



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 5, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Resolution Declaring the Public Necessity and purpose for Acquisition of Right of Way, Easements and Fee Property and Authorizing Good Faith Negotiations and Condemnation Actions for the Johnson Creek Blvd (79th Place to End of County Maintenance) Improvements Project. Total project value is \$6,173,749. Funding is through HB2017 Funds. No County General Funds are involved.

Previous Board Action/Review	04/20/2023: BCC Approval of Contract with Consor North America, Inc. for Design Services for the Johnson Creek Blvd (79 th PI to ECM) Improvements Project. 09/03/24: Request for Consent		
Performance Clackamas	The project will build a strong infrastructure and ensure safe, healthy and secure communities.		
Counsel Review	Yes-Hong Huynh	Procurement Review	No
Contact Person	Carol Hager	Contact Phone	503-742-4674

EXECUTIVE SUMMARY: The County is utilizing HB2017 funds to implement roadway improvements between 79th Place and the end of county-maintained portion of road at the Clackamas-Multnomah County line (End of County Maintenance or ECM). Johnson Creek Blvd is an Arterial with heavy volumes of vehicle traffic. The roadway pavement along Johnson Creek Blvd between 79th PI and ECM and on Bell Ave between Johnson Creek Blvd and Alberta Ave is in need of rehabilitation. The roadway pavement will be resurfaced in order to provide a safer roadway and also preserve the pavement’s structure. Bell Ave between Johnson Creek Blvd and Alberta Ave will also be resurfaced for improved safety and roadway preservation. The project will require public right-of-way acquisitions along Johnson Creek Blvd for ADA curb ramp retrofits or replacements to be in compliance with ADA standards and to improve accessibility and safety for pedestrians. Signalized corners will be modified to meet ADA requirements for pedestrian push button reach, height and level landing.

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In order to construct the improvements as designed, permanent and temporary easements and fee acquisitions will be required. The Project is expected to impact 28 properties abutting the Project alignment. The Board has authority to exercise the power of eminent domain under ORS Chapter 203 and ORS Chapter 35 to acquire the needed rights of way, easements, and fee property by purchase or condemnation proceedings. In accordance with the procedure set forth in ORS Chapter 35, a Resolution of Necessity is required before offers are made for rights of way, easements, and fee property.

The Project design team has collected and analyzed data sufficient to choose an alternative and advance the design of the Project. The Project has been planned and located in a manner which is most compatible with the greatest public good and which causes the least private injury. The design has progressed through the Department of Transportation and Development (the "Department") project development procedures and the final legal descriptions required for acquisition of the needed rights of way and easements from 28 properties affected by the Project are being developed.

The Department shall negotiate in good faith and accordance with all applicable laws, rules, and regulations in an attempt to reach agreement as to the amount of Just Compensation owed each affected property owner. To fairly determine the amount of Just Compensation, staff will utilize the expertise of authorized real estate appraisers and other such experts.

The resolution directs Department staff to proceed with good faith negotiations for the acquisition of the needed property rights and to utilize the expertise of authorized real estate appraisers and other such experts to assist in the acquisition process. The resolution further requires the Director of the Department to notify the Board if the exercise of the power of eminent domain becomes necessary. Only after this process is completed does it authorize the Office of County Counsel to file a Condemnation Action.

RECOMMENDATION: Staff respectfully recommends that the Board of County Commissioners approve the Resolution of Necessity and Purpose for the Johnson Creek Blvd (79th PI to ECM) Improvements Project authorizing the acquisition of necessary easements, by good faith negotiation if possible, or condemnation, if necessary.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the Johnson Creek Blvd (79th PI to ECM) Improvements Project



Resolution No. _____

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This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on September 5, 2024 and,

It appearing to the Board that the Johnson Creek Blvd (79th PI to ECM) Improvements Project (the "Project") will resurface Johnson Creek Blvd between 79th PI and the County line, resurface Bell Ave between Johnson Creek Blvd and Alberta Ave and retrofit or replace non-compliant ADA curb ramps within the project limits; is consistent with the powers and purposes of County government; and is necessary for public use and the continued growth, safety and welfare of the community; and,

It further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

It further appearing to the Board that the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded; and

It further appearing to the Board that the Project is being planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and,

It further appearing to the Board that rights of way and easements within the boundaries described in the attached Exhibit "A" impacting the properties listed in the attached Exhibit "B" are a necessary part of the Project; and,

It further appearing to the Board that the acquisition of the necessary rights of way and easements shall occur within the areas described in Exhibit "A"; the width of right-of-way will be in accordance with the Clackamas County Comprehensive Plan and Transportation System Plan; ancillary easements including sign, slope, sidewalk, utility, wetland mitigation, storm water treatment, storm water detention, traffic and safety facility, and temporary construction purposes, together with such incidental additional right-of-way at intersections and due to topography, all as may be reasonably necessary to accommodate Project design; and any uneconomic remnants, as determined by appraisal; all being in the public interest in order to commence and complete the Project in a timely manner; and,

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Resolution No. _____
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It further appearing that the Board has authority under ORS Chapter 203 and under ORS Chapter 35 to acquire rights of way, easements, and fee property by good faith negotiation, agreement, and purchase or by exercise of the power of eminent domain with condemnation proceedings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County Department of Transportation and Development (“the Department”), in connection with the Project, begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such process, for the necessary rights of way, easements, and fee property, either through good faith negotiation, agreement, and purchase, or, if necessary, by commencement of condemnation proceedings.

IT IS FURTHER RESOLVED THAT:

1) The Department be authorized to, in good faith, attempt to negotiate agreements of just compensation with owners of affected property identified as necessary within the boundaries of Exhibit “A”. In so doing, the Department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist staff with the acquisition process; and,

2). It is the intention of the Board that the required rights of way, easements, and fee property be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director of the Department shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints of condemnation with the circuit court of the County and take such other steps as it determines necessary for the immediate possession of required rights of way, easements, and fee property and the successful litigation of the condemnation action, including the retention of real estate appraisers, experts and other consultants deemed necessary to the successful conclusion of that litigation.

Dated this _____ day of _____, 2024.

Tootie Smith, Chair

Recording Secretary



Johnson Creek Blvd (79th to ECM) Improvements Project

County Project No. 300320356

June 25, 2024

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EXHIBIT A

Engineer’s Design Centerline Description for a Portion of Johnson Creek Boulevard

A roadway commonly known as Johnson Creek Boulevard, County Road Number 1215, located in the Northeast One-Quarter and the Northwest One-Quarter of Section 29 and the Northeast One-Quarter and the Northwest One-Quarter of Section 30, Township 1 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at engineer’s design centerline station 0+00.00, which bears South 40°01’12” East 233.69 feet from the westerly corner of Parcel 2 of Partition Plat Number 2011-08, Multnomah County Plat Record; thence South 44°54’28” East 70.00 feet to an angle point; thence South 64°11’23” East 828.19 feet to an angle point; thence South 64°16’13” East 2639.35 feet; thence South 01°43’05” West 21.89 feet; thence South 64°16’13” East 978.72 feet; thence along a curve to the left with a Radius of 572.97 feet, Delta of 23°41’52”, Length of 236.98 feet, and a Chord of South 76°07’08” East 235.30 feet; thence South 87°58’04” East 1237.30 feet; thence along a curve to the right with a Radius of 1273.19 feet, Delta of 5°11’25”, Length of 115.33 feet, and a Chord of South 85°22’22” East 115.29 feet to a point that will be later referenced as “Point A”; thence South 82°46’39” East 13.54 feet; thence along a curve to the left with a Radius of 1273.30 feet, Delta of 5°10’00”, Length of 114.82 feet, and a Chord of South 85°21’39” East 114.78 feet; thence South 87°56’39” East 1147.14 feet; thence along a curve to the left with a Radius of 477.46 feet, Delta of 51°27’16”, Length of 428.78 feet, and a Chord of North 66°19’43” East 414.52 feet; thence North 40°36’05” East 31.31 feet; thence along a curve to the right with a Radius of 572.96 feet, Delta of 51°06’44”, Length of 511.12 feet, and a Chord of North 66°09’27” East 494.34 feet; thence South 88°17’11” East 309.55 feet to engineer’s design centerline station 86+84.00 and the Point of Terminus.

The sidelines in feet of the strips of land along Johnson Creek Boulevard herein described are as follows:

<u>STATION TO STATION</u>	<u>WIDTH ON SOUTHERLY SIDE OF ENGINEER’S DESIGN CENTERLINE</u>	<u>WIDTH ON NORTHERLY LINE OF ENGINEER’S DESIGN CENTERLINE</u>
0+31.70 To 1+02.70		20.00 Feet in a Straight Line to 20.00 Feet
0+52.16 To 0+90.01	42.98 Feet in a Straight Line to 34.68 Feet	
1+97.41 To 2+90.20	40.00 Feet	

The sidelines in feet of the strips of land along Johnson Creek Boulevard herein described continues as follows:

<u>STATION TO STATION</u>	<u>WIDTH ON SOUTHERLY SIDE OF ENGINEER'S DESIGN CENTERLINE</u>	<u>WIDTH ON NORTHERLY LINE OF ENGINEER'S DESIGN CENTERLINE</u>
7+29.71 To 7+80.36		28.00 Feet
7+80.36		28.00 Feet to 41.05 Feet
7+80.36 To 8+14.06		41.05 Feet
7+38.38 To 8+14.86	38.00 Feet	
10+14.03 To 11+05.49	25.00 Feet	
14+31.75 To 14+88.74	35.00 Feet	
16+04.64 To 17+12.68	35.00 Feet	
22+42.14 To 22+70.21	42.00 Feet	
24+79.70 To 25+54.20	35.00 Feet	
27+96.96 To 29+75.44	40.00 Feet	
29+13.63 To 29+70.09		24.00 Feet
30+19.43 To 30+37.64	54.89 Feet	
30+80.11 To 30+95.09		34.17 Feet
35+72.54 To 38+40.14		32.00 Feet
37+55.57 To 38+02.67	35.00 Feet	
38+89.97 To 40+59.88		31.00 Feet
40+82.35 To 43+08.69		31.00 Feet
41+03.89 To 41+30.31	40.00 Feet	
44+94.41 To 44+94.43		41.44 Feet in a Straight Line to 45.69 Feet
44+94.43 To 45+24.26		45.69 Feet in a Straight Line to 69.58 feet
45+93.15 To 46+35.72		76.94 Feet in a Straight Line to 51.82 Feet
46+35.72 To 46+35.66		51.82 Feet in a Straight Line to 45.82 Feet
60+30.39 To 61+27.84		54.43 Feet in a Straight Line to 60.79 Feet
61+06.80 To 61+39.12	30.00 Feet in a Straight Line to 51.74 Feet	
61+88.60 To 62+43.42		88.13 Feet in a Straight line to 39.32 Feet
61+96.13 To 61+96.88	34.93 Feet in a Straight Line to 34.89 Feet	

The sidelines in feet of the strips of land along Johnson Creek Boulevard herein described continues as follows:

<u>STATION TO STATION</u>	<u>WIDTH ON SOUTHERLY SIDE OF ENGINEER'S DESIGN CENTERLINE</u>	<u>WIDTH ON NORTHERLY LINE OF ENGINEER'S DESIGN CENTERLINE</u>
61+96.88 To 61+96.46	34.89 Feet in a Straight Line to 23.09 feet	
61+96.46 To 62+13.75	23.09 Feet in a Straight Line to 22.56 Feet	
67+31.99 To 67+50.00	50.90 Feet in a Straight line to 51.27 Feet	
67+50.00 To 67+50.43	51.27 Feet in a Straight Line to 30.27 Feet	
73+73.40 To 74+04.72		37.68 Feet in a Straight Line to 75.17 Feet
74+04.72 To 74+14.73		75.17 Feet in a Straight Line to 75.19 Feet
74+66.24 To 74+85.16		60.44 Feet in a Straight Line to 30.00 Feet
78+40.51 To 80+61.23		30.00 Feet in a Straight Line to 30.00 Feet

Engineer's Design Centerline Description for a Portion of Bell Avenue

A roadway commonly known as Bell Avenue, County Road Number 649, located in the Northwest One-Quarter of Section 29, Township 1 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the above mentioned "Point A", being on the engineer's design centerline of Johnson Creek Boulevard thence South 82°46'39" East 13.54 feet; thence along a curve to the left with a Radius of 1273.30 feet, Delta of 01°01'25", Length of 22.75 feet, and a Chord of South 83°17'22" East 22.75 feet, to the Point of Beginning, being the centerline-centerline intersection of Johnson Creek Boulevard and Bell Avenue, being at engineer's design centerline station 100+00.00; thence North 01°29'50" East 971.30 feet to engineer's design centerline station 109+71.30 and the Point of Terminus.

The sidelines in feet of the strips of land along Bell Avenue herein described are as follows:

<u>STATION TO STATION</u>	<u>WIDTH ON EASTERLY SIDE OF ENGINEER'S DESIGN CENTERLINE</u>
109+22.50 To 109+40.90	30.00 Feet in a Straight Line to 48.56 Feet

**AKS ENGINEERING & FORESTRY**

12965 SW Herman Road, Suite 100, Tualatin, OR 97062

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AKS Job #9794

Johnson Creek Blvd (79th to ECM) Improvements Project

County Project No. 300320356

June 25, 2024

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EXHIBIT B

<u>FILE NUMBER</u>	<u>PROPERTY ADDRESS</u>	<u>TAX LOT</u>
1	4600 SE Harney Road	12E30BA-01000
2	No Situs	12E30BA-00800
3	5001 SE Johnson Creek Blvd	12E30BA-00500
4	5721 SE Johnson Creek Blvd	12E30AB-01301
5	8935 SE Stanley Place	12E30AA-07800
6	6001 SE Johnson Creek Blvd	12E30AD-02300
7	6021 SE Johnson Creek Blvd	12E30AD-01600
8	9285 SE 58th Drive	12E30AD-01500
9	6089 SE Johnson Creek Blvd	12E30AD-01300
10	6101 SE Johnson Creek Blvd	12E30AD-00200
11	6391 SE Johnson Creek Blvd	12E29BC-00401
12	No Situs	12E29BC-07400
13	No Situs	12E29BD-07500
14	7355 SE Johnson Creek Blvd	12E29BD-00300
15	9180 SE 74th Avenue	12E29AC-01500
16	7600 SE Johnson Creek Blvd	12E29AC-02400
17	No Situs	12E29AC-02300
18	7000 SE Johnson Creek Blvd	12E29BD-03000
19	9300 SE Bell Avenue	12E29BD-03800
20	No Situs	12E29BC-04200
21	No Situs	12E29BC-00901
22	No Situs	12E30AD-08900
23	No Situs	12E30AC-06100
24	No Situs	12E30AB-07100
25	No Situs	12E30BA-02200
26	No Situs	12E30BB-08000
27	4536 SE Johnson Creek Blvd	12E30BB-00100
28	6803 SE Johnson Creek Blvd	12E29BD-00700