



DAN JOHNSON
DIRECTOR

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

September 19, 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 Sight Distance Improvements at Canby-Marquam Highway and Gribble Road Project. Total project value is \$50,000. Funding is through Road Funds. No County General Funds are involved.

Previous Board Action/Review	Briefed at Issues 9/19/2024		
Performance Clackamas	The project will 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 intersection of Gribble Road and Canby-Marquam Highway does not meet County Roadway Standards for sight distance, causing a safety concern along with complaints from the public. The Sight Distance Improvements at Canby-Marquam Highway and Gribble Road Project (“Project”) will obtain a sight distance easement to ensure that sight distance at the intersection will meet County Roadway Standards and improve safety now and into the future.

In order to construct the improvements as designed, permanent and temporary easements and fee acquisitions will be required. The Project is expected to impact one property 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.

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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 one property 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 Sight Distance Improvements at Canby-Marquam Highway and Gribble Road 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 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 Sight Distance Improvements at Canby-Marquam Highway and Gribble Road 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 19, 2024 and,

It appearing to the Board that the Sight Distance Improvements at Canby-Marquam Highway and Gribble Road Project ("the Project") will improve sight distance on Gribble Road at the intersection with Canby-Marquam Highway to meet County Roadway Standards; 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 and B (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 Sight Distance Improvements at Canby-Marquam Highway and Gribble Road Project.



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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 _____, 2024.

Tootie Smith, Chair

Recording Secretary

EXHIBIT "A"

Public Easement: Sight Distance Easement
Owner: Clackamas County

Tax Lot 41E22 01901
June 10, 2024
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PUBLIC EASEMENT: SIGHT DISTANCE

A tract for a Sight Distance Easement located in the Southwest quarter (SW 1/4) of Section 22, Township 4 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon and being a portion of land as described in Statutory Warranty Deed, recorded as Document Number 2024-005112, Clackamas County Deed Records, as shown on Exhibit "B" attached hereto and by this reference made a part hereof, more particularly described as follows;

Commencing at the SE Corner of the John Gribble DLC No.38, said point being on the centerline of Gribble Road;

Thence along the South Line of DLC No.38, also being the centerline of Gribble Road South $86^{\circ}40'53''$ West, a distance of 873.32 feet to a point;

Thence perpendicular to the centerline of Gribble Road South $3^{\circ}19'07''$ East, a distance of 20.00 feet to a point on the southerly Right-of-Way of Gribble Road and also being the **True Point of Beginning**;

Thence leaving the southerly Right-of-Way of Gribble Road South $23^{\circ}27'18''$ West, a distance of 317.46 feet to a point on the easterly Right-of-Way of Canby-Marquam Hwy (Market Road No.25);

Thence along the easterly Right-of-Way of the Canby-Marquam Hwy North $0^{\circ}21'22''$ East, a distance of 82.18 feet to the beginning of a tangent curve to the right, said curve has a radius of 256.48 feet;

Thence northeasterly along said curve through a central angle of $47^{\circ}48'00''$ an arc distance of 213.97 feet, the chord bears North $24^{\circ}15'22''$ East, a distance of 207.82 feet to a point of tangency;

Thence continuing along the easterly Right-of-Way of Canby-Marquam Hwy North $48^{\circ}09'28''$ East, a distance of 27.62 feet to the intersection of the easterly Right-of-Way of Canby-Marquam Hwy and the southerly Right-of-Way of Gribble Road;

Thence along the southerly Right-of-Way of Gribble Road North $86^{\circ}40'53''$ East, a distance of 19.93 feet to the **True Point of Beginning**.

Public Easement: Sight Distance Easement
Owner: Clackamas County

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Containing 11,360 square feet, more or less.

Basis of bearings was between The NW Corner of A.E. Gribble DLC No.41 and the SE Corner of John Gribble DLCNo.38 and was determined by using RTK GPS, ORGN (NAD83 2011, epoch 2010.00), OCRS Portland Zone.

