnation.

7 The parties having reached an agreement on the terms set forth above, and the City is
8 now entitled to a judgment appropriating the real property described in Exhibits 1–3 to the City
9 of Gresham, an Oregon municipal corporation, NOW THEREFORE,

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by this Court as follows:

- 11 1. That the acquisitions described in Exhibits 1, 2, and 3, including a two-year
12 temporary construction easement terminating no later than April 16, 2022, attached to this
13 judgment and incorporated herein by reference, be and the same are hereby condemned and
14 appropriated to the City of Gresham, for the purposes and upon the conditions described therein.

- 15 2. The City shall pay Jones the total sum of \$107,500.00, which sum includes
16 \$37,800.00 previously deposited with the Multnomah County Circuit Court Administrator and
17 withdrawn by defendant pursuant to ORS 35.285, leaving a balance due of \$69,700.00, which
18 has been paid to “Olsen Barton LLC Oregon IOLTA Trust FBO Jones.” Further, the City has
19 complied with the terms of the settlement agreement requiring it to trim or remove trees above
20 the sidewalk, examine the slope next to the sidewalk and mitigate if reasonably necessary, and
21 reconstruct the driveway on the Jones’ property in kind or better condition than prior to the
22 City’s condemnation.

23 ///

24 ///

25 ///

26 ///

3. Other than as related to the settlement amount, no attorney fees, appraiser's fees, interest, or other costs are awarded to either of the parties.

10/25/2021 8:42:28 AM

Henry P. Russell

Circuit Court Judge Shelley D. Russell

Judgment prepared and submitted by:

David J. Ross, OSB No. 903705
Senior Assistant City Attorney
Phone: (503) 618-2507
Email: David.Ross@greshamoregon.gov

Attorney for Plaintiff City of Gresham

1 **IT IS SO STIPULATED:**

2 For Plaintiff, City of Gresham:

3
4 s/ David J. Ross

10/07/2021

David J. Ross

Date

5 Senior Assistant City Attorney

6 Gresham City Attorney's Office

1333 NW Eastman Parkway

Gresham, OR 97030

David.Ross@greshamoregon.gov

8
9 For Defendant, Margaret Elizabeth Jones, as Trustee of the Margaret Elizabeth Jones Trust u/a
10 dated July 17, 2001:

11 s/ Brian Best

10/07/2021

12 Neil N. Olsen, OSB No. 053378

Date

Brian Best, OSB No. 113280

13 Olsen Barton LLC

5 Centerpointe Dr Ste 220

14 Lake Oswego, OR 97035

neil@olsenbarton.com

15 brian@olsenbarton.com

CERTIFICATE OF READINESS UNDER UTCR 5.100

This proposed order is ready for judicial signature because:

1. ☒ Each party affected by this order has stipulated to the order, as shown by each party's signature on the document being submitted.
2. ☐ Each party affected by this order has approved the order, as shown by each party's signatures on the document being submitted or by written confirmation of approval sent to me.
3. ☐ I have served a copy of this order on each party entitled to service, and
 - a. ☐ No objection has been served on me.
 - b. ☐ 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.
 - c. ☐ After conferring about objections, the opposing party agreed to independently file any remaining objections with the court.
4. ☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
5. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistant Section as required by subsection (5) of this rule.
6. ☐ Other:

DATED this 7th day of October, 2021.

By s/ David J. Ross
David J. Ross, OSB No. 903705
Senior Assistant City Attorney
Of Attorney's for Plaintiff City of Gresham

RIGHT-OF-WAY ACQUISITION

A PORTION OF THE TRACT OF LAND DEEDED TO MARGARET ELIZABETH JONES, AS TRUSTEE OF THE MARGARET ELIZABETH JONES TRUST DATED JULY 17TH, 2001 AND BEING RECORDED AS DOCUMENT NUMBER 2001-161263 WITH THE MULTNOMAH COUNTY RECORDER'S OFFICE; BEING SITUATED IN THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 1 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF GRESHAM, COUNTY OF MULTNOMAH AND STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE LANDS DESCRIBED BY ABOVE SAID DOCUMENT NUMBER 2001-161263, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY OF SE PALMQUIST ROAD, 25.00 FEET NORTHERLY OF THE CENTERLINE THEREOF (WHEN MEASURED AT A RIGHT ANGLE); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY OF SE PALMQUIST ROAD S 89°27'45" E, A DISTANCE OF 160.56 FEET TO A POINT ON A LINE OF A TRACT OF LAND DEEDED TO THE STATE OF OREGON ON DECEMBER 29TH, 1964 IN BOOK 19, PAGE 53 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE ALONG SAID LINE N 62°39'59" E, A DISTANCE OF 15.37 FEET TO A POINT; THENCE ALONG THE EAST LINE OF THE ABOVE SAID TRACT OF LAND DESCRIBED AS DOCUMENT NUMBER 2001-161263 N 18°22'30" E, A DISTANCE OF 3.90 FEET TO A POINT; THENCE CONTINUING ALONG THE EASTERLY BOUNDARY OF THE LAND DESCRIBED AS DOCUMENT NUMBER 2001-161263 N 13°34'00" W, A DISTANCE OF 3.20 FEET TO A POINT; THENCE LEAVING SAID EAST LINE N 89°27'45" W ALONG A LINE 39.00 FEET NORTHERLY OF THE CENTERLINE OF SE PALMQUIST ROAD (WHEN MEASURED AT RIGHT ANGLES), A DISTANCE OF 174.70 FEET TO A POINT ON THE EAST LINE OF A TRACT OF LAND DEEDED TO LEATHERS LIMITED PARTNERSHIP ON JANUARY 24TH, 1994 AND RECORDED AS DOCUMENT NUMBER 94-015060 WITH THE MULTNOMAH COUNTY RECORDER'S OFFICE; THENCE SOUTH ALONG THE SAID EAST LINE A DISTANCE OF 14.00 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED AREA CONTAINING 2,395 SQUARE FEET MORE OR LESS.

THE BASIS OF BEARING FOR THE ABOVE DESCRIBED AREAS ARE BASED ON THE DEED RECORDED AS DOCUMENT NUMBER 2001-161263 WITH THE MULTNOMAH COUNTY RECORDER'S OFFICE.

PROJECT NAME: SE PALMQUIST ROAD AT US26 IMPROVEMENTS
PROJECT NUMBER: CIP NUMBER 527700
DATE: 1/29/2020
FILE: JONES RIGHT-OF-WAY DEDICATION

TEMPORARY CONSTRUCTION EASEMENT

A portion of the tract of land deeded to Margaret Elizabeth Jones, as trustee of the Margaret Elizabeth Jones trust dated July 17th, 2001 and being recorded as document number 2001-161263 with the Multnomah County recorder's office; being situated in the northeast quarter of Section 14, Township 1 South, range 3 East of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Beginning at the southwest corner of the lands described by above said document number 2001-161263, said point being on the northerly right-of-way of SE Palmquist road, 25.00 feet northerly of the centerline thereof (when measured at a right angle); thence north along the east line of a tract of land deeded to leathers limited partnership on January 24th, 1994 and recorded as document number 94-015060 with the Multnomah County recorder's office, a distance of 14.00 feet to the **true point of beginning of the temporary construction easement;**

Thence leaving said east line S 89°27'45" E along a line 39.00 feet northerly of the center line of se Palmquist road (when measured at right angles), a distance of 126.83 feet to a point that is the western most line of a proposed stormwater drainage facility easement, said point is also the centerline of the sanitary sewer constructed within the "easement for construction of sewer line" easement granted to City of Gresham on October 13, 1966 in Multnomah County recorder's office book 532 page 87; thence n 12°44'21" w 152.09 feet to a point; thence s 77°14'48" w a distance of 20.00 feet; thence S 12°44'21" E 126.82 feet; thence n 89°27'45" w along a line 59.00 feet northerly of the centerline of SE Palmquist road (when measured at right angles), a distance of 101.75 feet to a point on the above said east line of the lands described by above said document number 94-015060; thence south along said east line, a distance of 20.00 feet to the true point of beginning. The above described area containing 5,075 square feet more or less.

The basis of bearing for the above described areas are based on the deed recorded as document number 2001-161263 with the Multnomah County recorder's office.

The temporary construction easement shall only be used for the original construction of public Street and Storm Sewer facilities by the City of Gresham or its contractors. This easement shall expire after two years or upon completion of the project, whichever occurs sooner.

The purpose of this Temporary Construction Easement is for the City of Gresham to construct public facilities related to the purposes stated above. The City of Gresham shall have exclusive use of the easement property during the term of this Easement. Such use includes, but is not limited to, excavation and removal of soil, installation of facilities, the storage of equipment, machinery and supplies and use as a staging area for construction.

The City of Gresham, its employees, agents, contractors, and invitees shall have access to and the right to enter the easement property at any time.

The surface of the property shall be restored by the City of Gresham within a reasonable time after completion of construction to a condition equal to or better than the condition of the easement property prior to the work.

This easement shall bind and inure to the benefit of the immediate parties and their respective heirs, executors, administrators, successors, and assigns.

STORMWATER DRAINAGE FACILITY EASEMENT

A portion of the tract of land deeded to Margaret Elizabeth Jones, as trustee of the Margaret Elizabeth Jones trust dated July 17th, 2001, and being recorded as document number 2001-161263 with the Multnomah County recorder's office; being situated in the northeast quarter of Section 14, Township 1 South, range 3 East of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Beginning at the southwest corner of the lands described by above said document number 2001-161263, said point being on the northerly right-of-way of SE Palmquist road, 25.00 feet northerly of the centerline thereof (when measured at a right angle); thence north along the east line of a tract of land deeded to leathers limited partnership on January 24th, 1994 and recorded as document number 94-015060 with the Multnomah County recorder's office, a distance of 14.00 feet to a point; thence leaving said east line S 89°27'45" E along a line 39.00 feet northerly of the center line of SE Palmquist road (when measured at right angles), a distance of 126.83 feet to the **true point of beginning of the stormwater drainage facility easement**, said point is also the centerline of the sanitary sewer constructed within the "easement for construction of sewer line" easement granted to City of Gresham on October 13, 1966 in Multnomah County recorder's office book 532 page 87; thence continuing along above said line S 89°27'45" E, a distance of 47.87 feet to a point on the west line of a tract of land deeded to the State of Oregon September 4th, 1986 and being recorded in book 1952, page 1116 of the Multnomah County recorder's office; thence along said west line N 13°34'00" W, a distance of 68.03 feet to a point; thence leaving said west line N 0°1'30" W along the west line of the tract of land deeded to Marie Motejl on October 10th, 1960 and being recorded as book 2034 and page 76 with the Multnomah County recorder's office, a distance of 59.19 feet; thence N 17°33'08" W along a line of a tract of land deeded to the State of Oregon on December 29th, 1964 in book 19, page 53 of the Multnomah County deed records, a distance of 100.63 feet to a point on the south line of a tract of land deeded to leathers limited partnership on January 24, 1994 and recorded as document number 94-015067 with the Multnomah County recorder's office, thence N 89°27'45" W, along said south line a distance of 51.57 feet to a point; thence leaving said line S 12°44'21" E, a distance of 226.87 feet to the true point of beginning. The above described area containing 11,643 square feet more or less.

The basis of bearing for the above described areas are based on the deed recorded as document number 2001-161263 with the Multnomah County recorder's office.

The easement property shall only be used for public storm drainage purposes and mitigation plantings.

The purpose of the easement is for the City of Gresham to maintain mitigation plantings in perpetuity, construct, operate, inspect, maintain, repair and reconstruct facilities now and in the future related to the purposes stated above. This may include one or more underground pipelines as well as vaults, manholes, power lines, telemetry lines, poles and other appurtenances above and below the ground as necessary for the purpose stated above.

The City of Gresham, its employees, agents, contractors, and invitees shall have access to and the right to enter the easement property at any time for the purposes of the easement. This includes the reasonable right of ingress to and egress from the easement property through the property of the property owner's property.

All landscaping and improvements within the easement are the sole responsibility of the City of Gresham. The property owner shall not make any grade changes and exposed utilities may not be covered or buried.

No grade changes shall be made.

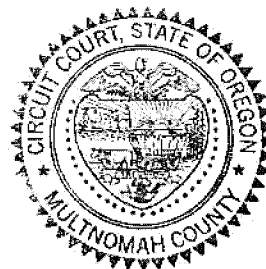
The following are prohibited in the easement unless prior written consent of the City of Gresham is obtained:

Development, improvements and activities including, but not limited to, buildings (includes overhanging structures and footings), other structures or features, culverts, retaining walls, fencing that restricts access to or through the easement, construction of any type, excavations, fills, material disposal or storage, vehicle storage, vehicle parking or tree planting.

Facilities or easements of other utilities, including but not limited to, pipelines, overhead wires, service drops and any pole, tower or other structure supporting overhead wires. All other uses not specifically allowed by this easement.

Within the easement property, the property owner shall not store, use, manufacture, dispose of nor allow the migration onto the easement property any materials that are hazardous or constitute a public health hazard as defined by law.

This easement shall bind and inure to the benefit of the immediate parties and their respective heirs, executors, administrators, successors, and assigns.



CERTIFIED TO BE A TRUE
COPY OF THE ORIGINAL.

DATED: 9/11/2023

Cathy Eggen
COURT CLERK