



DAN JOHNSON

DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 22, 2022

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 with DTD/Transportation Engineering and Construction for the Woodcock Creek at Grimm Road Bridge Replacement Project. Total project value is \$ 985,071. Funding is through the County Road fund and OWEB Restoration grant funds. County general funds are not included.

Purpose/Outcome	Under ORS Chapter 203, ORS Chapter 35 and the federal Uniform Act, a local government agency is authorized to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Resolution of Necessity prior to initiating acquisition of the easements or other property rights needed from abutters to the project
Dollar Amount and Fiscal Impact	The right of way budget for the project is \$23,520 and is included within the \$985,071 total project budget.
Funding Source	This project has two funding sources, Oregon Watershed Enhancement Board (OWEB) Restoration grant funds and County Road Fund.
Duration	The Resolution remains active throughout the project's duration of five years and terminates upon completion of the project or when all litigation associated with the project is concluded.
Previous Board Action/Review	05/07/2020: BCC Approval to partner with Molalla River Watch in Applying for an Oregon Watershed Enhancement Board Grant for the Replacement of the Woodcock Creek (Grimm Rd) Bridge #06267 04/22/2021: BCC Approval to Partner with Molalla River Watch in Applying for an Oregon Watershed Enhancement Board Grant for the Replacement of the Woodcock Creek (Grimm Rd) Bridge #06267 09/20/2022: Discussion item at issues
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. How does this item align with your department's Strategic Business Plan goals? This item supports the DTD Strategic Focus to assess and eliminate scour at the bridge abutments and weirs, remove upstream island, lessen the chance of new island forming, minimizing flood risks on Woodcock Creek. 2. How does this item align with the County's Performance Clackamas goals? This item aligns with "Build a Strong Infrastructure" by improving infrastructure and the environment around the bridge.
Counsel Review	Date of Counsel review: 09/12/22 Name of County Counsel performing review: NB



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Procurement Review	Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> Item is a Resolution of Necessity.
Contact Person	Bryant Cheong, Right of Way Agent II 503-742-4675

BACKGROUND: The existing Grimm Road Bridge over Woodcock Creek is experiencing significant scour problems. The bridge is located approximately 1,200 feet south of Grimm Road's intersection with Munson Road and is approximately 48 years old. Funds from an OWEB Restoration grant and the County Road Fund will be used to replace the existing four-sided box culvert bridge with a precast modular bridge.

In order to construct the improvements as designed, additional rights of way and easements will be required. The project is expected to impact three 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 three 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 authorizing the acquisition of necessary rights of way, easements, by good faith negotiation if possible, or condemnation, if necessary.

Respectfully Submitted,

Bryan Cheong

Bryant Cheong- Right of Way Agent II

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

In the Matter of 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 Woodcock Creek at Grimm Road Culvert Replacement Project



Resolution No. _____

Page 1 of 2

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on September 22, 2022 and,

It appearing to the Board that the Woodcock Creek at Grimm Road Culvert Replacement Project ("the Project") will replace the existing four-sided box culvert bridge with a modular bridge; 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 has been 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's and B's for files 1, 2, and 3 (the "Exhibits") are a necessary part of the Project; and,

It further appearing that the Board has authority under ORS Chapter 203 and 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; and

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 this 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.

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

In the Matter of 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 Woodcock Creek at Grimm Road Culvert Replacement Project.



Resolution No. _____

Page 2 of 2

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 in the Exhibits. 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). If the Director of the Department (the "Director") determines that changes to the design of the Project, unanticipated field conditions, or the need to accommodate uneconomic remnants makes it necessary or desirable to modify the rights of way, easements, and fee property required for the Project, the Director shall promptly bring before the Board, and the Board shall promptly consider a resolution amending the Exhibits; and,

3). 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 _____, 2022.

Tootie Smith, Chair

Recording Secretary

EXHIBIT "A"

Woodcock Creek at Grimm Road

August 24, 2022

52E12 0220

File 1

Page 1 of 2

TRACT A
PERMANENT MAINTENANCE EASEMENT:

A portion of that property described in Document No. 2010-083270 of the Clackamas County Deed records, located in the SE 1/4 of Section 12, Township 5 South, Range 2 East, Willamette Meridian, as shown on Exhibit 'B' attached hereto and by this reference made a part hereof, more particularly described as follows:

Beginning at the most northerly northeast corner of that property described in Document No. 2021-38502 of the Clackamas County Records; thence along the northerly line of said property, North 89°54'01" West 28.62 feet; thence leaving said northerly property line, North 03°03'01" East 45.54 feet; thence South 61°36'19" East 58.00 feet to the westerly right of way of S. Grimm Road (County Road No. 1179); thence along said westerly right of way line, South 00°54'56" East 29.80 feet; thence leaving said right of way North 79°03'24" West 23.15 feet to the centerline of Woodcock Creek, also being the boundary line common with said property described in Document No. 2021-38502; thence along said property line North 19°03'16" West 7.89 feet to the Point of Beginning,

Containing 1,904 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.

EXHIBIT "A"
(continued)

Woodcock Creek at Grimm Road

August 24, 2022

52E12 0220

File 1

Page 2 of 2

TEMPORARY CONSTRUCTION EASEMENT:

A portion of that property described in Document No. 2010-083270 of the Clackamas County Deed records, located in the SE 1/4 of Section 12, Township 5 South, Range 2 East, Willamette Meridian, as shown on Exhibit 'B' attached hereto and by this reference made a part hereof, more particularly described as follows:

TRACT B-1

Beginning at a point on the westerly right of way of S. Grimm Road (County Road No. 1179), being North 00°54'56" West 141.88 feet of the most easterly northeast corner of that property described in Document No. 2021-38502 of the Clackamas County Records; thence along said right of way South 00°54'56 East 117.12 feet; thence leaving said right of way North 61°36'19" West 58.00 feet; thence South 03°03'01" West 45.54 feet to the property line common to said property described in Document No. 2020-38502; thence along said property line North 89°54'01" West 15.98 feet; thence leaving said property line North 00°54'59" West 135.25 feet; thence South 89°46'58" East 69.72 feet to the Point of Beginning,

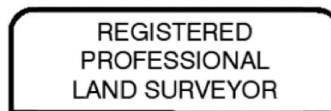
along with,

TRACT B-2

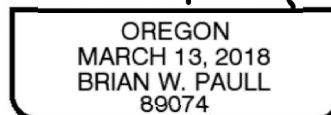
Beginning at the most easterly northeast corner of that property described in Document No. 2021-38502 of the Clackamas County Records; thence leaving said right of way North 72°56'10" West 11.75 feet; thence North 31°08'37" West 20.73 feet; thence North 19°03'16" West 3.35 feet; thence South 79°03'24" East 23.15 feet to the westerly right of way of said S. Grimm Road; thence along said right of way South 00°54'56 East 19.96 feet to the Point of Beginning,

Containing 8,077 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.



Brian Paull



EXPIRATION DATE: 12-31-2022

EXHIBIT "A"

Woodcock Creek at Grimm Road

August 24, 2022

52E12 02000

File 2

Page 1 of 2

TRACT A
PERMANENT MAINTENANCE EASEMENT:

A portion of that property described in Document No. 1988-051639 of the Clackamas County Deed records, located in the SE 1/4 of Section 12, Township 5 South, Range 2 East, Willamette Meridian, as shown on Exhibit 'B' attached hereto and by this reference made a part hereof, more particularly described as follows:

Commencing from a point on the centerline of S. Grimm Road (County Road No. 1179), at the easterly extension of the centerline of Double D Lane, dedicated on Partition Plat No. 2019-067 of the Clackamas County Records, marked with a 5/8" iron rod, thence North 74°43'39" East 20.64 feet to the easterly right of way of said S. Grimm Road; thence along said right of way, North 00°54'56" West 7.67 feet to the Point of Beginning; thence continuing along said right of way, North 00°54'56" West 61.67 feet; thence leaving said right of way South 41°48'48" East 58.96 feet; thence South 24°08'45" West 38.60 feet; thence North 52°09'48" West 28.54 feet to the Point of Beginning,

Containing 1726 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.

EXHIBIT "A"
(continued)

Woodcock Creek at Grimm Road

August 24, 2022

52E12 02000

File 2

Page 2 of 2

TRACT B
TEMPORARY CONSTRUCTION EASEMENT:

A portion of that property described in Document No. 1988-051639 of the Clackamas County Deed records, located in the SE 1/4 of Section 12, Township 5 South, Range 2 East, Willamette Meridian, as shown on Exhibit 'B' attached hereto and by this reference made a part hereof, more particularly described as follows:

Commencing from a point on the centerline of S. Grimm Road (County Road No. 1179), at the easterly extension of the centerline of Double D Lane, dedicated on Partition Plat No. 2019-067 of the Clackamas County Records, marked with a 5/8" iron rod, thence North 74°43'39" East 20.64 feet to the easterly right of way of said S. Grimm Road, also being the Point of Beginning; thence leaving said right of way, South 42°37'40" East 99.08 feet; thence North 47°22'20" East 78.36 feet; thence North 42°37'40" West 189.99 feet to the easterly right of way of Said S. Grimm Road; thence along said right of way South 00°54'56" East 48.43 feet; thence leaving said right of way South 41°48'48" East 58.96 feet; thence South 24°08'45" West 38.60 feet; thence North 52°09'48" West 28.54 feet to said easterly right of way; thence along said right of way, South 00°54'56" East 7.67 feet to the Point of Beginning,

Containing 9483 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12-31-2022

EXHIBIT "A"

Woodcock Creek at Grimm Road

August 24, 2022

52E12 02201

File 3

Page 1 of 2

TRACT A

PERMANENT MAINTENANCE EASEMENT:

A portion of that property described in Document No. 2021-38502 of the Clackamas County Deed records, located in the SE 1/4 of Section 12, Township 5 South, Range 2 East, Willamette Meridian, as shown on Exhibit 'B' attached hereto and by this reference made a part hereof, more particularly described as follows:

Beginning at the most northerly northeast corner of that property described in Document No. 2021-38502 of the Clackamas County Records; thence along the northerly line of said property, North 89°54'01" West 28.62 feet; thence leaving said northerly property line, South 03°03'01" West 1.46 feet; thence South 79°03'24" East 31.85 feet; thence North 19°03'16" West 7.89 feet to the Point of Beginning,

Containing 130 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.

EXHIBIT "A"
(continued)

Woodcock Creek at Grimm Road

August 24, 2022

52E12 02201

File 3

Page 2 of 2

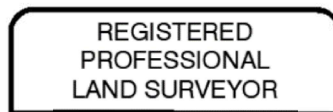
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TEMPORARY CONSTRUCTION EASEMENT:

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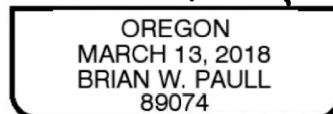
Beginning at a point along the west right of way line of South Grimm Road (C.R. 1179), also being the most easterly northeast corner of that property described in Document No. 2021-38502 of the Clackamas County Records; thence along the northerly line of said property, North 72°56'10" West 11.75 feet; thence North 31°08'37" West 20.73 feet; thence leaving said property line, North 79°03'24" West 31.85 feet; thence North 03°03'01" East 1.46 feet to the said northerly property line; thence along said property line, North 89°54'01" West 15.98 feet; thence leaving said property line, South 00°54'59" East 158.61 feet; thence North 89°05'04" East 69.70 to the west right of way line of South Grimm Road (C.R. 1179); thence along said right of way line North 00°54'56" West 125.60 feet to the Point of Beginning,

Containing 10,325 square feet, more or less.

Basis of Bearing: NAD83(2011) Epoch 2010.00, OCRS Portland Zone per OAR 734.



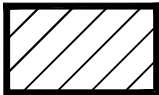
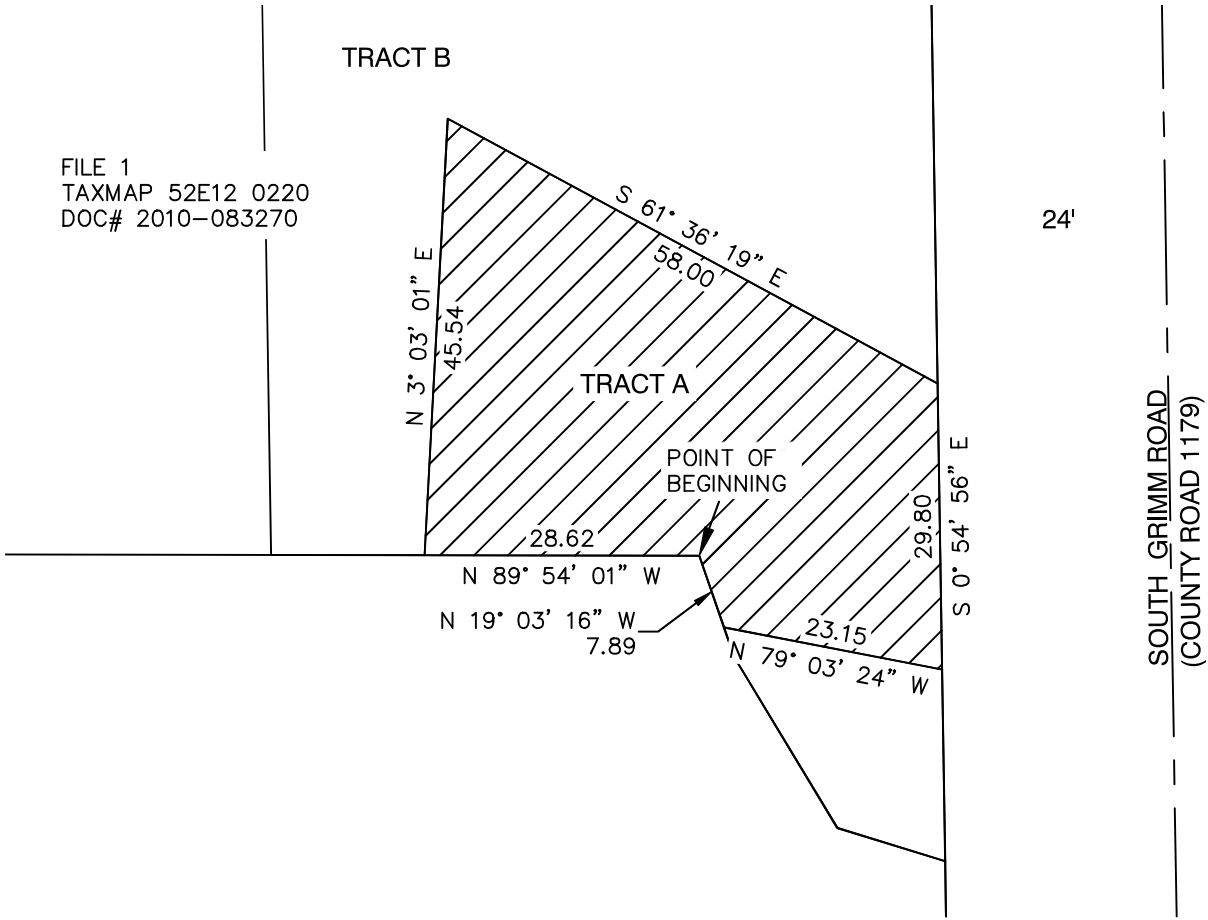
Brian Paull



EXPIRATION DATE: 12-31-2022

LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON

FILE 1
TAXMAP 52E12 0220
DOC# 2010-083270



PERMANENT MAINTENANCE
EASEMENT
AREA = 1904 SQ. FT. ±



SCALE
1"=20'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

EXHIBIT "B"

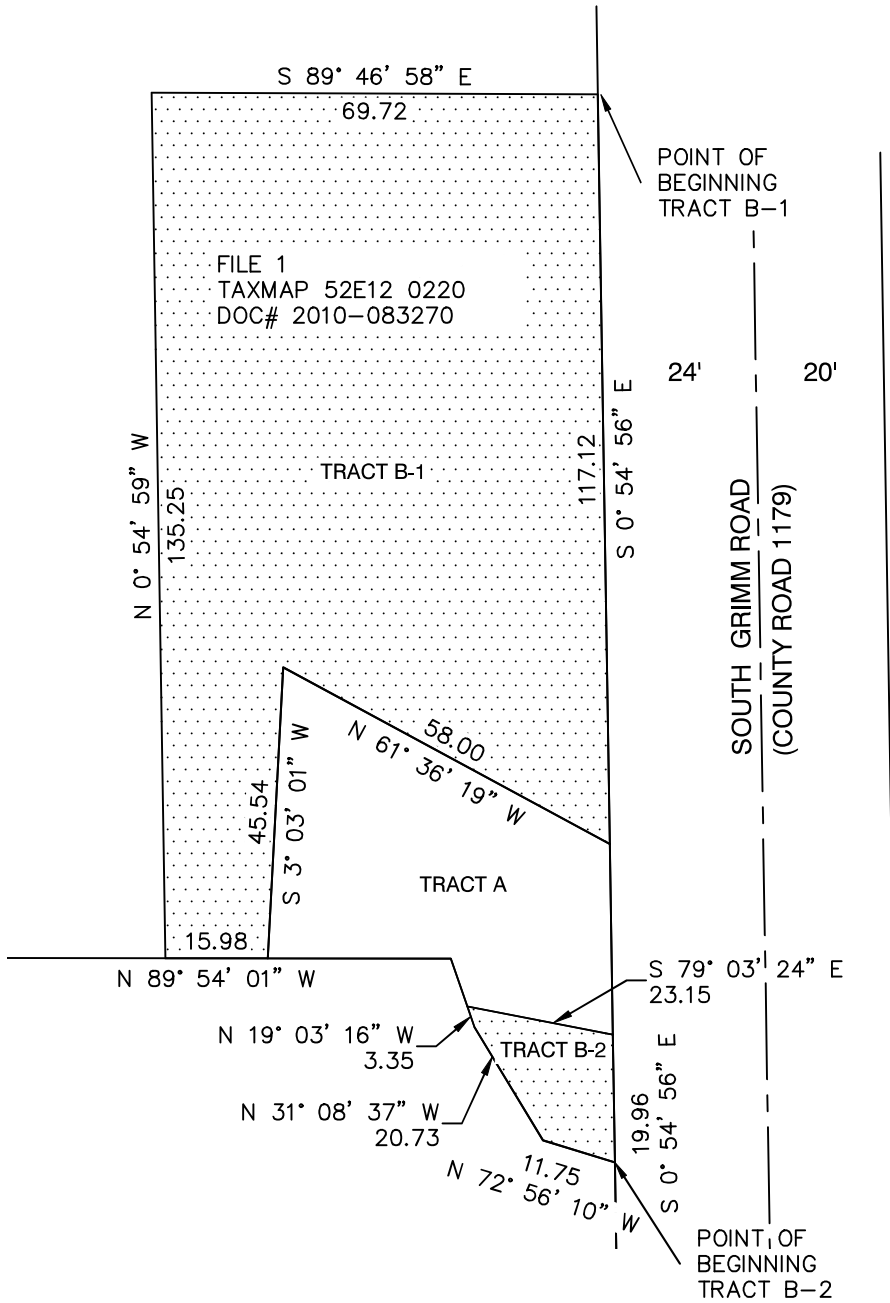
WOODCOCOK CREEK AT
GRIMM ROAD
PROJECT NO. BM-2017-00023
PAGE 1 OF 2

PERMANENT MAINTENANCE
EASEMENT

DRAWN BY BWP

DATE: 08/24/22

LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

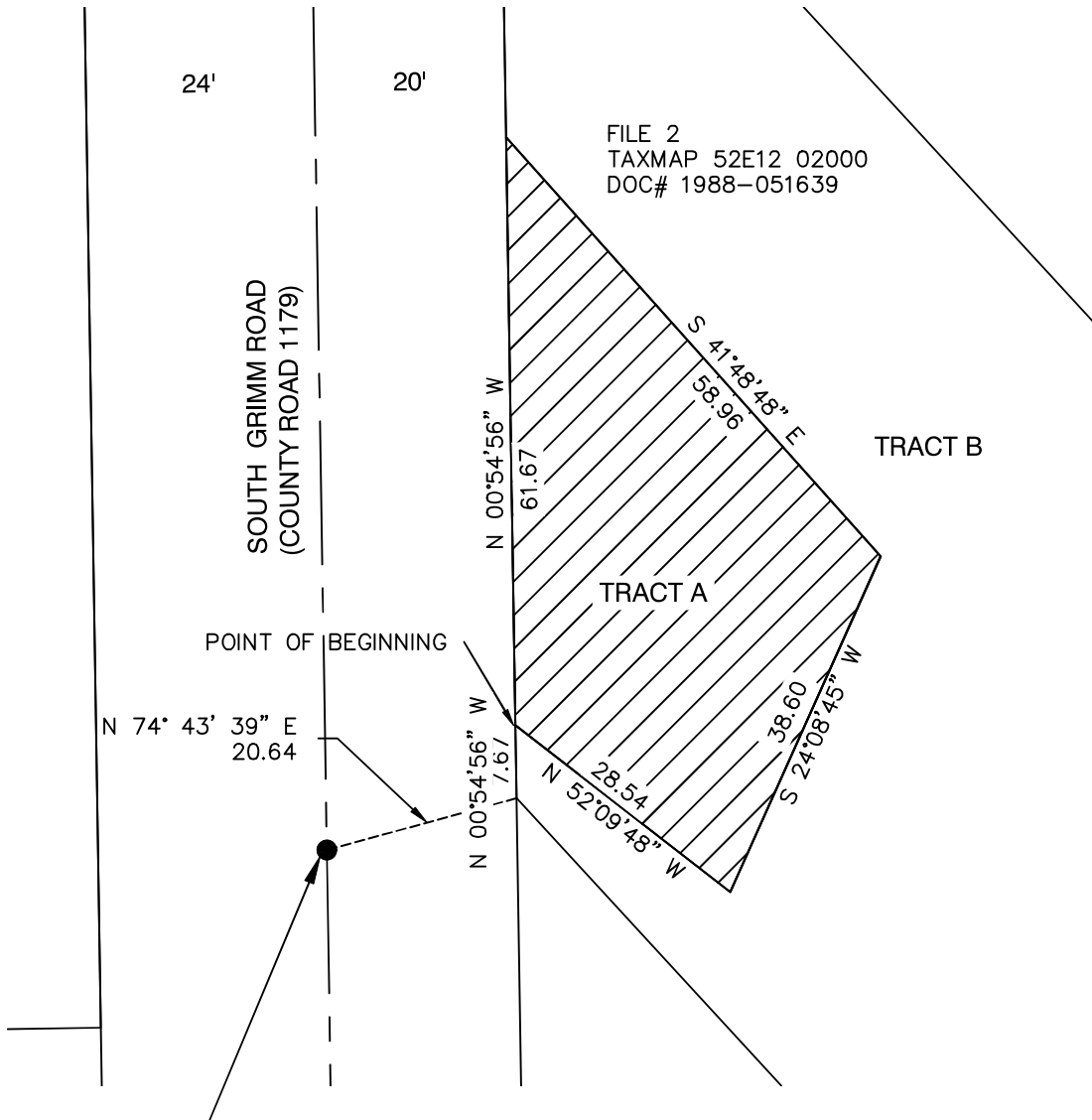
EXHIBIT "B"
WOODCOCOK CREEK AT
GRIMM ROAD
PROJECT NO. BM-2017-00023
PAGE 2 OF 2

TEMPORARY CONSTRUCTION
EASEMENT

DRAWN BY BWP

DATE: 08/24/22

LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON



FILE 2
TAXMAP 52E12 02000
DOC# 1988-051639

SOUTH GRIMM ROAD
(COUNTY ROAD 1179)

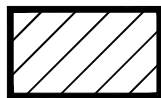
POINT OF BEGINNING

N 74° 43' 39" E
20.64

5/8" IRON ROD SET AT
CENTERLINE OF SOUTH GRIMM
RD, AND THE EXTENSION OF THE
PRIVATE ROAD DEDICATED ON
PP2019-067



SCALE
1" = 20'



PERMANENT MAINTENANCE
EASEMENT
AREA = 1726 SQ. FT. ±

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
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EXHIBIT "B"

WOODCOCOK CREEK AT
GRIMM ROAD
PROJECT NO. BM-2017-00023
PAGE 1 OF 2

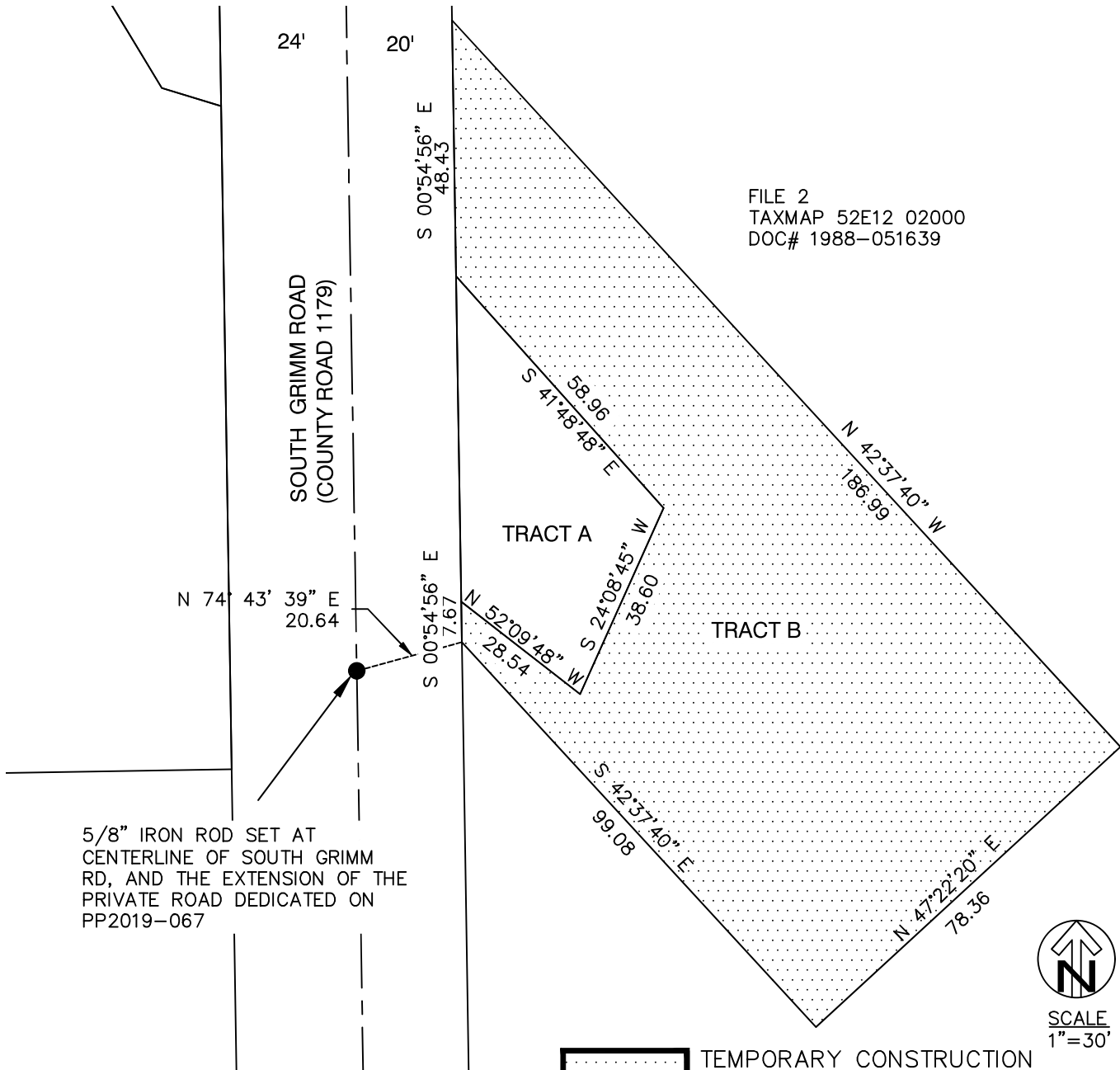
PERMANENT MAINTENANCE
EASEMENT

DRAWN BY BWP

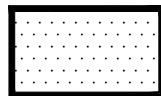
DATE: 08/24/22

LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON

FILE 2
TAXMAP 52E12 02000
DOC# 1988-051639



5/8" IRON ROD SET AT
CENTERLINE OF SOUTH GRIMM
RD. AND THE EXTENSION OF THE
PRIVATE ROAD DEDICATED ON
PP2019-067



TEMPORARY CONSTRUCTION
EASEMENT
AREA =
9483 SQ. FT. ±

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

EXHIBIT "B"

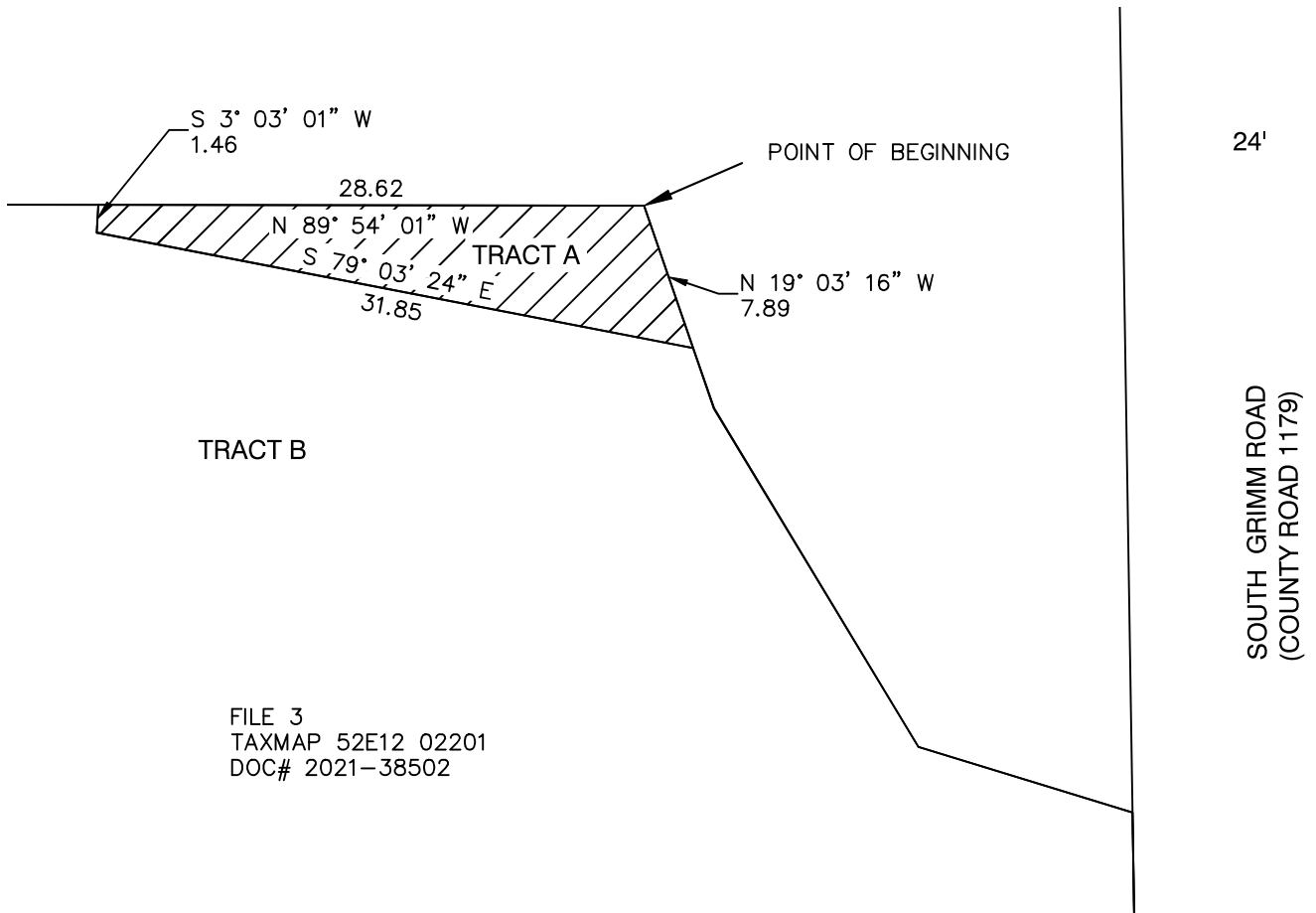
WOODCOCOK CREEK AT
GRIMM ROAD
PROJECT NO. BM-2017-00023
PAGE 2 OF 2

TEMPORARY CONSTRUCTION
EASEMENT

DRAWN BY BWP

DATE: 08/24/22

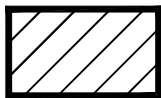
LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON



FILE 3
TAXMAP 52E12 02201
DOC# 2021-38502



SCALE
1"=10'

 PERMANENT MAINTENANCE
EASEMENT
AREA = 130 SQ. FT. ±

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

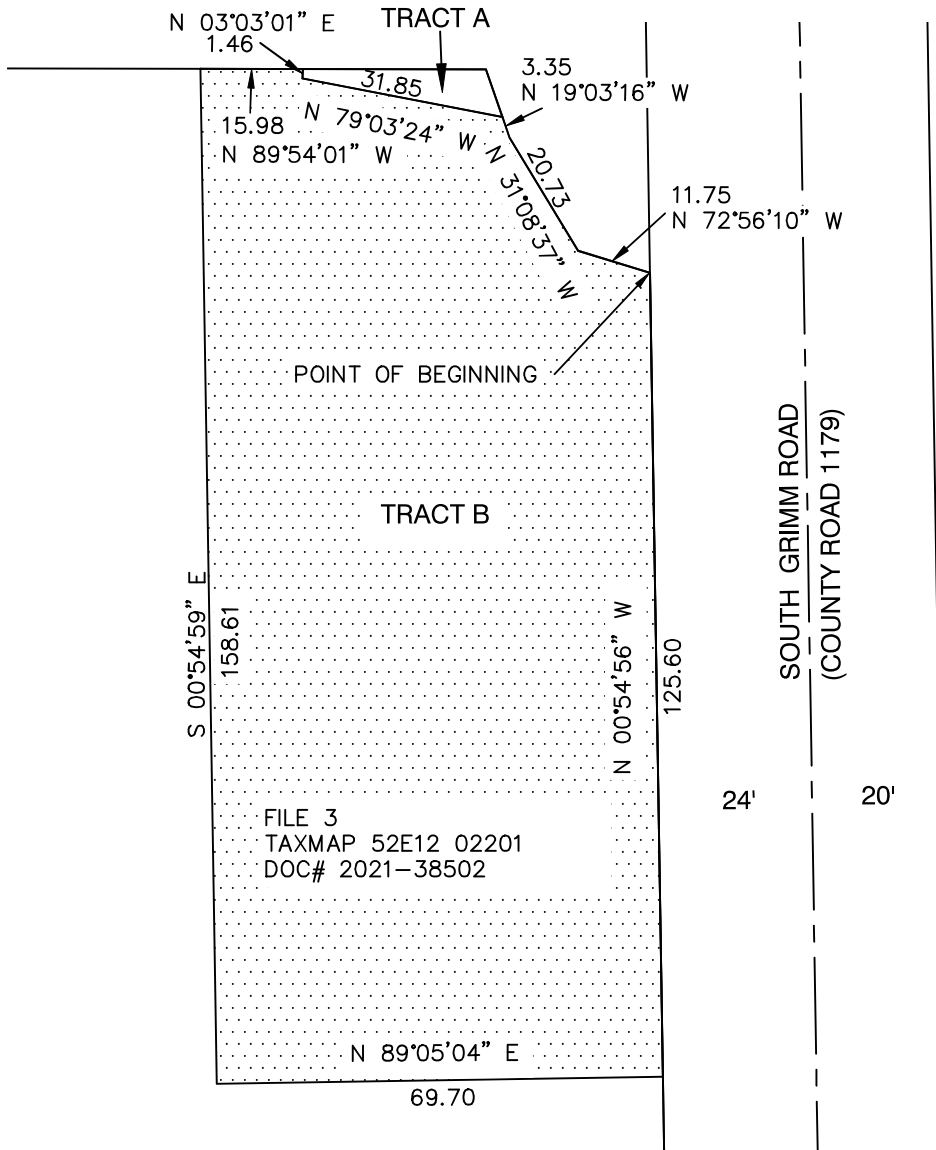
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WOODCOCOK CREEK AT
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PAGE 1 OF 2

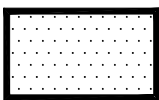
PERMANENT MAINTENANCE
EASEMENT

DRAWN BY BWP

DATE: 08/24/22

LOCATED IN THE SE 1/4 OF
SECTION 12, T.5 S., R.2 E., W.M.
CLACKAMAS COUNTY, OREGON



 TEMPORARY CONSTRUCTION
EASEMENT
AREA = 10325 SQ. FT. ±



SCALE
1" = 30'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12/31/22



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

EXHIBIT "B"
WOODCOCOK CREEK AT
GRIMM ROAD
PROJECT NO. BM-2017-00023
PAGE 2 OF 2

TEMPORARY CONSTRUCTION
EASEMENT

DRAWN BY BWP

DATE: 08/24/22

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to _____
- Other Resolution

Originating County Department: DTD

Other party to contract/agreement: _____

Document Title:

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 with DTD/Transportation Engineering and Construction for the Woodcock Creek at Grimm Road Bridge Replacement Project.

After filing please return to: Laura Kitts- DTD ENG

County Admin

Procurement

If applicable, complete the following:

Board Agenda Date/Item Number: _____