



DAN JOHNSON
DIRECTOR

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

April 17, 2025

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Resolution Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and, if necessary, Condemnation Proceedings, for the Courtney Ave Complete Street River Road to OR99E Project. Project Value is \$8,355,461. Funding is through Metro grants, County System Development Charges and County Road Funds. No County General Funds are involved.

Previous Board Action/Review	<ul style="list-style-type: none"> Contract with Harper Houf Peterson Righellis Inc. for Design Services approved at Business Meeting - 08/17/23 IGA with ODOT for Right of Way Services approved at Business Meeting - 11/03/22 Supplemental Project Agreement with ODOT approved at Business Meeting - 02/24/22 Request to apply for a 2022-2024 Regional Flexible Funds Allocation (RFFA) Grant approved at Business Meeting - 06/13/19 		
Performance Clackamas	<ul style="list-style-type: none"> 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: The Courtney Ave Complete Street: River Rd - OR99E Project (the "Project") will improve safety and accessibility by providing 6-foot-wide separated sidewalks on both sides of Courtney Avenue, 8-foot-wide buffered bike lanes, intermittent rain gardens for stormwater management, street and pedestrian lighting, ADA-compliant intersection curb ramps, and crosswalk enhancements at two intersections. The sidewalk and bikeway improvements will provide a direct east-west connection to the Trolley Trail between River Road and OR99E.

In order to construct the Project as designed, the County will need to acquire rights of way, easements, and fee property. The Project is expected to impact forty (40) abutting properties. The County has authority under ORS chapter 203 and ORS chapter 35 to acquire the needed property rights by agreement or purchase or by exercise of the power of eminent domain. In accordance with ORS chapter 35, the Board must adopt a Resolution of Necessity before the County can make any offers.

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's (the "Department's") project development procedures, and final legal descriptions for the needed property rights are being developed.

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The attached resolution would direct the Department to 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 compensation owed to each affected property owner, and to utilize authorized real estate appraisers and other such experts to determine just compensation. The resolution would further require 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 would the resolution authorize the Office of County Counsel to commence condemnation proceedings.

RECOMMENDATION: Staff respectfully recommends that the Board approve the attached Resolution of Necessity for the Project, authorizing acquisition of the needed property rights by good faith negotiations, if possible, or condemnation proceedings, if necessary.

Respectfully submitted,

Dan Johnson

Dan Johnson, Director
Department of Transportation and Development

ATTACHMENTS:
Resolution of Necessity

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions, for the Courtney Ave Complete Street: River Rd - OR99E Project



Resolution No.

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Whereas, this matter coming before the Board at this time, and it appearing that the Courtney Ave Complete Street: River Rd - OR99E Project (the "Project") will improve safety and accessibility by providing 6-foot-wide separated sidewalks on both sides of Courtney Avenue, 8-foot-wide buffered bike lanes, intermittent rain gardens for stormwater management, street and pedestrian lighting, ADA-compliant intersection curb ramps, and crosswalk enhancements at two intersections;

Whereas, it further appearing that the Project 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;

Whereas, it further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience, and to adequately serve the traveling public;

Whereas, it further appearing that the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation is promoted, and travel is safeguarded;

Whereas, it further appearing that 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;

Whereas, it further appearing that, in order to construct the Project as designed, the County will need to acquire rights of way, easements, and fee property within the boundaries described in the attached Exhibit "A-1," which will impact the properties listed in the attached Exhibit "B;"

Whereas, it further appearing that the acquisition of the needed property rights will occur within the areas described in Exhibit "A-1;" that the width of the right of way will be in accordance with the Clackamas County Comprehensive Plan and Transportation System Plan; and that ancillary easements for sign, slope, sidewalk, utility, wetland mitigation, storm water treatment, storm water detention, traffic and safety facility, and temporary construction purposes, together with incidental additional rights of way at intersections and due to topography, as may be reasonably necessary to accommodate the Project design, and any uneconomic remnants, as determined by appraisal, are all in the public interest in order to commence and complete the Project in a timely manner; and

Whereas, it further appearing that the County has authority under ORS chapter 203 and ORS chapter 35 to acquire the needed property rights by agreement or purchase through good faith negotiations or by exercise of the power of eminent domain through condemnation proceedings;

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BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions, for the Courtney Ave Complete Street: River Rd - OR99E Project



Resolution No.

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NOW, THEREFORE, BE IT RESOLVED, that this Board declares it necessary and in the public interest that the Department of Transportation and Development (the "Department") begin the acquisition process for the needed property rights in accordance with all applicable laws, rules, and regulations;

BE IT FURTHER RESOLVED, that the Department is directed to, in good faith, attempt to negotiate agreements of just compensation with the owners of property identified as necessary within the boundaries of Exhibit "A-1;" and to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist with the acquisition process; and

BE IT FURTHER RESOLVED, that it is the intention of the Board that the needed property rights be obtained through good faith negotiations; that the Board acknowledges that the exercise of the power of eminent domain may be necessary; that the Director of the Department shall inform the Board when the Director deems that exercise necessary; and that, thereafter, the Office of County Counsel is authorized to file complaints of condemnation with the circuit court and to take such other steps as it determines necessary for the immediate possession of the needed property rights and for the successful litigation of the condemnation proceedings, including the retention of real estate appraisers, experts, and other consultants.

DATED this _____ day of _____ 2025

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT "A-1"

Courtney Ave Complete Street: River Rd to OR99E
County Project No. C005(118)
November 8, 2024

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Centerline Description for a Portion of SE Courtney Avenue:

A roadway located in the Southwest One-Quarter of Section 1 and the Southeast One-Quarter of Section 2, Township 2 South, Range 1 East, of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at a point on the divisional line of the George Crow Donation Land Claim (DLC) No. 49, said point being $S0^{\circ}09'37''E$ 30.01 feet from a 1/2 inch iron pipe marking the Southeast corner of Lot 6, Block 2 of the Plat of "River Villa Acres" Plat No. 0432, Clackamas County Plat records and $N0^{\circ}09'37''W$ 30.01 feet from a 3/4" iron pipe marking the Northeast corner of Lot 1, Block 2 of the Plat of the "Subdivision of Tract 3 and East 1/2 of Tract 2 of Oak Grove" Plat No. 0126, Clackamas County Plat records, said point being Engineer's Centerline Station 8+00;

Thence $S89^{\circ}51'12''E$, along said DLC No. 49 divisional line, 4300.00 feet to Engineer's Centerline Station 51+00.00 and the terminus of this centerline description; said terminus bears $S89^{\circ}51'12''W$ 283.89' from a 5/8" iron rod with yellow plastic cap marked "Compass Land Surveyors" on the extension there of; of which bears $N1^{\circ}45'14''W$ 129.06 feet from a 3-1/4 inch bronze disk marking the most Southerly Southwest corner of the Joseph Kellogg Donation Land Claim No. 47 per U.S.B.T. Entry 2003-121.

Basis of Bearings of this centerline description, is based on the Oregon Coordinate Reference System (ORCS) – Portland Zone – Reference Frame: NAD83(2011)(EPOCH 2010.00) International Feet.

EXHIBIT "A-1"

Courtney Ave Complete Street: River Rd to OR99E
County Project No. C005(118)
November 8, 2024

The sidelines, in feet, of the strips of land herein described are as follows:

<u>Station to Station</u>	<u>Width on Northerly Side of Centerline</u>
11+90.00 to 12+27.45	71.41 feet in a straight line to 34.00 feet
12+27.45 to 12+42.75	34.00 feet
12+42.75 to 12+52.32	39.00 feet
12+52.32 to 13+16.66	34.00 feet
13+16.66 to 13+32.73	47.50 feet
13+32.73 to 14+02.31	34.00 feet
14+02.31 to 14+12.60	39.00 feet
14+12.60 to 14+35.90	34.00 feet
14+35.90 to 14+72.40	37.50 feet
14+72.40 to 14+90.16	33.00 feet
14+90.16 to 15+00.23	37.50 feet
15+00.23 to 15+19.44	33.00 feet
15+19.44 to 15+69.43	43.00 feet
15+69.43 to 16+16.34	48.50 feet
16+16.34 to 16+43.35	62.50 feet
16+43.35 to 17+09.23	42.00 feet
17+09.23 to 18+14.43	36.00 feet
18+14.43 to 18+61.55	41.00 feet
18+61.55 to 19+06.20	36.00 feet
19+06.20 to 19+34.66	47.50 feet
19+34.66 to 19+66.46	35.50 feet
19+66.46 to 19+85.10	42.50 feet
19+85.10 to 20+25.00	35.00 feet
21+40.00 to 22+10.82	36.00 feet
24+75.35 to 24+90.35	36.00 feet
24+90.35 to 25+25.29	32.00 feet
25+25.29 to 25+42.00	54.50 feet
25+42.00 to 25+47.43	39.50 feet in a straight line to 34.00 feet
25+47.43 to 26+96.41	34.00 feet
26+96.41 to 27+27.71	37.50 feet
27+27.71 to 27+48.96	34.00 feet
27+48.96 to 28+52.70	39.00 feet
28+52.70 to 28+62.70	49.00 feet
28+62.70 to 30+11.08	39.00 feet
30+11.08 to 30+26.09	34.00 feet
30+26.09 to 30+41.02	37.50 feet

EXHIBIT "A-1"

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30+41.02 to 30+85.54

34.00 feet

Station to Station

Width on Northerly Side of Centerline

30+85.54 to 30+99.64

37.50 feet

30+99.64 to 31+47.76

34.00 feet

31+47.76 to 31+70.00

34.00 feet in a straight line to 56.17 feet

32+10.00 to 32+22.80

47.35 feet in a straight line to 34.50 feet

32+22.80 to 34+19.09

34.50 feet

34+19.09 to 34+38.21

47.50 feet

34+38.21 to 34+54.94

33.00 feet

34+54.94 to 35+02.43

38.00 feet

35+58.47 to 35+95.39

42.50 feet

35+95.39 to 36+50.47

34.00 feet

36+50.47 to 36+80.47

36.00 feet

36+80.47 to 36+95.10

34.00 feet

36+95.10 to 36+98.86

34.00 feet in a straight line to 50.50 feet

36+98.86 to 37+40.36

50.50 feet

37+40.36 to 38+92.53

35.50 feet

38+92.53 to 39+02.54

36.00 feet

39+02.54 to 39+90.21

33.50 feet

39+90.21 to 40+37.09

42.50 feet

40+37.09 to 40+46.45

42.50 feet in a straight line to 36.00 feet

40+46.45 to 41+65.64

36.00 feet

41+65.64 to 41+87.94

36.00 feet in a straight line to 33.80 feet

EXHIBIT "A-1"

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<u>Station to Station</u>	<u>Width on Southerly Side of Centerline</u>
11+90.00 to 12+14.91	63.25 feet in a straight line to 33.00 feet
12+14.91 to 12+75.39	33.00 feet
12+75.39 to 12+91.45	37.50 feet
12+91.45 to 14+09.85	33.00 feet
14+09.85 to 14+41.91	47.50 feet
14+41.91 to 15+09.59	33.00 feet
15+32.94 to 16+09.50	34.00 feet
16+09.50 to 16+53.97	42.50 feet
16+53.97 to 16+81.94	33.00 feet
16+81.94 to 17+08.51	43.00 feet
17+08.51 to 17+77.72	35.00 feet
17+77.72 to 17+86.72	38.50 feet
17+86.72 to 17+96.96	35.00 feet
17+96.96 to 18+10.00	35.00 feet in a straight line to 49.12 feet
25+30.00 to 25+45.80	47.50 feet
25+45.80 to 26+03.53	38.50 feet
26+03.53 to 26+38.97	52.50 feet
26+38.97 to 27+33.97	45.50 feet
27+33.97 to 28+23.55	42.50 feet
28+23.55 to 28+45.00	64.00 feet
31+95.00 to 32+10.49	55.66 feet in a straight line to 35.00 feet
32+10.49 to 32+78.97	35.00 feet
32+78.97 to 33+09.29	43.00 feet
33+09.29 to 33+85.74	33.00 feet
33+85.74 to 34+66.19	38.00 feet
34+66.19 to 34+94.20	40.50 feet
34+94.20 to 35+26.98	33.00 feet
35+26.98 to 35+33.19	36.00 feet
35+33.19 to 35+60.89	33.50 feet
35+60.89 to 35+76.21	42.50 feet
35+97.25 to 36+09.25	30.00 feet in a straight line to 33.00 feet
36+09.25 to 37+04.65	33.00 feet
37+04.65 to 37+64.65	42.50 feet
37+64.65 to 38+31.06	33.00 feet
38+31.06 to 38+43.06	33.00 feet in a straight line to 30.00 feet

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<u>Station to Station</u>	<u>Width on Southerly Side of Centerline</u>
38+95.67 to 39+93.37	33.00 feet
39+93.37 to 40+30.50	42.50 feet
40+30.50 to 40+63.71	33.00 feet
40+63.71 to 40+93.71	38.00 feet
40+93.71 to 41+10.00	33.00 feet

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JAN. 14, 2003
JOSEPH W. HURLIMAN
58960LS

EXPIRES: 6/30/2025

Exhibit B

CLA-109 Courtney Ave

Property #	Primary Address	Taxlot #
2	1707 SE Courtney Ave, Milwaukie, 97222	21E02DA-04000
3	1715 SE Courtney Ave, Milwaukie, 97222	21E02DA-04100
4	1811 SE Courtney Ave, Milwaukie, 97222	21E02DA-04200
5	1819 SE Courtney Ave, Milwaukie, 97222	21E02DA-04300
6	1901 SE Courtney Ave, Milwaukie, 97222	21E02DA-04400
7	1909 SE Courtney Ave, Milwaukie, 97222	21E02DA-04500
8	2071 SE Courtney Ave, Milwaukie, 97222	21E02DA-04600
9	2007 SE Courtney Ave, Milwaukie, 97222	21E02DA-04900
11	2150 SE Torbank Rd, Milwaukie, 97222	21E02DA-01700
12	No Situs	21E01CB-04100
12A	No Situs	21E01CB-NONTL
13	2121 SE Courtney Ave, Milwaukie, 97222	21E01CB-02000
14	2295 SE Courtney Ave, Milwaukie, 97222	21E01CB-02100
15	2311 SE Courtney Ave, Milwaukie, 97222	21E01CB-02200
16	2405 SE Courtney Ave, Milwaukie, 97222	21E01CB-02300
17	No Situs	21E01CB-02302
18	No Situs	21E01CB-02301
19	2415 SE Courtney Ave, Milwaukie, 97222	21E01CB-02400
20	2545 SE Courtney Ave, Milwaukie, 97222	21E01CB-03700
21	2629 SE Courtney Ave, Milwaukie, 97222	21E01CB-03901
22	2615 SE Courtney Ave, Milwaukie, 97222	21E01CA-03400
23	2705 SE Courtney Ave, Milwaukie, 97222	21E01CA-03300
24	2717 SE Courtney Ave, Milwaukie, 97222	21E01CA-03200
25	No Situs	21E01CA-03100
26	13819 SE McLoughlin Blvd, Milwaukie, 97222	21E01CA-02900
28	2818 SE Courtney Ave, Milwaukie, 97222	21E01CD-01800
29	2804 SE Courtney Ave, Milwaukie, 97222	21E01CD-02200
30	2710 SE Courtney Ave, Milwaukie, 97222	21E01CD-02300
31	2600 SE Courtney Ave, Milwaukie, 97222	21E01CC-00100
32	2610 SE Courtney Ave, Milwaukie, 97222	21E01CC-00101
33	2580 SE Courtney Ave, Milwaukie, 97222	21E01CC-00201
34	2552 SE Courtney Ave, Milwaukie, 97222	21E01CC-00301
36	2314 SE Courtney Ave, Milwaukie, 97222	21E01CC-01600
37	2218 SE Courtney Ave, Milwaukie, 97222	21E01CC-01700
38	2210 SE Courtney Ave, Milwaukie, 97222	21E01CC-01800
45	1920 SE Courtney Ave, Milwaukie, 97222	21E02DD-02800
46	1910 SE Courtney Ave, Milwaukie, 97222	21E02DD-02900
47	1908 SE Courtney Ave, Milwaukie, 97222	21E02DD-03000
48	1808 SE Courtney Ave, Milwaukie, 97222	21E02DD-03100
49	13916 SE River Rd, Milwaukie, 97267	21E02DD-03200