

ORDINANCE NO. **149010**

An Ordinance authorizing commencement of condemnation proceedings for the acquisition of a parcel of land and the acquisition of a temporary easement, located in Lots 2 and 3, SUBDIVISION OF LOT 1, PARADISE SPRING FARM, Multnomah County, Oregon, for the construction of street improvements at S.E. 39th and Stark Streets, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

- (1) That it is necessary and expedient to acquire, for the construction of street improvements at S.E. 39th and Stark Streets, a parcel of land lying in Lots 2 and 3, SUBDIVISION OF LOT 1, PARADISE SPRING FARM, Multnomah County, Oregon, the said parcel being that portion of said Lot 2 and the North one half of said Lot 3 lying West of a line parallel with and 10 feet East of the East line of S.E. 39th Avenue. ALSO: Beginning on the South line of said Lot 3 at a point 2.31 feet East of the East line of S.E. 39th Avenue; thence West along said South line 2.31 feet to said East line; thence North along said East line 46.5 feet, more or less, to the North line of the South one half of said Lot 3; thence East along said North line 3.77 feet; thence Southerly in a straight line to the point of beginning; approximately 1,536 square feet more or less, outside of the existing right-of-way.
- (2) That it is necessary and expedient to acquire, for the construction of street improvements at S.E. 39th and Stark Streets, a temporary easement for work area for four years duration or the duration of the construction project, whichever is sooner, described as a parcel of land lying in Lots 2 and 3, SUBDIVISION OF LOT 1, PARADISE SPRING FARM, Multnomah County, Oregon; the said parcel being that portion of said Lots 2 and 3 lying West of the following described line: beginning at the intersection of the South line of said Lot 3 with a line parallel with and 22 feet East of the East line of S.E. 39th Avenue; thence North along said parallel line to a line parallel with and 3 feet North of the South line of said Lot 2; thence West along said last mentioned parallel line 7 feet; thence North

parallel with and 15 feet East of the East line of S.E. 39th Avenue to a line parallel with and 5 feet South of the South line of S.E. Stark Street; thence East along said last mentioned parallel line 19 feet; thence North at right angles to said last mentioned parallel line to said South line of S.E. Stark Street. EXCEPT therefrom Parcel 1. ALSO EXCEPT therefrom that portion occupied by the existing building; approximately 1,458 square feet more or less outside the existing right-of-way.

- (3) That it is necessary that the City have the right to possession of the property and the easement in order that the construction of the street improvements at S.E. 39th and Stark Streets may stay on schedule and within budgetary limitation, and that provisions for the establishment of a fund for deposit into court as a condition for possession, if necessary, be made on that account.
- (4) That the State of Oregon, pursuant to that certain Interstate Transfer Project, S.E. 39th Avenue and S.E. Stark, Agreement No. 6360 entered into by and between the City of Portland and the State of Oregon, by and through the Department of Transportation, Highway Division, has carried on negotiations for the purchase of such property and easements with the present owners and they have refused to sell.
- (5) That it is necessary that special legal counsel representing the City of Portland pursuant to that certain agreement authorized by Ordinance No. 147323 of the City of Portland, be authorized and directed to make a binding offer to the owners of the said property for the purchase of the parcel and the easement described herein, in the amount of the approved appraisal and estimated value arrived at by the Highway Division, Department of Transportation, State of Oregon pursuant to the said Agreement No. 6360.
- (6) That it is necessary that the said legal counsel be authorized, in the event that satisfactory agreement cannot be reached with the owners of the property for the acquisition and use thereof, to institute condemnation proceeding to acquire the property and the use thereof.

NOW, THEREFORE, the Council directs:

- (a) Special legal counsel hereby is authorized and directed to make a binding offer to the owners of the parcel of land lying in Lots 2 and 3, SUBDIVISION OF LOT 1, PARADISE SPRING FARM, Multnomah County, Oregon; the said parcel being that portion of said Lot 2 and the North one half of said Lot 3 lying West of a line parallel with and 10 feet East of the East line of S.E. 39th Avenue. ALSO: Beginning on the South line of said Lot 3 at a point 2.31 feet East of the East line of S.E. 39th Avenue; thence West along said South line 2.31 feet to said East line; thence north along said East line 46.5 feet, more or less, to the North line of the South one half of said Lot 3; thence East along said North line 3.77 feet; thence Southerly in a straight line to the point of beginning; approximately 1,536 square feet more or less, outside of the existing right-of-way.

And a temporary easement for four years or the duration of the construction project, whichever is sooner, described as a parcel of land lying in Lots 2 and 3, SUBDIVISION OF LOT 1, PARADISE SPRING FARM, Multnomah County, Oregon; the said parcel being that portion of said Lots 2 and 3 lying West of the following described line: Beginning at the intersection of the South line of said Lot 3 with a line parallel with and 22 feet East of the East line of S.E. 39th Avenue; thence North along said parallel line to a line parallel with and 3 feet North of the South line of said Lot 2; thence West along said last mentioned parallel line 7 feet; thence North parallel with and 15 feet East of the East line of S.E. 39th Avenue to a line parallel with and 5 feet South of the South line of S.E. Stark Street; thence East along said last mentioned parallel line 19 feet; thence North at right angles to said last mentioned parallel line to said South line of S.E. Stark Street. EXCEPT therefrom Parcel 1. ALSO EXCEPT therefrom that portion occupied by the existing building; approximately 1,458 square feet more or less outside the existing right-of-way; in the amount of the approved appraisal and estimated fair market value as determined by the Highway Division, Department of Transportation, State of Oregon pursuant to Agreement No. 6360 for the acquisition of the said land and easement.

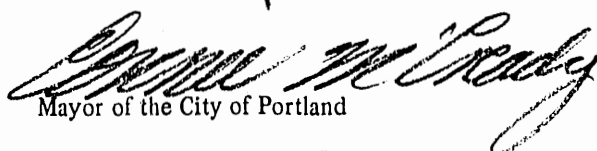
ORDINANCE No.

- (b) In the event that no satisfactory agreement can be reached with the owners of the property as to the purchase price thereof, legal counsel is directed to commence and prosecute to final determination such proceedings as may be necessary to acquire title to the property.
- (c) That upon the trial of any suit or action instituted to acquire the property or any interest therein, legal counsel is hereby authorized to make such stipulation, agreement or admission as in their judgment may be in the best interests of the city.
- (d) That upon the final determination of any such proceedings, the deposit of funds and payment of judgment conveying title to the property to the city is hereby authorized pursuant to and subject to the terms of the said Agreement No. 6360.
- (e) That the city hereby finds it necessary to obtain and maintain immediate and continuing possession of such property in order that the construction of the S. E. 39th and Stark Street improvements may proceed on schedule and within budgetary limitations; legal counsel is hereby authorized, in accordance with all applicable laws and regulations to take appropriate steps to acquire immediate possession of such property, in the event that such possession is not obtained and maintained by agreement with the owners.
- (f) That all funds required for the acquisition of the property described herein have been budgeted by the Portland Development Commission in payment for any and all such property and shall be made by and through the Portland Development Commission.

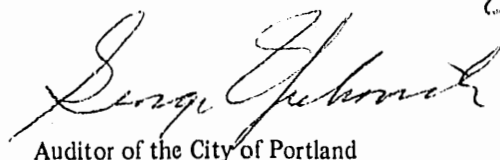
Section 2. The Council declares that an emergency exists because it is necessary that no undue delay be encountered in order to acquire the necessary easements for the purpose of constructing the street improvements at the intersection of S. E. 39th and Stark Streets in the City of Portland; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **JAN 16 1980**

Commissioner Lindberg
November 26, 1979
RCIrelan/fg


Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Calendar No. 156

ORDINANCE No. 149040

Title

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THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	/	
Jordan	/	
Lindberg	/	
Schwab	/	
McCready	/	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Commissioner Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ML/SA</i>

BUREAU APPROVAL	
Bureau:	
Prepared By: RCirelan/fg	Date: 11/26/79
Budget Impact Review:	
<input type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head:	

NOTED BY
City Attorney <i>[Signature]</i>
City Auditor
City Engineer

Filed JAN 11 1980

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *[Signature]*
Deputy