



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 Rights of Way, Easements, and Fee Property and Authorizing Good Faith Negotiations and Condemnation Actions with DTD/Transportation Engineering and Construction for the Redland Road Turn Lanes at Ferguson and Bradley Project. Total project value is \$2,210,310. Funding through Community Road Fund. County General Funds are not involved.

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 \$277,428 and is included within the \$2,210,310 total project budget.
Funding Source	Community Road Fund
Duration	The Resolution remains active throughout the project's duration and terminates upon completion of the project or when all litigation associated with the project is concluded.
Previous Board Action/Review	11/17/2020: Approval of a Contract with PBS Engineering & Environmental, Inc. 09/20/2022: Discussion item at issues
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? This item supports the DTD Strategic Focus on Safe Roads and Strategic Result of "Travelers on Clackamas County roads will experience safe roads in good condition." 2. How does this item align with the County's Performance Clackamas goals? The project will: a. Build a strong infrastructure, and b. Ensure safe, healthy and secure communities.
Counsel Review	Date of Counsel review: 9/1/22 Name of County Counsel performing review. NB
Procurement Review	(Please check yes or no for procurement review. If the answer is "no," please provide an explanation.) 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. If no, provide brief explanation: Item is a resolution
Contact Person	Carol Hager, DTD Sr. Right of Way Agent @ (503)742-4674
Contract No.	Not applicable.

BACKGROUND: Community Road Funds will be utilized to provide an eastbound left-turn lane and westbound left-turn lane on Redland Road at Bradley Road and Ferguson Road, respectively. The turn lanes will improve the performance and safety of the intersections.

In order to construct the improvements as designed, additional rights of way and easements will be required. The project is expected to impact 21 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 21 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, and fee property by good faith negotiation if possible, or condemnation, if necessary.

Respectfully submitted,

Carol Hager

Carol Hager
Sr. Right of Way Agent
Department of Transportation and 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 Redland Road Turn Lanes at Ferguson & Bradley 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 22, 2022 and,

It appearing to the Board that the Redland Road Turn Lanes at Ferguson & Bradley Project (the "Project") will add left-turn lanes at Ferguson Road and Bradley Road, improving performance and safety of Redland Road at these intersections; 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 _____, 2022.

Tootie Smith, Chair

Recording Secretary

EXHIBIT "A"

SOUTH REDLAND ROAD TURN LANES
 COUNTY PROJECT NO. 22294
 AUGUST 16, 2022
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EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF SOUTH REDLAND ROAD

A ROADWAY COMMONLY KNOWN AS SOUTH REDLAND ROAD, MARKET ROAD NO. 20, LOCATED IN THE SW ONE-HALF OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ALONG THE CENTERLINE OF SOUTH REDLAND ROAD, MARKET ROAD NO. 20, WHICH BEARS NORTH 44°07'05" WEST, 2057.57 FEET FROM A FOUND 3 1/4" BRASS DISC IN A MONUMENT BOX MARKING THE SOUTH ONE-QUARTER CORNER TO SECTION 35, TOWNSHIP 2 SOUTH, RANGE 2 EAST, PER USBT 2010-014, SAID POINT BEING AT CENTERLINE STATION 188+85.79; THENCE SOUTH 72°10'42" EAST, 720.38 FEET TO A POINT OF NON-TANGENT CURVATURE AT CENTERLINE STATION 196+06.17; THENCE ALONG THE ARC OF A 716.20 FOOT RADIUS CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 13°33'06" (THE LONG CHORD OF WHICH BEARS SOUTH 72°12'28" EAST, 169.00 FEET) 169.40 FEET TO CENTERLINE STATION 197+75.57 AND POINT OF TANGENCY; THENCE SOUTH 85°44'22" EAST, 272.33 FEET TO A POINT OF NON-TANGENT CURVATURE AT CENTERLINE STATION 200+47.90; THENCE ALONG THE ARC OF A 1432.40 FOOT RADIUS CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 06°29'34" (THE LONG CHORD OF WHICH BEARS SOUTH 85°44'38" EAST, 162.23 FEET) 162.32 FEET TO CENTERLINE STATION 202+10.22 AND POINT OF TANGENCY; THENCE NORTH 87°46'01" EAST 2028.42 FEET TO CENTERLINE STATION 222+38.64, AND THE **TERMINUS** OF THIS CENTERLINE DESCRIPTION.

THE SIDELINES IN FEET OF THE STRIPS OF LAND HEREIN DESCRIBED ARE AS FOLLOWS:

STATION TO STATION	WIDTH ON SOUTHERLY SIDE OF CENTERLINE	WIDTH ON NORTHERLY SIDE OF CENTERLINE
188+85.79 TO 197+41.00	30.00'	
197+41.00 TO 197+88.00	30.00' IN A STRAIGHT LINE TO 35.50'	
197+88.00 TO 198+78.00	35.50' IN A STRAIGHT LINE TO 42.50'	
198+78.00 TO 199+69.00	42.50' IN A STRAIGHT LINE TO 45.50'	
199+69.00 TO 200+69.00	45.50' IN A STRAIGHT LINE TO 45.00'	
200+69.00 TO 200+81.22	45.00' IN A STRAIGHT LINE TO 56.13'	

THE SIDELINES IN FEET OF THE STRIPS OF LAND HEREIN DESCRIBED CONTINUE AS FOLLOWS:

STATION TO STATION	WIDTH ON SOUTHERLY SIDE OF CENTERLINE	WIDTH ON NORTHERLY SIDE OF CENTERLINE
200+81.22 TO 200+74.30	56.13' IN A STRAIGHT LINE TO 30.00'	
200+74.30 TO 201+34.92	30.00'	
201+34.92 TO 201+44.50	30.00' IN A STRAIGHT LINE TO 73.91'	
201+44.50 TO 201+49.50	73.91' IN A STRAIGHT LINE TO 56.00'	
201+49.50 TO 201+67.50	56.00' IN A STRAIGHT LINE TO 44.00'	
201+67.50 TO 203+85.50	44.00' IN A STRAIGHT LINE TO 43.50'	
203+85.50 TO 204+57.50	43.50' IN A STRAIGHT LINE TO 42.50'	
204+57.50 TO 205+29.50	42.50' IN A STRAIGHT LINE TO 38.00'	
205+29.50 TO 205+98.50	38.00' IN A STRAIGHT LINE TO 34.50'	
205+98.50 TO 206+81.50	34.50' IN A STRAIGHT LINE TO 33.50'	
206+81.50 TO 206+97.50	33.50' IN A STRAIGHT LINE TO 30.00'	
206+97.50 TO 210+35.50	30.00'	
210+35.50 TO 211+05.50	30.00' IN A STRAIGHT LINE TO 31.50'	
211+05.50 TO 212+30.50	31.50' IN A STRAIGHT LINE TO 38.50'	
212+30.50 TO 212+83.50	38.50' IN A STRAIGHT LINE TO 40.50'	
212+83.50 TO 214+49.50	40.50'	
214+49.50 TO 216+94.50	40.50' IN A STRAIGHT LINE TO 41.00'	

SOUTH REDLAND ROAD TURN LANES
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THE SIDELINES IN FEET OF THE STRIPS OF LAND HEREIN DESCRIBED CONTINUE AS FOLLOWS:

STATION TO STATION	WIDTH ON SOUTHERLY SIDE OF CENTERLINE	WIDTH ON NORTHERLY SIDE OF CENTERLINE
216+94.50 TO 218+83.50	41.00' IN A STRAIGHT LINE TO 40.00'	
218+83.50 TO 219+68.50	40.00' IN A STRAIGHT LINE TO 36.00'	
219+68.50 TO 219+95.50	36.00' IN A STRAIGHT LINE TO 30.00'	
219+95.50 TO 222+38.64	30.00'	
188+85.79 to 222+38.64		30.00'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Paull

OREGON
MARCH 13, 2018
BRIAN W. PAULL
89074

EXPIRATION DATE: 12-31-2022

COVER SHEET

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

Originating County Department: _____

Other party to contract/agreement: _____

Document Title:

After filing please return to: _____

- County Admin
- Procurement

If applicable, complete the following: _____

Board Agenda Date/Item Number: _____