



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 Easements and Fee Property by Good Faith Negotiations, if possible, or Condemnation, if necessary, for the Mt. Talbert Realignment Project. Total project value is \$1,066,000. Funding is through the Water Environment Services Sanitary Sewer Construction Fund. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	Reviewed at Executive Session – February 27, 2024 Presented at Issues – March 12, 2024		
<b>Performance Clackamas</b>	<ol style="list-style-type: none"> <li>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.</li> <li>2. This project supports WES’ Strategic Plan to provide Enterprise Resiliency, infrastructure Strategy and Performance and Operational Optimization.</li> </ol>		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	Yes
<b>Contact Person</b>	Jessica Rinner	<b>Contact Phone</b>	503-484-0365

**EXECUTIVE SUMMARY:** Clackamas Water Environment Services (WES) has contracted separately, with Board approval, for the design of the Mt. Talbert Realignment Project. In order to construct the improvements as designed permanent and temporary easements and fee acquisitions will be required. The Project is expected to impact two properties abutting the Project alignment. 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 WES’ project development procedures and the final legal descriptions are attached. The approval of this Resolution of Necessity ensures that we will be able to construct new sanitary sewer assets, meet critical construction deadlines, and control costs.

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

For Filing Use Only

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 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 the Mt. Talbert Realignment project

**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 Mt. Talbert Realignment Project



Resolution No. \_\_\_\_\_

*Page 1 of 2*

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 Mt. Talbert Pipe Realignment Project (“the Project”) that will realign an existing 8-inch sanitary sewer conveyance pipe to a location outside of Mt. Scott Creek; 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 for the Mt. Talbert Realignment Project



Resolution No. \_\_\_\_\_

*Page 2 of 2*

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, Exhibit B  
January 8, 2024  
Project No. 0218-021

## EXHIBIT A

### Tract 1

A tract of land situated in Section 4, Township 2 South, Range 2 East, of the Willamette Meridian, County of Clackamas, State of Oregon, being a portion of Parcel 3 of Partition Plat Number 2022-057, Clackamas County Plat Records as conveyed to Clackamas Education Service District (CESD) in Document No. 2022-046071, Clackamas County Deed Records, and being more particularly described as follows:

**COMMENCING** at a 5/8 inch Iron Rod marked "K.W. Cox Assoc" located on the Easterly line of said CESD Tract, being the Easterly line of said Parcel 3, also being a point on the Westerly right-of-way of SE 97th Avenue;

**THENCE**, along said Easterly line of Parcel 3, along a 1000 foot radius curve to the right, through a central angle of 03°45'53" (chord bears North 09°42'33" East, 65.69 feet) a distance of 65.71 feet to the **POINT OF BEGINNING** of the herein described tract;

**THENCE**, leaving said Easterly line South 88°52'13" West a distance of 17.82 feet to an angle point;

**THENCE**, South 10°02'46" West a distance of 37.65 feet to an angle point;

**THENCE**, South 85°37'53" West a distance of 134.69 feet to an angle point;

**THENCE**, South 70°22'00" West a distance of 66.85 feet to an angle point;

**THENCE**, South 44°58'27" West a distance of 84.74 feet to an angle point;

**THENCE**, North 73°52'37" West a distance of 85.53 feet to an angle point;

**THENCE**, South 77°44'37" West a distance of 44.74 feet to an angle point;

**THENCE**, North 53°04'40" West a distance of 103.02 feet to an angle point;

**THENCE**, South 47°18'16" West a distance of 54.42 feet to an angle point;

**THENCE**, North 44°39'59" West a distance of 16.93 feet to a point on the westerly line of said Parcel 3, and being on the easterly right-of-way of Interstate 205, from which a found 5/8" iron rod with a yellow plastic cap stamped "Northwest Surveying Inc." on said right-of-way bears South 31°12'14" West a distance of 40.21 feet;

**THENCE**, along said westerly line of Parcel 3 North 31°12'14" East a distance of 15.47 feet;

**THENCE**, leaving said westerly line South 44°39'59" East a distance of 6.21 feet to an angle point;

**THENCE**, North 47°18'16" East a distance of 52.43 feet to an angle point;

**THENCE**, South 53°04'40" East a distance of 108.66 feet to an angle point;

**THENCE**, North 77°44'37" East a distance of 41.67 feet to an angle point;

**THENCE**, South 73°52'37" East a distance of 80.47 feet to an angle point;

**THENCE**, North 44°58'27" East a distance of 79.26 feet to an angle point;

**THENCE**, North 70°22'00 East a distance of 72.24 feet to an angle point;

**THENCE**, North 85°37'53" East a distance of 125.07 feet to an angle point;

**THENCE**, North 10°02'46" East a distance of 38.35 feet to an angle point;

**THENCE**, North 88°52'13" East a distance of 28.50 feet to the easterly line of said Parcel 3, also being the westerly right-of-way of said SE 97<sup>th</sup> Avenue, being a point in the arc of a non-tangent curve to the left;

**THENCE**, along said curve to the left, having a radius of 1,000 feet, through a central angle of 00°51'53" (chord bears South 07°23'40" East, 15.09 feet) and a distance of 15.09 feet to the **POINT OF BEGINNING**.

Containing 9594 square feet, more or less

Bearings based on the Oregon Coordinate Reference System, Portland Zone, NAD83(2011), EPOC2010, International Feet.

## Tract 2

Together with a Temporary Construction Easement being more particularly described as follows:

**COMMENCING** at a 5/8 inch Iron Rod marked "K.W. Cox Assoc" located on the Easterly line of said CESD Tract, being the Easterly line of said Parcel 3, also being a point on the Westerly right-of-way of SE 97th Avenue;

**THENCE**, along said Easterly line of Parcel 3, along a 1000 foot radius curve to the right, through a central angle of 01°19'55" (chord bears North 10°55'32" West, 23.25 feet) a distance of 23.25 feet to the **POINT OF BEGINNING** of the herein described tract;

**THENCE**, leaving said Easterly line South 85°58'12" West a distance of 165.11 feet to an angle point;

**THENCE**, South 68°56'14" West a distance of 63.44 feet to an angle point;

THENCE, South 44°58'27" West a distance of 51.88 feet to an angle point;

THENCE, South 38°28'59" West a distance of 100.30 feet to an angle point;

THENCE, North 55°30'37" West a distance of 211.54 feet to an angle point;

THENCE, South 47°18'16" West a distance of 56.29 feet to an angle point;

THENCE, North 44°39'59" West a distance of 25.15 feet to a point on the westerly line of said Parcel 3, and being the easterly right-of-way of Interstate 205, from which a found 5/8" iron rod with a yellow plastic cap stamped "Northwest Surveying Inc." on said right-of-way bears South 31°12'14" West a distance of 24.74 feet;

THENCE, along said Westerly line of Parcel 3 North 31°12'14" East a distance of 89.39 feet;

THENCE, leaving the Westerly line South 53°04'40" East a distance of 107.16 feet to an angle point;

THENCE, South 86°26'29" East a distance of 128.29 feet to an angle point;

THENCE, North 52°43'01" East a distance of 87.90 feet to an angle point;

THENCE, North 72°50'17" East a distance of 54.39 feet to an angle point;

THENCE, North 78°42'40" East a distance of 123.61 feet to an angle point;

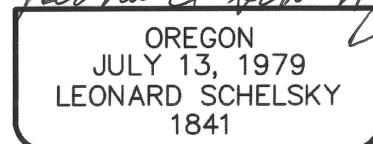
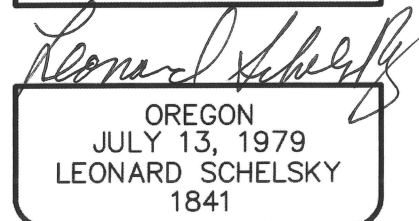
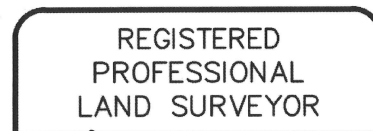
THENCE, North 10°35'09" East a distance of 26.57 feet to an angle point;

THENCE, North 88°52'13" East a distance of 37.77 feet to the easterly line of said Parcel 3, also being the westerly right-of-way of said SE 97<sup>th</sup> Avenue, being a point in the arc of a non-tangent curve to the left;

**THENCE**, along said curve to the left, having a radius of 1,000 feet, through a central angle of 04°18'15" (chord bears South 08°06'26" East, 75.11 feet) and a distance of 75.12 feet to the **POINT OF BEGINNING**.

Containing 30,599 square feet, more or less

Bearings based on the Oregon Coordinate Reference System, Portland Zone, NAD83(2011), EPOCH2010, International Feet.

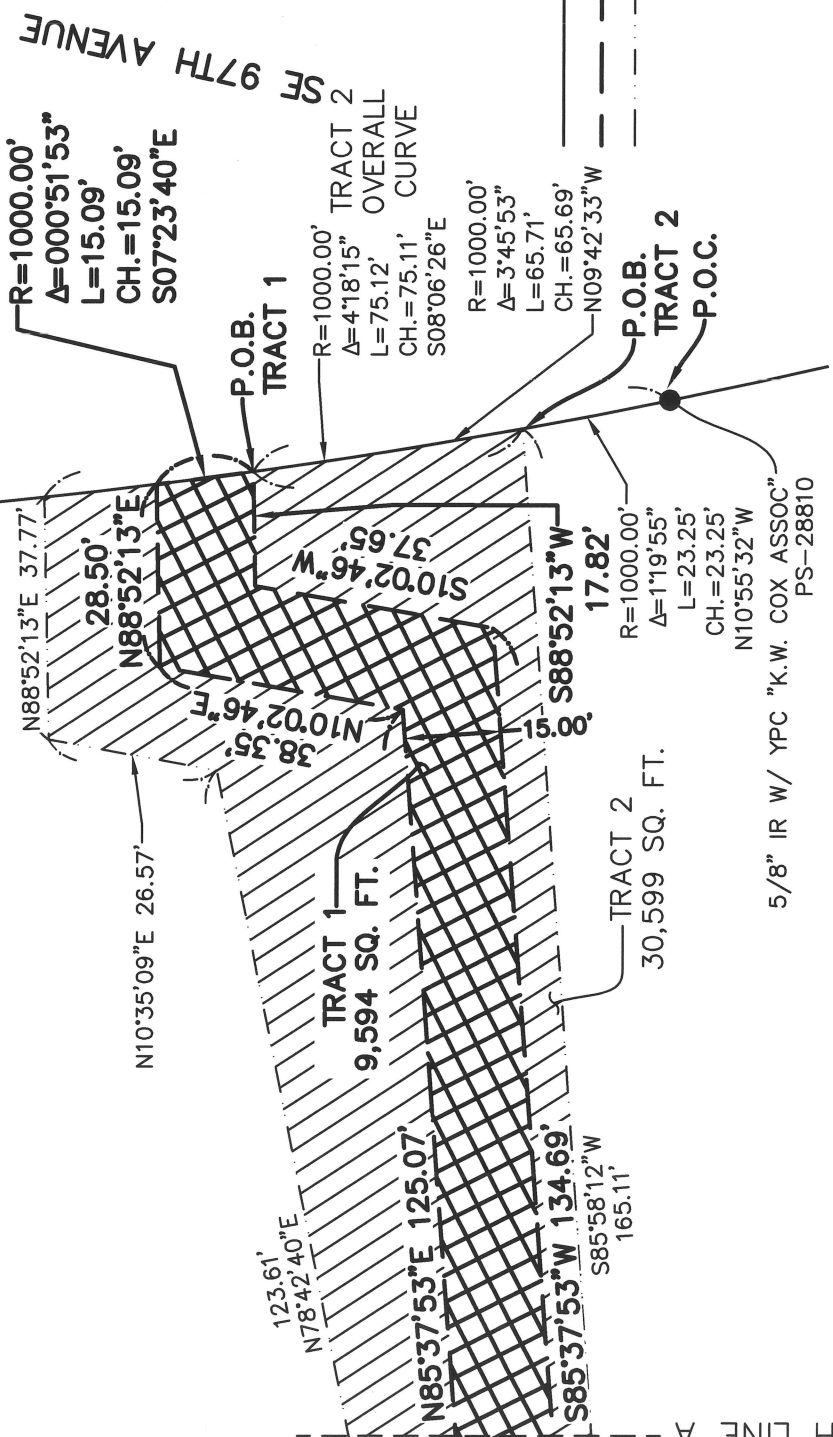


RENEWS: 06-30-2024



0 15' 30'  
SCALE: 1" = 30'

PARCEL 3 OF P.P. 2022-057  
CLACKAMAS EDUCATION SERVICE DISTRICT  
AN OREGON PUBLIC CORPORATION



**NOTES**

1. BASIS OF BEARINGS IS OCRS PORTLAND ZONE, NAD83(2011), EPOCH 2010, IFT. ALL DISTANCES ARE GROUND DISTANCES.
2. THIS EXHIBIT DOES NOT SHOW IMPROVEMENTS, EASEMENTS, BUILDING LINES, AND/OR OTHER ENCUMBRANCES, SHOULD ANY EXIST.
3. A METES AND BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS EXHIBIT.

**LEGEND**

- FOUND MONUMENT AS NOTED
- PROPERTY LINE
- TRACT 1
- TRACT 2
- ▨ TRACT 1 AREA
- ▧ TRACT 2 AREA
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

DATE	1/8/2024
DRAWN BY	PCK
CHECKED BY	LJS
REVISION	1
JOB NO.	0218-021

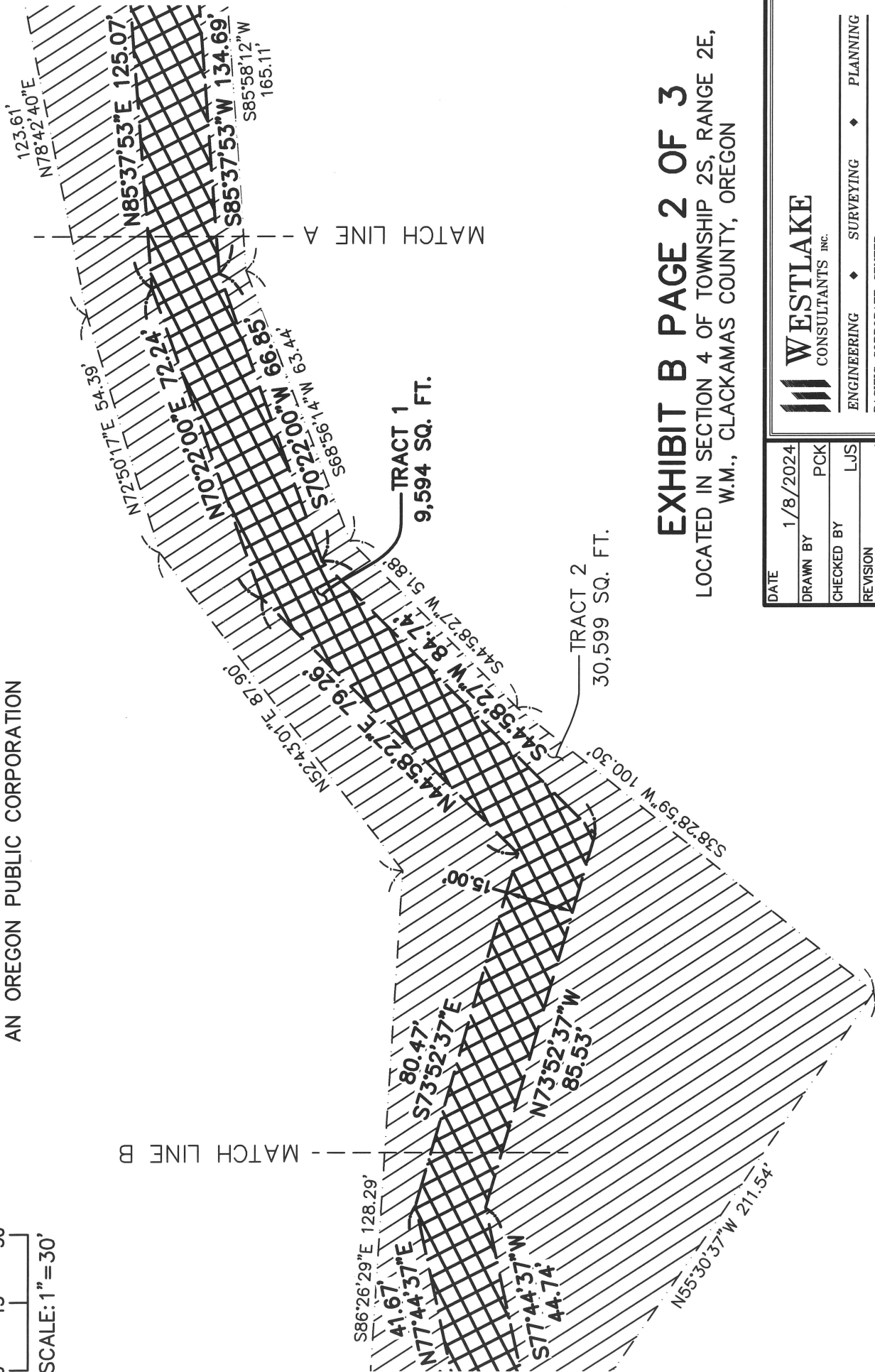
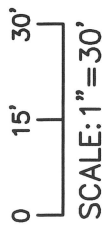


ENGINEERING ♦ SURVEYING ♦ PLANNING  
PACIFIC CORPORATE CENTER  
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652  
TIGARD, OREGON 97224 FAX (503) 624-0157

**EXHIBIT B PAGE 1 OF 3**  
LOCATED IN SECTION 4 OF TOWNSHIP 2S, RANGE 2E,  
W.M., CLACKAMAS COUNTY, OREGON



PARCEL 3 OF P.P. 2022-057  
 CLACKAMAS EDUCATION SERVICE DISTRICT  
 AN OREGON PUBLIC CORPORATION



# EXHIBIT B PAGE 2 OF 3

LOCATED IN SECTION 4 OF TOWNSHIP 2S, RANGE 2E,  
 W.M., CLACKAMAS COUNTY, OREGON

DATE	1/8/2024
DRAWN BY	PCK
CHECKED BY	LJS
REVISION	1
JOB NO.	0218-021



ENGINEERING ♦ SURVEYING ♦ PLANNING  
 WESTLAKE CONSULTANTS INC.  
 PACIFIC CORPORATE CENTER  
 15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652  
 TIGARD, OREGON 97224 FAX (503) 624-0157



0 15' 30'  
SCALE: 1" = 30'

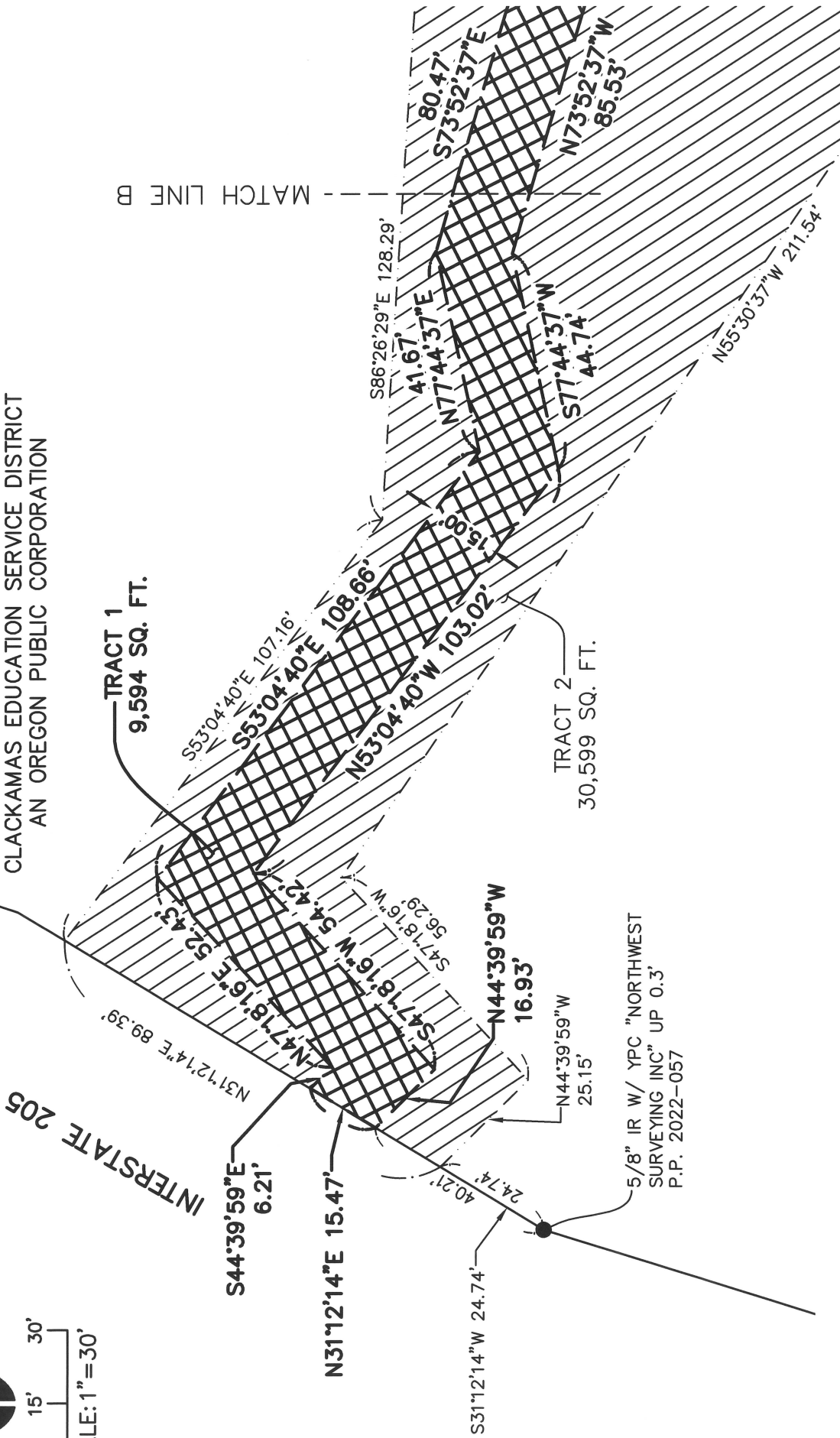
PARCEL 3 OF P.P. 2022-057  
CLACKAMAS EDUCATION SERVICE DISTRICT  
AN OREGON PUBLIC CORPORATION

TRACT 1  
9,594 SQ. FT.

TRACT 2  
30,599 SQ. FT.

INTERSTATE 205

MATCH LINE B



# EXHIBIT B PAGE 3 OF 3

LOCATED IN SECTION 4 OF TOWNSHIP 2S, RANGE 2E,  
W.M., CLACKAMAS COUNTY, OREGON

DATE 1/8/2024

DRAWN BY PCK

CHECKED BY LJS

REVISION 1

JOB NO. 0218-021



ENGINEERING ♦ SURVEYING ♦ PLANNING  
PACIFIC CORPORATE CENTER  
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652  
TIGARD, OREGON 97224 FAX (503) 624-0157

Exhibit A, Exhibit B  
January 8, 2024  
Project No. 0218-021

## EXHIBIT A

### Tract 1

A tract of land situated in Section 4, Township 2 South, Range 2 East, of the Willamette Meridian, County of Clackamas, State of Oregon, being a portion of the General Common Element (GCE) of the "Townhomes with a View Condominium", Plat (TWVC), Clackamas County Plat Records, and being more particularly described as follows:

**COMMENCING** at a point on the Westerly line of said TWVC tract, being on the Easterly right-of-way of SE 97<sup>th</sup> Avenue, from which a found 5/8 inch aluminum cap stamped "W&H Pacific" as shown in Survey No. 2006-440, Clackamas County Survey Records at Station 175+02.27 bears North 67°13'32" West a distance of 30.14 feet;

**THENCE**, along said Westerly line, being the Easterly right-of-way of said SE 97<sup>th</sup> Avenue North 22°46'28" East a distance of 22.09 feet to the **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing along said Westerly line North 22°46'28" East a distance of 21.12 feet to an angle point;

THENCE, North 16°05'47" East a distance of 10.32 feet;

THENCE, leaving said Westerly line North 49°07'21" East a distance of 7.02 feet to an angle point;

THENCE, South 40°52'39" East a distance of 15.00 feet to an angle point;

THENCE, South 49°07'21" West a distance of 34.60 feet to the **POINT OF BEGINNING**.

Containing 299 Square Feet, more or less.

Bearings based on the Oregon Coordinate Reference System, Portland Zone, NAD83(2011), EPOCH2010, International Feet.

### Tract 2

Together with a Temporary Construction Easement being more particularly described as follows:

**COMMENCING** at a point on the Westerly line of said TWVC tract, being on the Easterly right-of-way of SE 97<sup>th</sup> Avenue, from which a found 5/8 inch aluminum cap stamped "W&H Pacific" as shown in Survey No. 2006-440, Clackamas County Survey Records at Station 175+02.27 bears North 67°13'32" West a distance of 30.14' feet;

**THENCE**, along said Westerly line, being the Easterly right-of-way of said SE 97<sup>th</sup> Avenue North 22°46'28" East a distance of 9.89 feet to the **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing along said Westerly line North 22°46'28" East a distance of 33.32 feet to an angle point;

THENCE, North 16°05'47" East a distance of 24.78 feet;

THENCE, leaving said Westerly line South 49°07'21" East a distance of 21.48 feet to an angle point;

THENCE, South 20°02'49" West a distance of 58.00 feet to an angle point;

THENCE, North 69°57'11" West to the POINT OF BEGINNING.

Containing 1,194 Square Feet, more or less.

Bearings based on the Oregon Coordinate Reference System, Portland Zone, NAD83(2011), EPOCH2010, International Feet.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



OREGON  
JULY 13, 1979  
LEONARD SCHELSKY  
1841

RENEWS: 06-30-2024

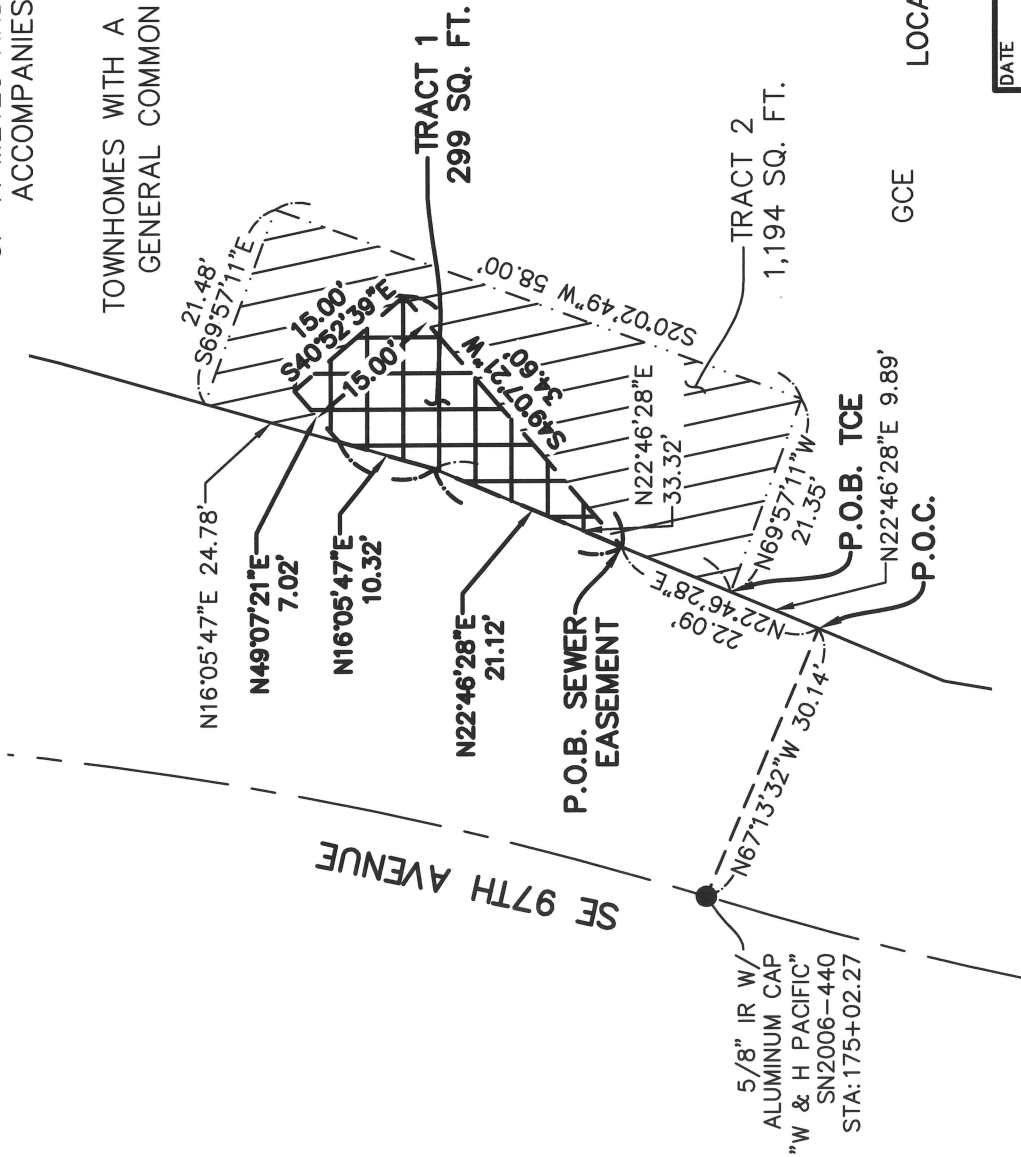




0 10' 20'  
SCALE: 1" = 20'

### NOTES

1. BASIS OF BEARINGS IS OCRS PORTLAND ZONE, NAD83(2011), EPOCH 2010, IFT. ALL DISTANCES ARE GROUND DISTANCES.
2. THIS EXHIBIT DOES NOT SHOW IMPROVEMENTS, EASEMENTS, BUILDING LINES, AND/OR OTHER ENCUMBRANCES, SHOULD ANY EXIST.
3. A METES AND BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS EXHIBIT.



TOWNHOMES WITH A VIEW CONDOMINIUM  
GENERAL COMMON ELEMENT (GCE)

### LEGEND

- FOUND MONUMENT AS NOTED
- RIGHT-OF-WAY
- ROADWAY CENTERLINE
- TRACT 1
- TRACT 2
- ▨ TRACT 1 AREA
- ▨ TRACT 2 AREA
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

## EXHIBIT B PAGE 1 OF 1

LOCATED IN SECTION 4 OF TOWNSHIP 2S, RANGE 2E,  
W.M., CLACKAMAS COUNTY, OREGON

DATE	1/8/2024
DRAWN BY	PCK
CHECKED BY	LJS
REVISION	1
JOB NO.	0218-021



**WESTLAKE**  
CONSULTANTS INC.  
ENGINEERING ♦ SURVEYING ♦ PLANNING  
PACIFIC CORPORATE CENTER  
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652  
TIGARD, OREGON 97224 FAX (503) 624-0157