



DAN JOHNSON
DIRECTOR

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

May 4, 2023

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 Bilquist Elementary School - Sidewalks Project. Total project value is \$3,316,448. Funding is through ODOT Safe Routes to School Infrastructure Grant, System Development Charges and County Road Funds. No County General Funds are involved.

Previous Board Action/Review	05/9/23: Discussion item at issues		
Performance Clackamas	Build a strong infrastructure Ensure safe, healthy and secure communities.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Carol Hager	Contact Phone	503-742-4674

EXECUTIVE SUMMARY: Clackamas County received an ODOT Safe Routes to School Infrastructure Grant to install bike lanes and sidewalks on Webster Road between SE Roots Rd and SE Bixel Way. The existing substandard shoulders will be widened to 8-foot buffered bike lanes and the north project extent will connect to the existing school crosswalk at Bixel Way. Crosswalk upgrades consisting of illumination, center pedestrian refuge and ADA compliant curb ramps will be included. The project length is approximately 1,325 feet and also includes 7 reconstructed and 13 new ADA compliant intersection curb ramps.

In order to construct the improvements as designed, permanent and temporary easements and fee acquisitions 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.

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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 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 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,

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 Bilquist Elementary School - Sidewalks 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 May 11, 2023 and,

It appearing to the Board that the Bilquist Elementary School - Sidewalks Project (the "Project") will install 8-foot buffered bike lanes and sidewalks with ADA compliant curb ramps on Webster Road between SE Roots Rd and SE Bixel Way; 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 _____, 2023.

Tootie Smith, Chair

Recording Secretary

EXHIBIT "A"

BILQUIST ELEMENTARY SCHOOL SIDEWALKS
 COUNTY PROJECT NO. 300322347
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EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF SOUTHEAST WEBSTER ROAD

A ROADWAY COMMONLY KNOWN AS SOUTHEAST WEBSTER ROAD, MARKET ROAD NO. 37, COUNTY ROAD NO. 1256, LOCATED IN THE SOUTH ONE-HALF OF SECTION 8, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3-1/4 INCH BRONZE DISK IN CONCRETE REFERENCE MONUMENT TO THE CYRUS WARDSWORTH DONATION LAND CLAIM (DLC) NO. 57 RE-ENFRANT CORNER STAMPED "REENFRANT COR WARDSWORTH DLC 57 2008 WC" ALONG WITH OTHER MARKINGS AND AS DEPICTED IN USBT 2008-038, CLACKAMAS COUNTY USBT RECORDS, PER SAID USBT, SAID REFERENCE MONUMENT BEARS NORTH 89°53'13" WEST, 71.00 FEET FROM THE ACTUAL REENFRANT CORNER; THENCE NORTH 14°50'13" WEST, 627.90 FEET TO THE POINT OF BEGINNING, SAID POINT BEING AT CENTERLINE STATION 192+00.00 OF SAID SOUTHEAST WEBSTER ROAD; THENCE SOUTH 12°39'09" EAST, 1086.72 FEET TO A POINT OF TANGENT CURVATURE; THENCE ALONG THE ARC OF A 572.96 FOOT RADIUS CURVE TO THE LEFT, AN ARC DISTANCE OF 285.00 FEET, THROUGH A CENTRAL ANGLE OF 28°30'00" (THE LONG CHORD OF WHICH BEARS SOUTH 26°54'09" EAST, 282.07 FEET) TO A POINT OF TANGENCY; THENCE SOUTH 41°09'09" EAST, 1407.83 FEET TO ENGINEER'S CENTERLINE STATION 219+79.55 AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

THE BASIS OF BEARING IS THE OREGON COORDINATE REFERENCE SYSTEM (OCRS), PORTLAND ZONE, LAMBERT CONFORMAL CONIC PROJECTION, NAD83 (2011) EPOCH 2010.00, INTERNATIONAL FEET, PER SURVEY NO. 2022-124.

THE FOLLOWING CENTERLINE STATIONS AND OFFSETS REPRESENT THE OUTERMOST IMPACT TO THOSE PROPERTIES ADJOINING SAID WEBSTER ROAD.

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OF CENTERLINE</u>
195+99.32 TO 195+97.81	30.00 FEET IN A STRAIGHT LINE TO 36.50 FEET	
195+97.81 TO 196+58.00	36.50 FEET	
196+58.00 TO 196+58.00	36.50 FEET IN A STRAIGHT LINE TO 42.00 FEET	
196+58.00 TO 196+78.75	42.00 FEET	
196+78.75 TO 196+86.44	42.00 FEET IN A STRAIGHT LINE TO 52.30 FEET	

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OF CENTERLINE</u>
196+86.44 TO 196+84.68	52.30 FEET IN A STRAIGHT LINE TO 76.44 FEET	
196+84.68 TO 196+93.76	76.44 FEET IN A STRAIGHT LINE TO 77.10 FEET	
196+93.76 TO 196+97.19	77.10 FEET IN A STRAIGHT LINE TO 30.00 FEET	
197+47.32 TO 197+44.80	30.00 FEET IN A STRAIGHT LINE TO 64.58 FEET	
197+44.80 TO 197+52.66	64.58 FEET IN A STRAIGHT LINE TO 65.16 FEET	
197+52.66 TO 197+53.00	65.16 FEET IN A STRAIGHT LINE TO 60.50 FEET	
197+53.00 TO 197+63.00	60.50 FEET	
197+63.00 TO 197+63.00	60.50 FEET IN A STRAIGHT LINE TO 43.50 FEET	
197+63.00 TO 197+80.00	43.50 FEET	
197+80.00 TO 197+80.00	43.50 FEET IN A STRAIGHT LINE TO 39.50 FEET	
197+80.00 TO 198+49.99	39.50 FEET	
198+49.99 TO 198+47.27	39.50 FEET IN A STRAIGHT LINE TO 51.99 FEET	
198+47.27 TO 198+78.86	51.99 FEET IN A STRAIGHT LINE TO 58.86 FEET	
198+78.86 TO 198+82.74	58.86 FEET IN A STRAIGHT LINE TO 39.50 FEET	
198+82.74 TO 199+19.00	39.50 FEET	
199+19.00 TO 199+19.00	39.50 FEET IN A STRAIGHT LINE TO 49.00 FEET	
199+19.00 TO 199+39.81	49.00 FEET	
199+39.81 TO 199+38.93	49.00 FEET IN A STRAIGHT LINE TO 53.00 FEET	
199+38.93 TO 199+69.00	53.00 FEET	
199+69.00 TO 199+69.00	53.00 FEET IN A STRAIGHT LINE TO 37.50 FEET	
199+69.00 TO 200+67.00	37.50 FEET	
200+67.00 TO 200+67.00	37.50 FEET IN A STRAIGHT LINE TO 45.00 FEET	

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OF CENTERLINE</u>
200+67.00 TO 200+95.00	45.00 FEET	
200+95.00 TO 200+95.00	45.00 FEET IN A STRAIGHT LINE TO 37.50 FEET	
200+95.00 TO 201+08.72	37.50 FEET	
201+08.72 TO 201+07.70	37.50 FEET IN A STRAIGHT LINE TO 42.19 FEET	
201+07.70 TO 201+13.29	42.19 FEET	
201+13.29 TO 201+13.29	42.19 FEET IN A STRAIGHT LINE TO 36.50 FEET	
201+13.29 TO 201+76.00	36.50 FEET	
201+76.00 TO 201+76.00	36.50 FEET IN A STRAIGHT LINE TO 42.00 FEET	
201+76.00 TO 201+94.73	42.00 FEET	
201+94.73 TO 201+96.26	42.00 FEET IN A STRAIGHT LINE TO 35.00 FEET	
201+96.26 TO 202+41.00	35.00 FEET	
202+41.00 TO 202+41.00	35.00 FEET IN A STRAIGHT LINE TO 63.00 FEET	
202+41.00 TO 202+77.16	63.00 FEET	
202+77.16 TO 202+84.33	63.00 FEET IN A STRAIGHT LINE TO 30.00 FEET	
203+02.38 TO 203+02.29	30.23 FEET IN A STRAIGHT LINE TO FEET 39.39 FEET	
203+02.29 TO 203+07.90	39.39 FEET IN A STRAIGHT LINE TO FEET 39.48 FEET	
203+07.90 TO 203+08.07	39.48 FEET IN A STRAIGHT LINE TO FEET 30.42 FEET	
203+29.00 TO 203+29.00	31.65 FEET IN A STRAIGHT LINE TO FEET 54.00 FEET	
203+29.00 TO 203+60.50	54.00 FEET	
203+60.50 TO 203+66.59	54.00 FEET IN A STRAIGHT LINE TO FEET 35.91 FEET	
209+27.00 TO 209+27.00	30.00 FEET IN A STRAIGHT LINE TO FEET 40.00 FEET	

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OF CENTERLINE</u>
209+27.00 TO 209+75.00	40.00 FEET	
209+75.00 TO 209+75.00	40.00 FEET IN A STRAIGHT LINE TO FEET 30.00 FEET	
195+95.00 TO 195+95.00		30.00 FEET IN A STRAIGHT LINE TO 45.00 FEET
195+95.00 TO 196+46.00		45.00 FEET
196+46.00 TO 196+46.00		45.00 FEET IN A STRAIGHT LINE TO 40.00 FEET
196+46.00 TO 198+49.00		40.00 FEET
198+49.00 TO 198+49.00		40.00 FEET IN A STRAIGHT LINE TO 61.00 FEET
198+49.00 TO 199+00.00		61.00 FEET
199+00.00 TO 199+00.00		61.00 FEET IN A STRAIGHT LINE TO 45.00 FEET
199+00.00 TO 199+60.35		45.00 FEET
199+60.35 TO 199+59.26		45.00 FEET IN A STRAIGHT LINE TO 40.00 FEET
199+59.26 TO 200+01.00		40.00 FEET
200+01.00 TO 200+01.00		40.00 FEET IN A STRAIGHT LINE TO 35.00 FEET
200+01.00 TO 200+57.69		35.00 FEET
200+57.69 TO 200+59.72		35.00 FEET IN A STRAIGHT LINE TO 44.27 FEET
200+59.72 TO 200+79.26		44.27 FEET IN A STRAIGHT LINE TO 40.00 FEET
200+79.26 TO 200+80.35		40.00 FEET IN A STRAIGHT LINE TO 45.00 FEET
200+80.35 TO 201+11.00		45.00 FEET
201+11.00 TO 201+11.00		45.00 FEET IN A STRAIGHT LINE TO 33.35 FEET
201+11.00 TO 201+77.58		33.35 FEET IN A STRAIGHT LINE TO 35.82 FEET
201+77.58 TO 201+77.81		35.82 FEET IN A STRAIGHT LINE TO 43.00 FEET
201+77.81 TO 202+28.00		43.00 FEET

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OF CENTERLINE</u>
202+28.00 TO 202+28.00		43.00 FEET IN A STRAIGHT LINE TO 35.00 FEET
202+28.00 TO 202+52.10		35.00 FEET
202+52.10 TO 202+55.77		35.00 FEET IN A STRAIGHT LINE TO 51.75 FEET
202+55.77 TO 202+80.06		51.75 FEET IN A STRAIGHT LINE TO 46.43 FEET
202+80.06 TO 202+77.74		46.43 FEET IN A STRAIGHT LINE TO 35.41 FEET
202+77.74 TO 202+80.83		35.41 FEET IN A STRAIGHT LINE TO 33.18 FEET
202+80.83 TO 203+09.61		33.18 FEET IN A STRAIGHT LINE TO 31.40 FEET
203+09.61 TO 203+13.14		31.40 FEET IN A STRAIGHT LINE TO 33.78 FEET
203+13.14 TO 203+15.13		33.78 FEET IN A STRAIGHT LINE TO 40.99 FEET
203+15.13 TO 203+27.42		40.99 FEET IN A STRAIGHT LINE TO 37.71 FEET
203+27.42 TO 203+25.01		37.71 FEET IN A STRAIGHT LINE TO 30.00 FEET
203+34.18 TO 203+34.18		30.00 FEET IN A STRAIGHT LINE TO 35.56 FEET
203+34.18 TO 203+55.34		35.56 FEET IN A STRAIGHT LINE TO 36.28 FEET
203+55.34 TO 203+55.28		36.28 FEET IN A STRAIGHT LINE TO 30.00 FEET
204+01.00 TO 204+09.87		30.00 FEET IN A STRAIGHT LINE TO 36.99 FEET
204+09.87 TO 204+06.49		36.99 FEET IN A STRAIGHT LINE TO 30.00 FEET
204+65.91 TO 204+67.80		49.87 FEET IN A STRAIGHT LINE TO 48.86 FEET

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

STATION TO STATION	WIDTH ON WESTERLY SIDE OF CENTERLINE	WIDTH ON EASTERLY SIDE OF CENTERLINE
204+67.80 TO 204+66.01		48.86 FEET IN A STRAIGHT LINE TO 46.06 FEET
204+66.01 TO 204+64.60		46.06 FEET IN A STRAIGHT LINE TO 42.08 FEET
204+64.60 TO 204+65.07		42.08 FEET IN A STRAIGHT LINE TO 37.94 FEET
204+65.07 TO 204+67.29		37.94 FEET IN A STRAIGHT LINE TO 34.33 FEET
204+67.29 TO 204+70.84		34.33 FEET IN A STRAIGHT LINE TO 31.87 FEET
204+70.84 TO 204+75.13		31.87 FEET IN A STRAIGHT LINE TO 30.00 FEET
207+03.29 TO 207+12.04		30.00 FEET IN A STRAIGHT LINE TO 40.00 FEET
207+12.04 TO 207+45.00		40.00 FEET
207+45.00 TO 207+45.00		40.00 FEET IN A STRAIGHT LINE TO 30.00 FEET
209+83.16 TO 210+19.28		30.00 FEET IN A STRAIGHT LINE TO 72.78 FEET
210+19.28 TO 210+05.31		72.78 FEET IN A STRAIGHT LINE TO 35.45 FEET
210+05.31 TO 209+93.71		35.45 FEET IN A STRAIGHT LINE TO 30.00 FEET
210+91.37 TO 210+91.37		91.10 FEET IN A STRAIGHT LINE TO 40.00 FEET
210+91.37 TO 211+75.81		40.00 FEET
211+75.81 TO 211+75.81		40.00 FEET IN A STRAIGHT LINE TO 30.00 FEET

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Andrew N. Huston

OREGON
 JANUARY 21, 2009
 ANDREW N. HUSTON
 61407PLS

RENEWS: 6/30/2023

Exhibit B

File No.	Property Address	Tax Lot
01A	15708 SE Webster Rd	22E08DB01300
01B	15708 SE Webster Rd	22E08DB01300
02	15710 SE Webster Rd	22E08DB01500
03	15742 SE Webster Rd	22E08DB01501
05	15804 SE Webster Rd	22E08DB01700
06	15812 SE Webster Rd	22E08DB01800
07	15850 SE Webster Rd	22E08DB01900
08	15960 SE Webster Rd	22E08DB02000
09	7330 SE Webster Ln	22E08DC01102
11	16016 SE Webster Rd	22E08DC01200
12	7313 SE Roots Rd	22E08DC01300
13	16124 SE Webster Rd	22E08DC09600
15	15615 SE Webster Rd	22E08CA01500
17	15715 SE Webster Rd	22E08CA01600
18	15777 SE Webster Rd	22E08CA01700
19	15809 SE Webster Rd	22E08CA06200
20	15831 SE Webster Rd	22E08CA06100
21	15855 SE Webster Rd	22E08CA06000
22	15893 SE Webster Rd	22E08CA05900
23	15929 SE Webster Rd	22E08CA05800
29	16111 SE Webster Rd	22E08DC03100