

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6635

**AUTHORIZING AN EASEMENT TO PDC-OWNED PROPERTY
TO THE TRI-COUNTY METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON FOR THE CONSTRUCTION AND
OPERATION OF LIGHT RAIL LINES, ACCESSORIES AND
APPURTENANCES IN THE RIVER DISTRICT AND
DOWNTOWN WATERFRONT URBAN RENEWAL AREAS**

WHEREAS, the Tri-County Metropolitan Transportation District of Oregon ("TriMet"), the Oregon Department of Transportation ("ODOT"), the City of Portland (including a local improvement district in the downtown), the Clackamas County Urban Renewal Agency, and the Portland Development Commission ("PDC"), through TriMet, desire to extend light rail along I-205 from Clackamas Town Center to Gateway Transit Center and in downtown Portland from the Steel Bridge to Portland State University along 5th and 6th Avenues ("I-205/Mall Light Rail Project");

WHEREAS, on August 11, 2004, the PDC Board of Commissioners ("Board") adopted Resolution No. 6171, which authorized the Executive Director to enter into an Intergovernmental Grant Agreement ("IGA") with TriMet to provide \$20 million in local matching funds for the I-205/Mall Light Rail Project;

WHEREAS, to assure the I-205/Mall Light Rail Project meets community expectations for design quality and functionality, and in support of the establishment of a Small Business Support Program to mitigate construction impacts, on June 2, 2007, the Board adopted Resolution No. 6464, which authorized an amendment of the IGA to provide an additional \$2,865,686 in local matching funds;

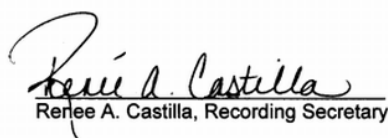
WHEREAS, the approved design and alignment of the I-205/Mall Light Rail Project requires TriMet's use of property owned by PDC for light rail operations, including 5,118 square feet of Block A&N and 5,181 square feet of the Union Station property, both located in Old Town/Chinatown (see Exhibit A);

WHEREAS, PDC and TriMet have negotiated the terms and conditions of the Light Rail Track Easement agreement, attached hereto as Exhibit B; and

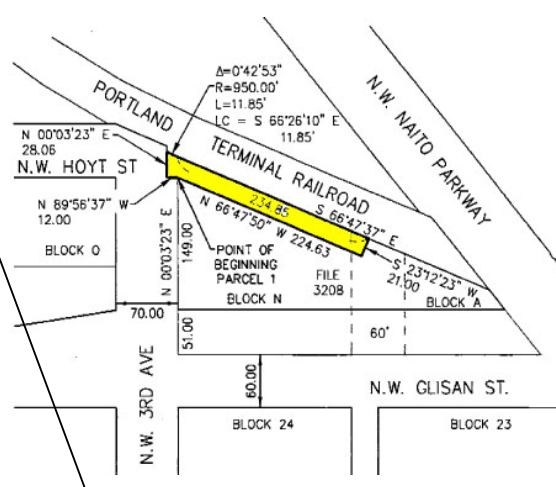
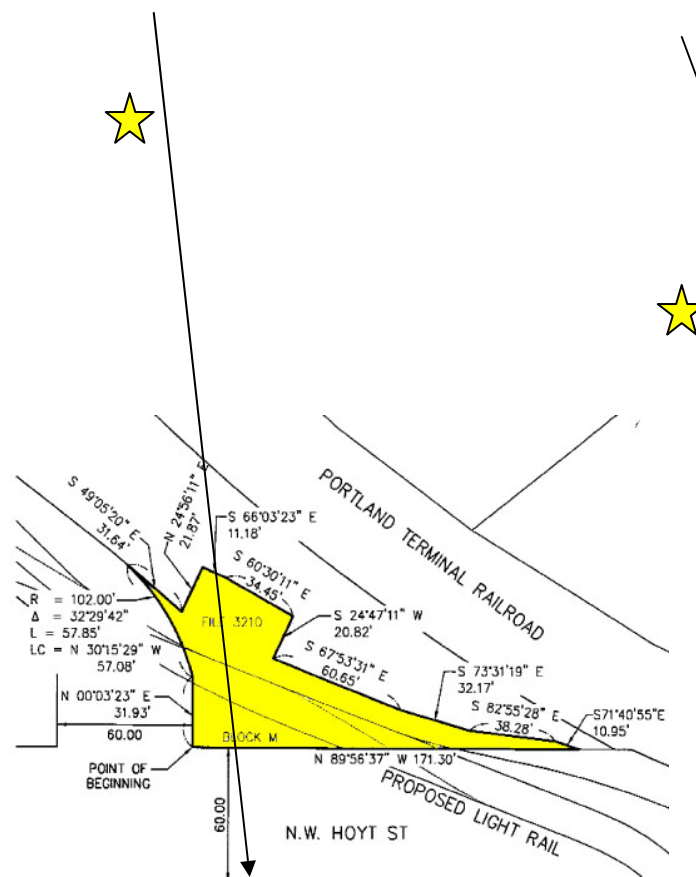
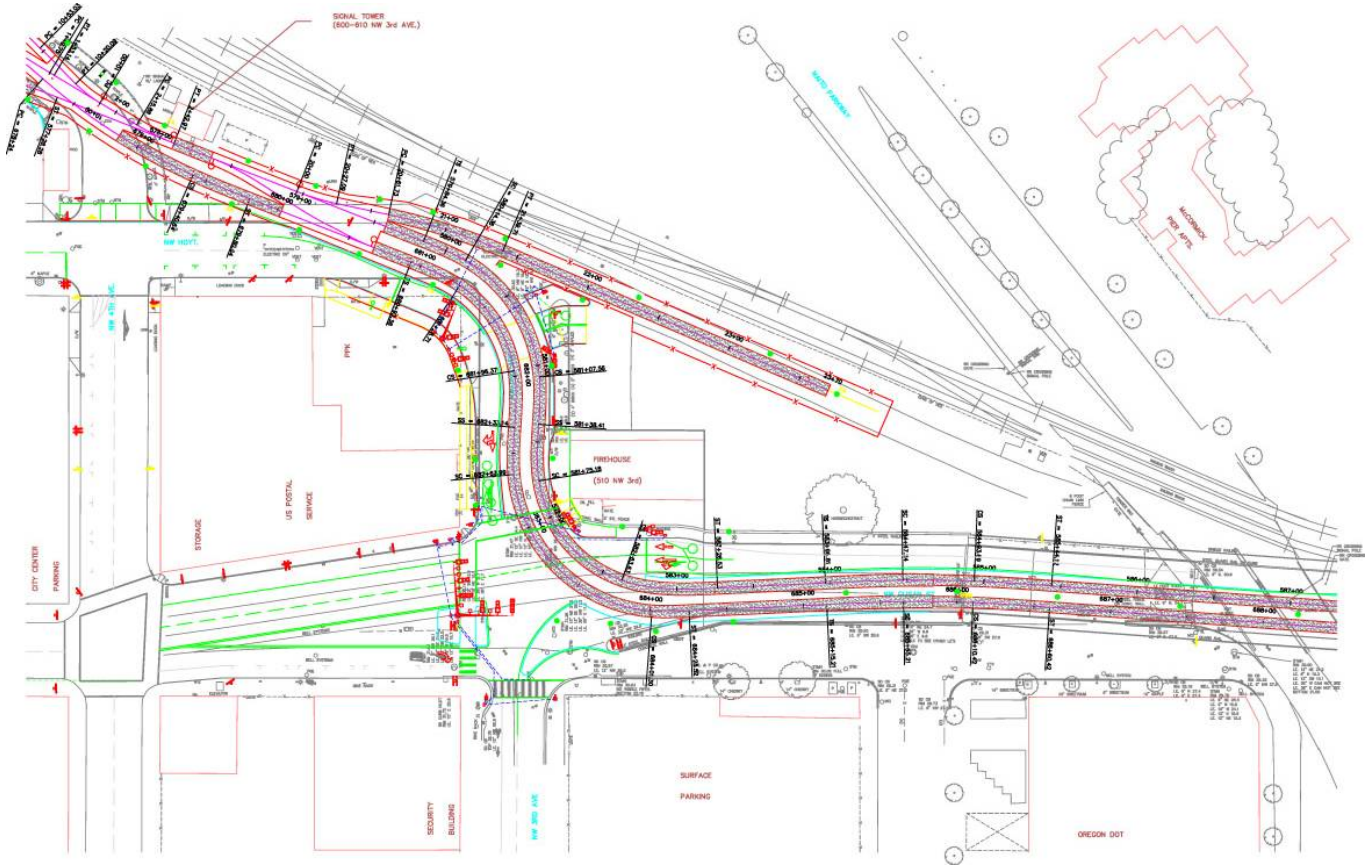
WHEREAS, PDC and TriMet share an interest in maximizing local and federal financial resources, and minimizing any budget shortfalls or value engineering of the project.

NOW, THEREFORE, BE IT RESOLVED that the execution of the Light Rail Track Easement between PDC and TriMet (attached hereto in substantially complete form as Exhibit B) is authorized at no expense for the purposes of the construction and operation of the I-205/Mall Light Rail Project; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its adoption.


Rerlee A. Castilla, Recording Secretary

Light Rail Track Easement – Property Area



Light Rail Track Easement

Recording Requested By and
When Recorded Return To:

Portland Development Commission
Attn: Sarah Harpole
222 NW Fifth Avenue
Portland, OR 97209

LIGHT RAIL TRACK EASEMENT
(Tri-County Metropolitan Transportation District of Oregon)

DATED AS OF: _____, 2008

BETWEEN: CITY OF PORTLAND, (“Grantor”)
a municipal corporation of the State of Oregon,
acting by and through the Portland Development Commission,
as the duly designated Urban Renewal Agency of the City of Portland,

222 NW Fifth Avenue
Portland, Oregon 97209-3859

AND: TRI-COUNTY METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON, (“TriMet” or “Grantee”)
a municipal corporation and a public body, corporate and politic,
duly created and existing under and pursuant to the laws of the State of
Oregon

710 NE Holladay Street
Portland, Oregon 97232

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor hereby conveys to Grantee (“**Grantee**”) and Grantee’s successors and assigns a perpetual easement over, upon and across a portion of real property more particularly described and/or shown on Exhibit A attached hereto (the “**Easement Area**”), including the improvements presently located thereon, located on a portion of that certain real property owned by Grantor in Multnomah County, Oregon, more particularly described on the attached Exhibit B (“**Grantor’s Property**”), for the purposes described in this Light Rail Track Easement (the “**Easement**”).

The terms of this Easement are as follows:

1. Purpose. Grantee intends to construct light rail tracks and associated improvements in connection with the construction of a light rail extension between Union Station and Portland State University for perpetual use by the public (“**Light Rail Extension Project**”). This Easement is granted with the intent and purpose of allowing the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal in the Easement Area of light rail tracks and all necessary or desirable accessories and appurtenances thereto (“**Light Rail Improvements**”), as necessary in furtherance and operation of the Light Rail Extension Project. The Easement is granted together with the present and (without payment therefor) the future obligation to keep the Easement Area clear of all brush, trees, timber, structures, buildings and other hazards which might endanger Grantee’s Light Rail Improvements or impede Grantee’s activities that are authorized by this Easement.

2. Grantor’s Rights. Grantor shall have the right to use the Easement Area for all purposes not inconsistent with the uses and purposes of this Easement.

3. Rights of Grantee and Others. This Easement is non-exclusive to Grantee, and Grantor is expressly authorized to grant additional use or easement rights to third parties in the Easement Area subsurface for all lawful purposes not inconsistent with Grantee’s use, so long as such use by Grantor and any such third parties does not interfere with Grantee’s use. After the initial installation of Grantee’s Light Rail Improvements in the Easement Area, Grantor reserves the right to use, and to grant third parties the right to use, the subsurface of the Easement Area for all lawful purposes not inconsistent with Grantee’s use, after approval by Grantee, so long as such use by Grantor and any such third parties does not interfere with Grantee’s use.

4. Reserved.

5. Construction, Maintenance, Repair, Use and Reconstruction. Grantee, its successors and assigns, and agents and invitees shall construct, maintain, repair, use or reconstruct the Light Rail Improvements and use the Easement Area in conformance with all applicable laws and regulations. Subject to the limitations and conditions of the Oregon Constitution and ORS 35.260 to 35.300, Grantee, for itself and its successors and assigns, hereby agrees to indemnify, protect, defend, and hold harmless Grantor and its successors and assigns, from claims, liabilities, costs, and expenses arising out of any act or omission of Grantee, its successors or assigns, in connection with the construction, maintenance, repair, use or reconstruction of the Light Rail Improvements in the Easement Area. Grantee shall have the right to excavate the Easement Area, as necessary to perform construction, maintenance, repair

or reconstruction of the Light Rail Improvements on the existing surface of the Easement Area. Upon completion of any such work, Grantee shall restore the Easement Area and any improvements located on Grantor's Property that are disturbed as a result of Grantee's activities. The surface of the Easement Area, the immediately adjoining area of Grantor's Property and all improvements that are disturbed as a result of Grantee's construction shall be restored to the condition pre-existing such disturbance. In the event the construction, maintenance, repair or reconstruction of the Light Rail Improvements causes a discharge or release of Hazardous Substances (as hereinafter defined) or aggravates an existing condition on the Easement, the Grantor's Property or surrounding properties, Grantee shall be responsible for such discharge or release and all response, remediation, restoration and costs associated therewith and Grantee agrees that such work shall be performed and completed in accordance with DEQ-approved methods for such work. Other than the aggravation of a previously existing condition as set forth in this Paragraph, it is understood and agreed that Grantee, by accepting this Easement, is not accepting any liability for any discharge or release of Hazardous Substances onto or from the Easement Area prior to the effective date of this Easement, and that the Grantor is not attempting to convey any such liability.

The term, "Hazardous Substances," means any and all substances defined or designated as hazardous, toxic, radioactive, or regulated wastes or materials, or any other similar term in or under any applicable federal, State of Oregon and local laws, regulations, permit terms, codes and ordinances now or hereinafter in effect, as the same may be amended from time to time, and applicable decisional law, which govern materials, substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment. The term, "Hazardous Substances," shall include without limitation, fuels, petroleum and petroleum-derived products.

6. AS IS Condition. Grantee hereby acknowledges that, by its execution and acceptance of this Easement, Grantee takes the Easement Area in its condition, known or unknown, existing as of the date hereof, "AS IS" and with all defects.

7. Termination of Easement. If Grantee fails to use this Easement for a continuous period of five (5) years for the purposes for which it was granted, then this Easement shall terminate and all rights granted hereunder shall revert to Grantor. Upon written request of Grantor, Grantee will deliver to Grantor in recordable form any document reasonably required to remove this Easement from the record of title to the Property.

8. Prior Restrictions; Future Encumbrances. This Easement is granted subject to all prior easements, encumbrances, liens and restrictions of record. Grantee hereby consents to any future encumbrance placed on the Easement Area that may be required by the Oregon Department of Environmental Quality ("DEQ") in order to document the mitigation of Hazardous Substances on such property and limit future uses on such property.

9. Reserved.

10. Prohibited Activity. Grantee shall not construct any structures in the Easement Area other than the Light Rail Improvements without first obtaining the written approval of Grantor.

11. Miscellaneous Provisions.

a. Entire Agreement; Modification. This Easement sets forth the entire understanding of the parties with respect to the matters addressed herein. This Easement supersedes any and all prior negotiations, discussions, agreements, and understandings between the parties, whether written or oral, pertaining to the matters addressed herein. This Easement may not be modified or amended except by a written agreement executed by both parties.

b. The Easement herein granted does not convey any right or interest to title in the above-referenced Easement Area except as stated herein. It is understood and agreed that Grantee, by accepting this Easement, is only accepting liability for taxes, assessments, or other governmental charges relating to the Easement Area resulting from the Grantee's use of the Easement Area.

c. Authority. By signing below, each party represents and warrants to the other party that such party's execution and delivery of this Agreement has been duly authorized by all appropriate action.

d. Counterparts. This Easement may be executed in one or more counterparts, and all so executed shall constitute one agreement, binding on all the parties hereto, even though all parties are not signatories to the original or the same counterpart. Any counterpart of this Easement that has attached to it separate signature pages, which altogether contain the signatures of all parties, shall for all purposes be deemed a fully executed instrument.

e. Successors and Assigns. This Easement shall run with the land and is binding upon and will inure to the benefit of the parties and their respective successors, assigns and transferees.

IN WITNESS WHEREOF, the parties have executed this Easement, effective as of the date first written above.

GRANTOR:

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the Portland Development Commission as the duly designated Urban Renewal Agency of the City of Portland

By: _____
Bruce A. Warner
Executive Director

Date: _____, 2008

Approved as to form:

Portland Development Commission Legal Counsel

GRANTEE:

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON, a municipal corporation and a public body, corporate and politic, duly created and existing under and pursuant to the laws of the State of Oregon

By: _____
Neil McFarlane
Executive Director

Date: _____, 2008

Approved as to form:

TriMet Legal Counsel

Parcel 1B (portion of Union Station property):

A parcel of land situated in the Northwest one-quarter of Section 34, Township 1 North, Range 1 East, W.M., City of Portland, Multnomah County, Oregon, and being a portion of that property described in Warranty Deed to City of Portland, recorded October 30, 1987 in Book 2054, Page 2425, Multnomah County Records, more particularly described as follows:

Beginning at the southwest corner of Block M of the duly recorded Plat of Couch's Addition to the City of Portland, said point also being at the intersection of the northerly right-of-way line of NW Hoyt Street and the easterly right-of-way line of NW 4th Avenue; thence on said easterly right-of-way line North 00° 03' 23" East 31.93 feet to a point of curvature; thence on the arc of a non-tangent 102.00 foot radius curve to the left, the radius point of which bears South 75° 59' 22" West, through a central angle of 32° 29' 42", an arc distance of 57.85 feet (the long chord of which bears North 30° 15' 29" West 57.08 feet); thence leaving said easterly right-of-way line South 49° 05' 20" East 31.64 feet; thence North 24° 56' 11" East 21.87 feet; thence South 66° 03' 23" East 11.18 feet; thence South 60° 30' 11" East 34.45 feet; thence South 24° 47' 11" West 20.82 feet; thence South 67° 53' 31" East 60.65 feet; thence South 73° 31' 19" East 32.17 feet; thence South 82° 55' 28" East 38.28 feet; thence South 71° 40' 55" East 10.95 feet to said northerly right-of-way line of NW Hoyt Street; thence on said northerly right-of-way line North 89° 56' 37" West 171.30 feet to the point of beginning.

This parcel contains 5,181 square feet or 0.119 acres, more or less.

The bearings of this description are based on record of survey SN 59572, as recorded in Multnomah County Survey Records.

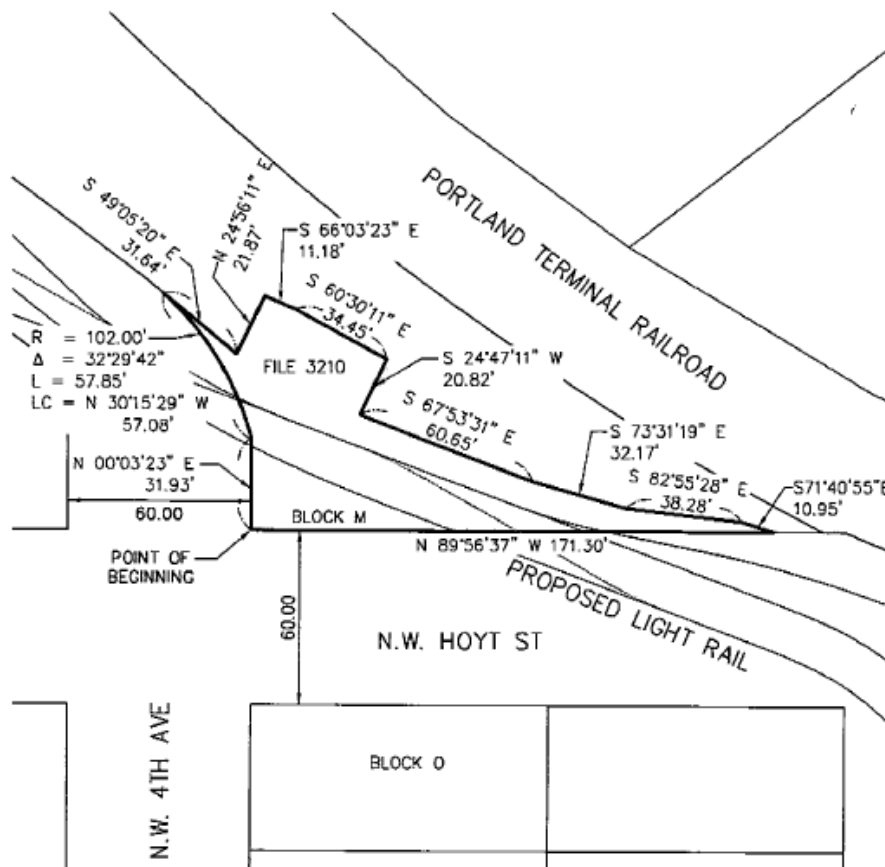


EXHIBIT B

Description of Grantor's Property:

Block A&N Property

All that portion of Blocks A and N, COUCH'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, County of Multnomah and State of Oregon, lying Southerly of the Southerly boundary line of the Portland Terminal Railroad Company Railroad right of way.

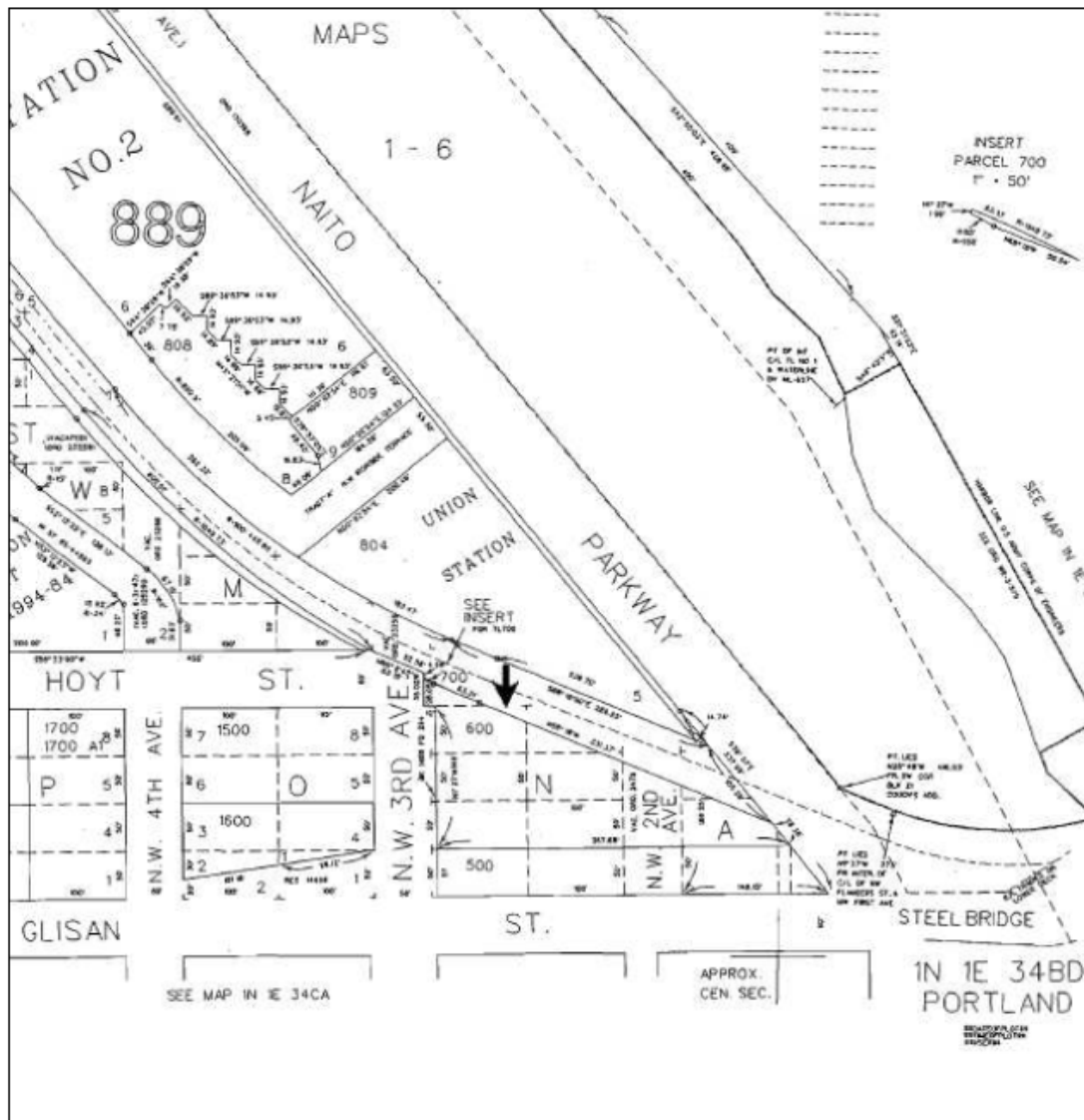
TOGETHER WITH that portion of vacated NW 2nd Avenue, which inured thereto by Vacation Ordinance No. 3479, dated June 14, 1882.

TOGETHER WITH that portion of vacated Hoyt (H) Street, which inured thereto.

EXCEPTING THEREFROM that portion of the above-described property conveyed to Oregon-Washington Railroad & Navigation Company, an Oregon corporation and Southern Pacific Company, a Kentucky corporation by Deed recorded March 29, 1933 in Book 205, Page 283, Official Records, Multnomah County, Oregon.

ALSO EXCEPTING THEREFROM that portion of the above described property conveyed to the City of Portland, a municipal corporation of Multnomah County, State of Oregon, by Deed recorded July 11, 1951 in Book 1486, Page 294, Official Records, Multnomah County, Oregon.

And, ALSO EXCEPTING THEREFROM that portion of the above-described property conveyed to Portland Terminal Railroad, an Oregon corporation, by Deed recorded May 14, 1993 in Book 2690, Page 2952, and Fee No. 93062487, Official Records, Multnomah County, Oregon.



Union Station Property

Part of COUCH'S ADDITION TO THE CITY OF PORTLAND, and various vacated streets therein, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at an iron rod at the intersection of the Southwest line of NW Front Avenue and the North line of the South 51 feet of Tract "A" of COUCH'S ADDITION, as said South 51 feet is referred to in the Deed to the Oregon and California Railroad Company, recorded November 14, 1914 in Deed Book 671 at Page 342; thence South 88°33'00" West 367.68 feet along said North line to an iron rod; thence North 01°27'00" West 149 feet to an iron rod on the North line of Block "N" of said addition; thence South 88°33'00" West 12.00 feet to an iron rod; thence North 01°27'00" West 35.02 feet to an iron rod; thence North 68°08'42" West 63.15 feet to an iron rod at the Southwest corner of Block "M" of said addition; thence South 88°33'00" West 455 feet to

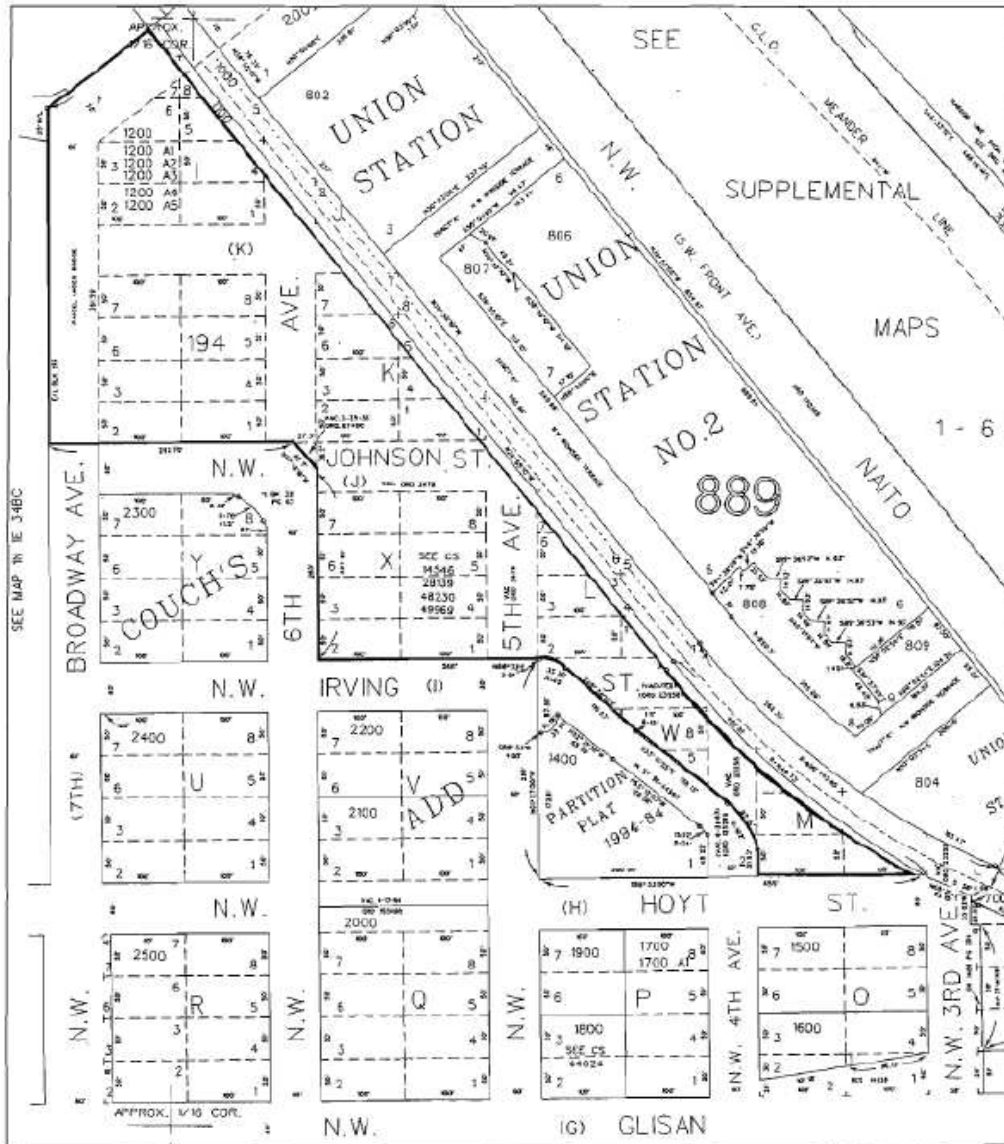
a brass screw at the Southwest corner of Block "W" of said addition; thence North $01^{\circ}27'00''$ West 260 feet to the Southwest corner of Block "I" of said addition; thence South $88^{\circ}33'00''$ West 260 feet to an iron rod at the Southwest corner of Block "X" of said addition; thence North $01^{\circ}27'00''$ West 227.20 feet to a brass screw; thence North $41^{\circ}13'16''$ West 42.67 feet to a brass screw; thence South $88^{\circ}33'00''$ West 292.70 feet to an iron rod at the Southeast corner of Block 193 of said addition; thence North $01^{\circ}27'00''$ West 361.59 feet to an iron rod at the intersection of the East line of Block 192 of said addition and the Southerly line of the NW Lovejoy Street overpass; thence North $81^{\circ}02'15''$ West 544.49 feet to an iron rod on the North line of Block 147 of said addition; thence South $88^{\circ}33'00''$ West 84.48 feet to a $5/8$ inch iron rod at the Northwest corner of said Block 147; thence North $01^{\circ}27'00''$ West 110.0 feet to the Southwest corner of the tract described in the Deed to Portland Terminal Investment Company recorded September 30, 1974 in Book 1009 at Page 651; thence along the perimeter of said Deed as follows: North $88^{\circ}33'00''$ East 51.46 feet to an iron rod; North $28^{\circ}52'27''$ East 18.35 feet to an iron rod along a curve to the left with a radius of 277.94 feet through a central angle of $30^{\circ}19'27''$ (long chord bears North $13^{\circ}42'44''$ East 145.39 feet) a distance of 147.10 feet to an iron rod I and North $88^{\circ}33'00''$ East 1.25 feet to an iron rod at the Northeast corner of said last mentioned Deed; thence North $01^{\circ}27'00''$ West 543.83 feet to an iron rod on the centerline of vacated NW Overton Street; thence South $88^{\circ}33'00''$ West 100.0 feet to the West line of NW 9th Avenue; thence North $01^{\circ}27'00''$ West 230 feet to an iron rod at the Northwest corner of Block 223 of said addition; thence North $88^{\circ}33'00''$ East 57.35 feet along the North line of said Block 223 to an iron rod on said Southwesterly line of NW Front Avenue; thence South $50^{\circ}27'00''$ East 1126.44 feet and South $39^{\circ}57'00''$ East 1903.87 feet along said Southwesterly line to the point of beginning.

EXCEPTING THEREFROM a parcel of land being a part of COUCH'S ADDITION TO THE CITY OF PORTLAND, and various vacated streets therein, in the City of Portland, County of Multnomah and State of Oregon, said parcel of land being 50.00 feet in width and more particularly described as follows:

Beginning at an iron rod at the intersection of the Southwesterly right of way line of NW Front Avenue and the North line of the South 51.00 feet of Tract "A" of said COUCH'S ADDITION, as said South 51 feet is referred to in the Deed to the Oregon and California Railroad Company, recorded November 14, 1914 in Deed Book 671, Page 342 Record of Deeds, Multnomah County, Oregon; thence North $39^{\circ}57'00''$ West along the Southwesterly right of way line of said NW Front Avenue a distance of 28.36 feet to the true point of beginning of the parcel of land herein described; thence North $68^{\circ}18'00''$ West a distance of 331.37 feet to a point of curve; thence along a 1049.73 foot radius curve to the right, through a central angle of $03^{\circ}27'01''$ an arc distance of 63.21 feet (the long chord of said curve bears North $66^{\circ}34'30''$ West a distance of 63.20 feet) to a point on the Easterly right of way line of NW 3rd Avenue; thence North $01^{\circ}27'00''$ West along said Easterly right of way line a distance of 4.98 feet; thence North $68^{\circ}08'42''$ West a distance of 52.58 feet to a point of curve; thence along a 1049.73 foot radius curve to the right through a central angle of $21^{\circ}56'33''$ an arc distance of 402.01 feet (the long chord of said curve bears North $50^{\circ}53'26''$ West a distance of 399.56 feet); thence North $39^{\circ}55'10''$ West a distance of 2,188.01 feet to a point on the Easterly right of way line of NW 9th Avenue; thence North $01^{\circ}27'00''$ West along said Easterly right of way line a distance of 51.29 feet to the Northwest corner of Block 223 of said COUCH'S ADDITION; thence North $88^{\circ}33'00''$ East along the Northerly line of said Block 223 a distance of 23.11 feet; thence South $39^{\circ}55'10''$ East a distance of 2,213.80 feet to a point of curve; thence along a 999.73 foot radius

curve to the left through a central angle of $28^{\circ}22'50''$ an arc distance of 495.20 feet (the long chord of said curve bears South $54^{\circ}06'35''$ East a distance of 490.15 feet); thence South $68^{\circ}18'00''$ East a distance of 238.70 feet to a point on the Southwesterly right of way line of said NW Front Avenue; thence South $39^{\circ}57'00''$ East along said Southwesterly right of way line a distance of 105.29 feet to the true point of beginning of the parcel of land herein described.

ALSO, EXCEPTING THEREFROM that portion conveyed to the Tri-County Metropolitan Transportation District of Oregon, by Instrument recorded March 19, 1993 as Fee No. 93035102, Official Records, Multnomah County, Oregon.



PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6635

TITLE: AUTHORIZING AN EASEMENT TO PDC-OWNED PROPERTY TO THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON FOR THE CONSTRUCTION AND OPERATION OF LIGHT RAIL LINES, ACCESSORIES AND APPURTENANCES IN THE RIVER DISTRICT AND DOWNTOWN WATERFRONT URBAN RENEWAL AREAS


Adopted by the Portland Development Commission on September 24, 2008.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Charles Wilhoite, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda		<input type="checkbox"/> Regular Agenda		

Certification

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.


Renee A. Castilla, Recording Secretary

Date: September 24, 2008