



March 14, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
 Acting as the governing body of Water Environment Services
 Clackamas County

Approval of a Resolution of Necessity and Purpose Authorizing the Acquisition of Necessary Easements and Fee Property by Good Faith Negotiations, if possible, or Condemnation, if necessary for the Multiple Pump Station Upgrades Project. Total project value is \$9,600,000. Funding is through the Water Environment Services Sanitary Sewer Construction Fund. No County General Funds are involved.

Previous Board Action/Review	Reviewed at Executive Session – February 27, 2024 Presented at Issues – March 12, 2024		
Performance Clackamas	<ol style="list-style-type: none"> 1. This project supports the County’s Strategic Plan of building a strong infrastructure that delivers services to customers and honors, utilizes, promotes and invest in our natural resources. 2. This project supports WES’ Strategic Plan to provide Enterprise Resiliency, infrastructure Strategy and Performance and Operational Optimization. 		
Counsel Review	Yes	Procurement Review	Yes
Contact Person	Jessica Rinner	Contact Phone	503-484-0365

EXECUTIVE SUMMARY: Clackamas Water Environment Services (WES) is preparing plans, specifications, and estimates for multiple pump station upgrade projects. One of the pump stations included in the multiple pump station upgrade project is the Golf Club Terrace Pump Station in Welches. In order to construct the improvements as designed at the Golf Club Terrace Pump Station, easement acquisitions will be required. The project is expected to impact two properties abutting the project alignment. The approval of this Resolution of Necessity ensures that we will be able to access and improve existing sanitary sewer assets. The final legal descriptions required for acquisition of the needed easements are attached.

The District Board has authority to exercise the power of eminent domain under ORS Chapter 451, ORS Chapter 190, and ORS Chapter 35 to acquire the needed 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

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made for easements and fee property in situations where the property is essential for a public project. If a resolution was not reached and any further action was needed, including purchase or condemnation, we would bring that before the Board for approval.

WES will negotiate in good faith and in 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 WES 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.

In the event that the negotiations are unsuccessful, the resolution further requires the WES Director 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 on behalf of WES.

RECOMMENDATION: Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve the Resolution of Necessity and Purpose authorizing the acquisition of necessary easements by good faith negotiation, if possible, or condemnation, if necessary.

Respectfully submitted,



Greg Geist
Director, WES

Attachment: Resolution of Necessity for Golf Club Terrace Pump Station Upgrade

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

In the Matter of Declaring the Necessity and Purpose for Acquisition of Easements and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions by Water Environment Services for the Multi Pump Station Upgrades Project specifically Golf Club Terrace Pump Station



Resolution No. _____

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This matter comes before the Board of County Commissioners of Clackamas County, Oregon acting as the governing body of Water Environment Services (the "Board") at its regularly scheduled meeting on March 14, 2024;

It appearing to the Board that the Multi Pump Station Upgrades Project ("the Project") will upgrade the Golf Club Terrace Pump Station; is consistent with the powers and purposes of Water Environment Services; and is necessary for public use and the continued growth, safety and welfare of the community;

It further appearing that the Board has the responsibility of providing sufficient wastewater infrastructure for protecting public health, stewardship of healthy watersheds, and water resource recovery;

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

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;

It further appearing to the Board that easements within the boundaries described in the attached Exhibits for two properties (the "Exhibits") are a necessary part of the Project; and

It further appearing that the Board has authority under ORS Chapter 451, ORS Chapter 190, and ORS Chapter 35 to acquire 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 Water Environment Services ("the District"), in connection with this Project, begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such process, for the necessary 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 Easements and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions by Water Environment Services for the Multi Pump Station Upgrades Project specifically Golf Club Terrace Pump Station



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IT IS FURTHER RESOLVED THAT:

1) The District 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 District 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 District (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 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 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 shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Clackamas County Office of County Counsel is authorized to file complaints of condemnation with the circuit court of Clackamas County and take such other steps as it determines necessary for the immediate possession of required 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.

Water Environment Services

Tootie Smith, Chair

Recording Secretary



EXHIBIT "A"

Permanent Sewer Easement

Being all of the west 10.00 feet of Lot 12 of "Mount Hood Golf Club Terrace" (Plat No. 932), located in the Southeast One-Quarter of Section 4, Township 3 South, Range 7 East, Willamette Meridian, Clackamas County, Oregon;

Excepting therefrom the west and north 5.00 feet of said Lot 12.

The parcel of land to which this description applies contains 336 square feet, more or less.

Temporary Construction Easement

Being a tract of land located in the Southeast One-Quarter of Section 4, Township 3 South, Range 7 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

BEGINNING at a point on the south line of Lot 12 of "Mount Hood Golf Club Terrace" (Plat No. 932), said point bears North 89°00'00" East, 10.01 feet from the Southwest corner of said Lot 12;

Thence North 02°01'30" East, parallel with the west line of said Lot 12, 21.97 feet to an angle point;

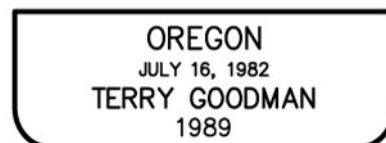
Thence South 87°58'30" East, 10.00 feet to an angle point;

Thence South 02°01'30" West, 21.44 feet to the South line of said Lot 12;

Thence South 89°00'00" West, 10.01 feet to the **POINT OF BEGINNING**.

The parcel of land to which this description applies contains 217 square feet, more or less.

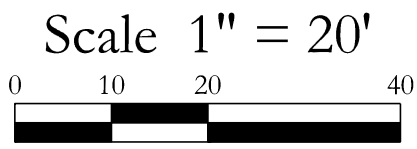
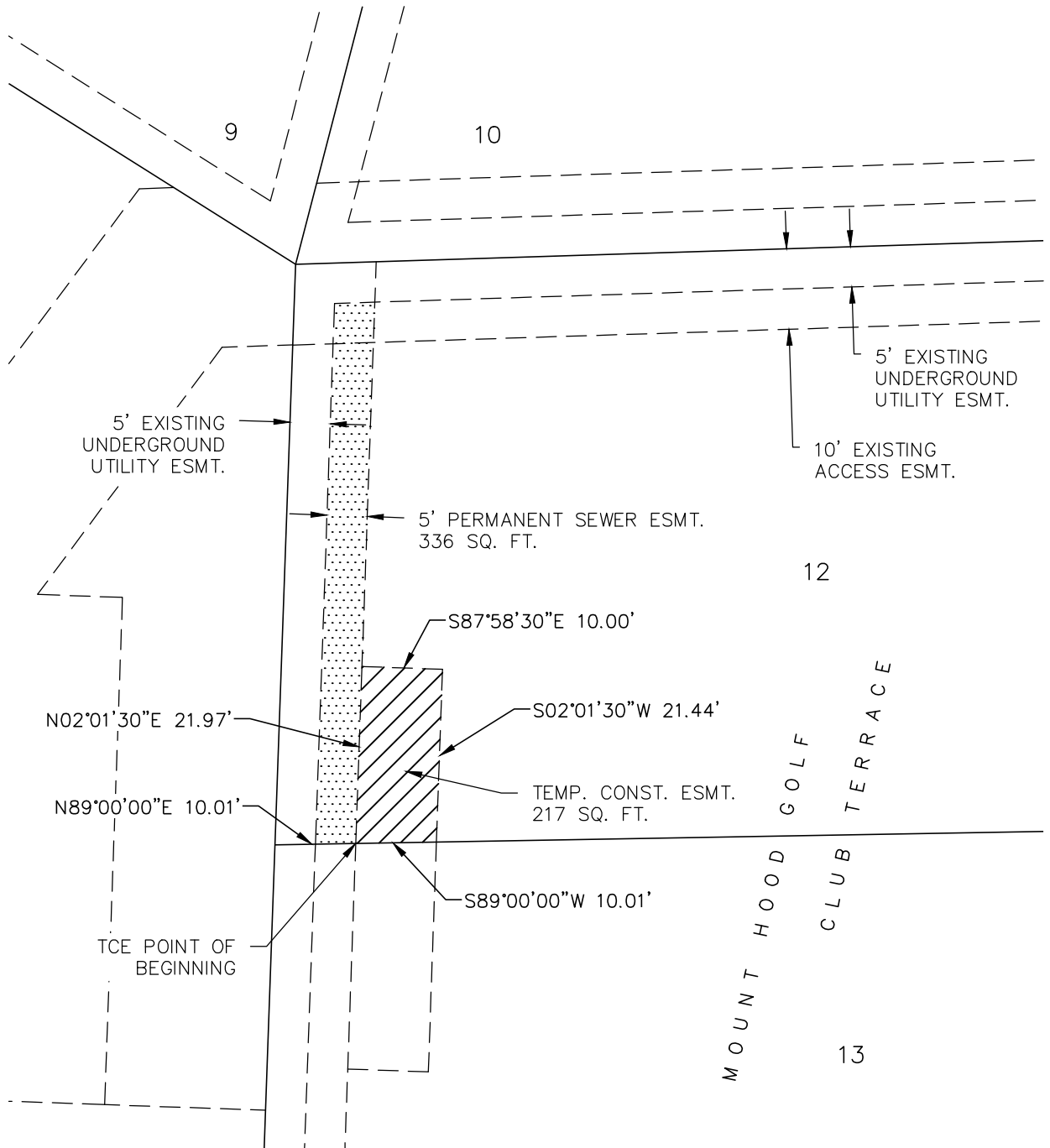
See Exhibit B attached hereto.



RENEWAL DATE: 6-30-23

EXHIBIT B

LOCATED IN THE SE 1/4 OF SECTION 4,
T 3 S, R 7 E, WM, CLACKAMAS COUNTY, OREGON



DRAWN BY: TLG	SCALE: 1"=20'	7/13/2023
CHECKED BY: TLG	JOB NO.: 74394.000	SHEET 1 OF 1



EXHIBIT "A"

Permanent Sewer Easement

Being all of the west 10.00 feet of Lot 13 of "Mount Hood Golf Club Terrace" (Plat No. 932), located in the Southeast One-Quarter of Section 4, Township 3 South, Range 7 East, Willamette Meridian, Clackamas County, Oregon;

Excepting therefrom the west and south 5.00 feet of said Lot 12.

The parcel of land to which this description applies contains 359 square feet, more or less.

Temporary Construction Easement

Being a tract of land located in the Southeast One-Quarter of Section 4, Township 3 South, Range 7 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

BEGINNING at a point on the north line of Lot 13 of "Mount Hood Golf Club Terrace" (Plat No. 932), said point bears North 89°00'00" East, 10.01 feet from the Northwest corner of said Lot 13;

Thence South 02°01'30" West, parallel with the west line of said Lot 13, 28.03 feet to an angle point;

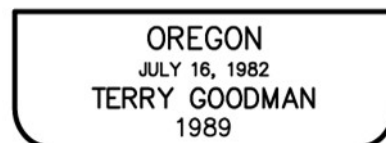
Thence South 87°58'30" East, 10.00 feet to an angle point;

Thence North 02°01'30" East, 28.56 feet to the North line of said Lot 13;

Thence South 89°00'00" West, 10.01 feet to the **POINT OF BEGINNING**.

The parcel of land to which this description applies contains 283 square feet, more or less.

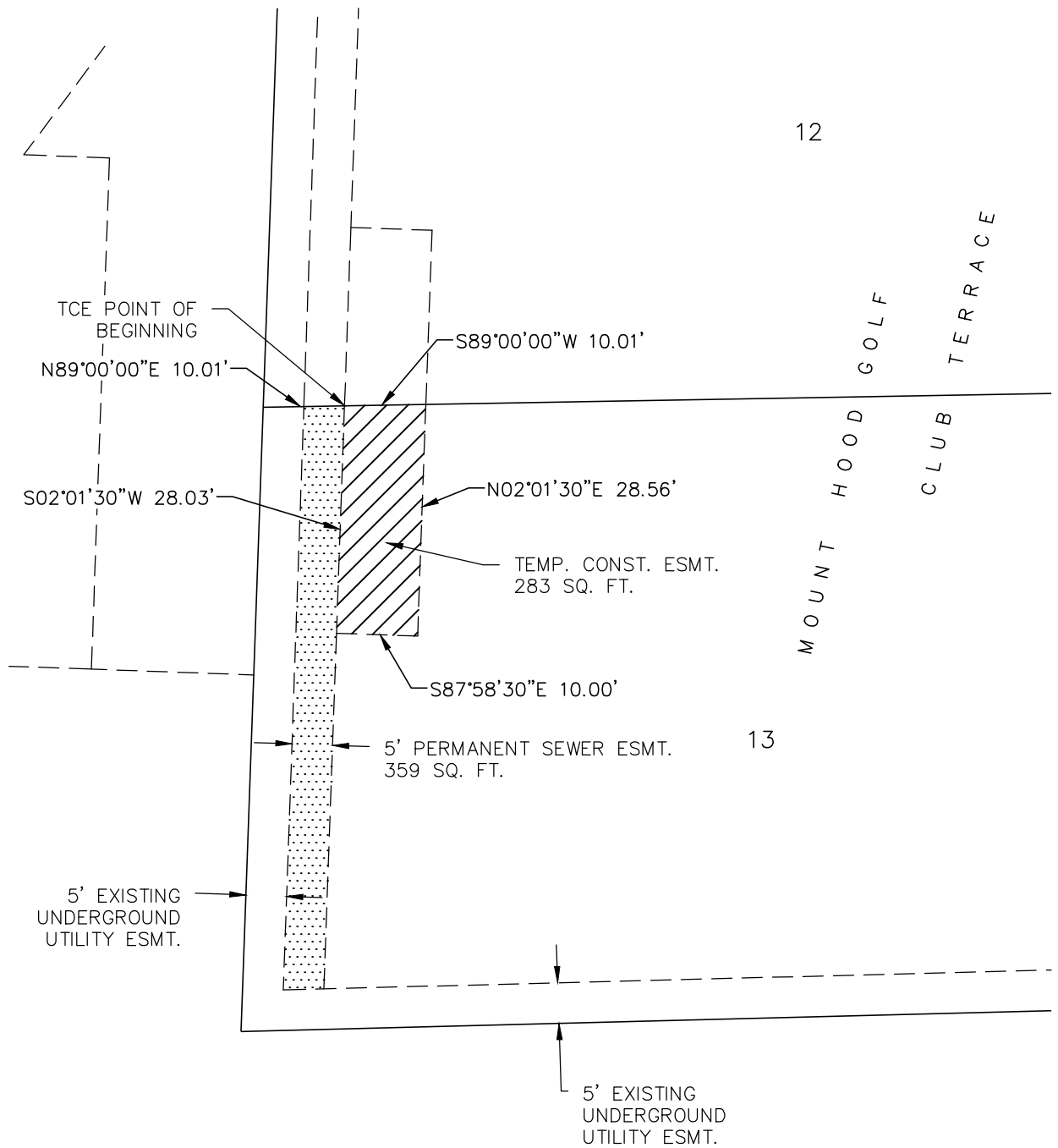
See Exhibit B attached hereto.



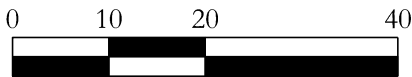
RENEWAL DATE: 6-30-23

EXHIBIT B

LOCATED IN THE SE 1/4 OF SECTION 4,
T 3 S, R 7 E, WM, CLACKAMAS COUNTY, OREGON



Scale 1" = 20'



DRAWN BY: TLG

SCALE: 1"=20'

7/13/2023

CHECKED BY: TLG

JOB NO.: 74394.000

SHEET 1 OF 1