



DAN JOHNSON
DIRECTOR

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

May 5, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the South Ivy Street Pedestrian Intersection Improvements Project and Authorizing Good Faith Negotiations and Condemnation Actions. Project funding through State Funded Local Project Program Fund and County Road Fund. County General Funds are not involved.

Purpose/Outcomes	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 \$878,371 and is included within the \$6,397,399 total project budget.
Funding Source	County Road Fund and State Funded Local Project Funds
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	01/24/2019: BCC Approval of a Supplemental Project Agreement No. 32756 with Oregon Department of Transportation for the S Ivy Street (Canby) Project. 09/26/2019: BCC Approval of a Contract with Kittelson & Associates, Inc. for the Design Services for the S Ivy Street Pedestrian Intersection Improvements. 11/04/2021: BCC Approval of Amendment #2 with Kittelson & Associates, Inc. for the Design Services for the S Ivy Street Pedestrian Intersection Improvements. 05/03/2022: Discussion item at issues.
Strategic Plan Alignment	1. 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. This item aligns with "Build a Strong Infrastructure" by adding bike lanes and sidewalks and improving intersections for safety and capacity, which will improve both the service and safety for all users.
Counsel Review	County Counsel reviewed and approved 4/18/22, SC
Procurement Review	<i>Was the item processed through Procurement?</i> yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact Persons	Mendi Houx, DTD Right of Way Agent @ (503)742-4672

BACKGROUND:

The South Ivy Street Pedestrian Intersection Improvements Project will provide bicycle lanes and sidewalk improvements on South Ivy Street from OR99E to Lee Elementary School and signal construction at the intersection of South Ivy Street and SE Township Road. Street lighting will also be added within the project limits. Prior to completion of the project, the County will transfer jurisdiction of the street to the City of Canby.

In order to construct the improvements as designed, additional rights of way and easements will be required. The Project is expected to impact 57 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.

Clackamas County and The City of Canby have entered into an Intergovernmental Agreement (IGA) outlining the responsibilities of each agency for the completion of the Project. Subsequent to the County passing a Resolution of Necessity, The City of Canby City Council also intends to pass a Resolution of Necessity supporting the Project and the County’s efforts to acquire the necessary Rights of Way and Easements through good faith negotiations and condemnation.

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 57 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.

Sincerely,

Mendi Houx

Mendi Houx
Right of Way Agent

**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 South Ivy Street Pedestrian Intersection Improvements 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 05, 2022 and,

It appearing to the Board that the South Ivy Street Pedestrian Intersection Improvements Project (the "Project") will add bicycle lanes and sidewalks; 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 Clackamas County and The City of Canby have entered into an Intergovernmental Agreement (IGA) outlining the responsibilities of each agency for the completion of the Project, and that the City of Canby City Council intends to pass a Resolution of Necessity supporting the Project and Clackamas County's efforts to acquire the necessary Rights of Way and Easements through good faith negotiations and condemnation.

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,

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
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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, shown on Exhibit “B”, 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 IVY STREET PEDESTRIAN INTERSECTION IMPROVEMENTS
COUNTY PROJECT NO. 22239
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EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF SOUTH IVY STREET

A ROADWAY COMMONLY KNOWN AS SOUTH IVY STREET, MARKET ROAD NO. 10, COUNTY ROAD NO. 1202, LOCATED IN THE SOUTH ONE-HALF OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 1 EAST, AND THE NE ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CITY OF CANBY, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3" BRASS DISC IN A MONUMENT BOX MARKING THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 1 EAST PER USBT 1999-039; THENCE NORTH 69°00'26" WEST, 2900.76 FEET TO THE POINT OF BEGINNING, SAID POINT BEING AT CENTERLINE STATION 13+46.07 OF PACIFIC HIGHWAY, OREGON HIGHWAY 99E PER SN. 2007-377 AND ENGINEER'S CENTERLINE STATION 719+86.43 OF SOUTH IVY STREET; THENCE SOUTH 26°47'31" EAST, 2922.98 FEET TO A POINT OF CURVATURE, ENGINEER'S CENTERLINE STATION 690+63.45; THENCE ALONG THE ARC OF A 318.31 FOOT RADIUS CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 27°11'58" (THE LONG CORD OF WHICH BEARS SOUTH 13°11'32" EAST, 149.69 FEET) 151.11 FEET, ENGINEER'S CENTERLINE STATION 689+12.34; THENCE SOUTH 00°24'27" WEST, 912.34 FEET TO ENGINEER'S CENTERLINE STATION 680+00 AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

THE BASIS OF BEARING IS THE OREGON COORDINATE REFERENCE SYSTEM (OCRS), PORTLAND ZONE, LAMBERT CONFORMAL CONIC PROJECTION, NAD 83 (2011) EPOCH 2010.00, INTERNATIONAL FEET UNITS, PER SURVEY NO. 2020-198.

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

<u>STATION TO STATION</u>	<u>WIDTH ON WESTERLY SIDE OFF CENTERLINE</u>	<u>WIDTH ON EASTERLY SIDE OFF CENTERLINE</u>
690+00.00 TO 697+24.68	35.00 FEET	
697+24.63 TO 697+79.68	38.50 FEET	
697+79.68 TO 702+98.60	35.00 FEET	
702+98.56 TO 703+59.96	37.00 FEET	
703+59.96 TO 704+55.90	36.50 FEET	
704+55.89 TO 707+25.95	35.00 FEET	
707+25.95 TO 707+49.08	35.00 FEET IN A STRAIGHT LINE TO 73.22 FEET	
708+17.17 TO 708+22.53	65.74 FEET IN A STRAIGHT LINE TO 68.44 FEET	
708+22.53 TO 708+35.31	68.44 FEET IN A STRAIGHT LINE TO 43.00 FEET	
708+35.31 TO 708+90.00	43.00 FEET	

SOUTH IVY STREET PEDESTRIAN INTERSECTION IMPROVEMENTS
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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 OFF CENTERLINE	WIDTH ON EASTERLY SIDE OFF CENTERLINE
708+90.00 TO 710+51.19	40.00 FEET	
710+51.15 TO 711+31.51	37.50 FEET	
711+31.49 TO 712+74.13	36.50 FEET	
712+74.13 TO 712+88.51	36.50 FEET IN A STRAIGHT LINE TO 50.61 FEET	
712+88.51 TO 712+88.83	50.61 FEET IN A STRAIGHT LINE TO 67.58 FEET	
712+88.83 TO 712+91.83	67.58 FEET IN A STRAIGHT LINE TO 67.52 FEET	
712+91.83 TO 713+31.63	67.52 FEET IN A STRAIGHT LINE TO 56.59 FEET	
713+31.63 TO 713+50.80	56.59 FEET IN A STRAIGHT LINE TO 38.00 FEET	
713+50.80 TO 716+66.61	38.00 FEET	
716+66.61 TO 716+87.49	38.00 FEET IN A STRAIGHT LINE TO 56.92 FEET	
716+87.49 TO 717+34.74	56.92 FEET IN A STRAIGHT LINE TO 100.59 FEET	
717+34.74 TO 717+37.88	100.59 FEET IN A STRAIGHT LINE TO 100.57 FEET	
717+37.62 TO 718+34.55	31.50 FEET	
693+39.92 TO 693+42.48		30.00 FEET IN A STRAIGHT LINE TO 35.00 FEET
693+42.48 TO 694+44.21		35.00 FEET
694+44.21 TO 695+36.83		31.50 FEET
695+36.83 TO 697+49.60		32.00 FEET
697+49.91 TO 698+49.60		35.50 FEET
698+49.60 TO 699+06.00		32.50 FEET
699+06.00 TO 699+36.55		43.00 FEET
699+36.55 TO 699+38.51		43.00 FEET IN A STRAIGHT LINE TO 44.97 FEET
699+38.51 TO 699+41.52		74.65 FEET
699+41.52 TO 699+88.44		74.65 IN A STRAIGHT LINE TO 71.85 FEET

SOUTH IVY STREET PEDESTRIAN INTERSECTION IMPROVEMENTS
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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 OFF CENTERLINE	WIDTH ON EASTERLY SIDE OFF CENTERLINE
699+88.44 TO 700+30.00		42.00 FEET
700+30.00 TO 700+62.78		32.50 FEET
700+62.78 TO 701+31.83		33.00 FEET
701+31.83 TO 701+43.64		33.00 FEET IN A STRAIGHT LINE TO 44.85 FEET
701+93.58 TO 701+96.69		57.90 FEET
701+96.69 TO 701+96.71		57.90 FEET IN A STRAIGHT LINE TO 42.51 FEET
701+96.71 TO 702+06.21		42.51 FEET IN A STRAIGHT LINE TO 33.00 FEET
702+06.21 TO 702+75.91		33.00 FEET
702+75.91 TO 703+63.00		32.50 FEET
703+63.00 TO 703+91.00		39.00 FEET
704+50.91 TO 705+12.00		35.00 FEET
705+12.00 TO 705+67.00		50.00 FEET
705+67.00 TO 706+03.00		33.00 FEET
706+03.00 TO 706+22.23		42.00 FEET
706+22.23 TO 706+77.24		35.00 FEET
706+95.39 TO 707+00.47		30.00 FEET IN A STRAIGHT LINE TO 31.50 FEET
707+00.47 TO 707+05.76		31.50 FEET
707+05.76 TO 707+10.75		31.50 FEET IN A STRAIGHT LINE TO 30.00 FEET
707+38.23 TO 707+70.24		33.50 FEET
710+90.41 TO 711+95.36		33.50 FEET
711+95.36 TO 712+10.36		32.50 FEET
712+79.77 TO 712+88.92		30.00 FEET IN A STRAIGHT LINE TO 35.38 FEET
712+88.92 TO 712+95.44		35.38 FEET IN A STRAIGHT LINE TO 46.82 FEET
713+35.35 TO 713+41.37		47.79 FEET IN A STRAIGHT LINE TO 35.69 FEET
713+41.37 TO 713+50.99		35.69 FEET IN A STRAIGHT LINE TO 30.00 FEET
715+06.47 TO 715+19.41		30.00 FEET IN A STRAIGHT LINE TO 33.20 FEET

SOUTH IVY STREET PEDESTRIAN INTERSECTION IMPROVEMENTS
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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 OFF CENTERLINE	WIDTH ON EASTERLY SIDE OFF CENTERLINE
715+19.41 TO 715+22.53		33.20 FEET IN A STRAIGHT LINE TO 39.47 FEET
715+22.53 TO 715+22.61		39.47 FEET IN A STRAIGHT LINE TO 46.96 FEET
715+22.61 TO 715+30.26		46.96 FEET IN A STRAIGHT LINE TO 46.88 FEET
715+70.24 TO 715+77.03		50.08 FEET IN A STRAIGHT LINE TO 38.00 FEET
715+77.03 TO 717+47.51		38.00 FEET
717+47.51 TO 717+91.18		31.00 FEET
717+91.18 TO 718+33.72		41.00 FEET

EXHIBIT "B"

File No.	Property Address	Tax Lot
1	103 SW 1st Ave. Canby, OR 97013	31E33CD08200
2	181 S Ivy St. Canby, OR 97013	31E33CD08100
3	130 SW 2nd Ave. Canby, OR 97013	31E33CD10000
4	235 S Ivy St. Canby, OR 97013	31E33CD06800
5	275 S Ivy St. Canby, OR 97013	31E33CD06700
6	311 S Ivy St. Canby, OR 97013	31E33CD06200
7	375 S Ivy St. Canby, OR 97013	31E33CD06100
8	387 S Ivy St. Canby, OR 97013	31E33CD06101
9	395 S Ivy St. Canby, OR 97013	31E33CD06000
22	485 S Ivy St. Canby, OR 97013	41E04AB07400
23	507 S Ivy St. Canby, OR 97013	41E04AB07300
24	533 S Ivy St. Canby, OR 97013	41E04AB07200
25	553 S Ivy St. Canby, OR 97013	41E04AB07100
26	583 S Ivy St. Canby, OR 97013	41E04AB06300
27	625 S Ivy St. Canby, OR 97013	41E04AB06200
28	110 SW 6th Pl. Canby, OR 97013	41E04AB04417
29	113 SW 6th Pl. Canby, OR 97013	41E04AB04401
30	695 S Ivy St. Canby, OR 97013	41E04AB04300
31	775 S Ivy St. Canby, OR 97013	41E04AB02300

EXHIBIT "B"

File No.	Property Address	Tax Lot
32	793 S Ivy St. Canby, OR 97013	41E04AB02200
33	797 S Ivy St. Canby, OR 97013	41E04AB02201
34	120 SW 8th Ave. Canby, OR 97013	41E04AB03211
35	115 SW 8th Ave. Canby, OR 97013	41E04AB03218
36	125 SW 8th Ave. Canby, OR 97013	41E04AB03220
51	1130 S Ivy St. Canby, OR 97013	41E04A 01100
52	1110 S Ivy St. Canby, OR 97013	41E04A 00701
53	No Situs Canby, OR 97013	41E04AB02100
54	1000 S Ivy St. Canby, OR 97013	41E04AB02101
55	954 S Ivy St. Canby, OR 97013	41E04AB02000
56	906 S Ivy St. Canby, OR 97013	41E04AB01900
57	896 S Ivy St. Canby, OR 97013	41E04AB01800
58	804 S Ivy St. Canby, OR 97013	41E04AB01500
59	No Situs Canby, OR 97013	41E04AB01801
60	790 S Ivy St. Canby, OR 97013	41E04AB01300
61	780 S Ivy St. Canby, OR 97013	41E04AB01301
62	748 S Ivy St. Canby, OR 97013	41E04AB01100
63	692 S Ivy St. Canby, OR 97013	41E04AB01200
64	680 S Ivy St. Canby, OR 97013	41E0AB401003

EXHIBIT "B"

File No.	Property Address	Tax Lot
65	684 S Ivy St. Canby, OR 97013	41E04AB01002
66	688 S Ivy St. Canby, OR 97013	41E04AB01000
67	664 S Ivy St. Canby, OR 97013	41E04AB00900
68	662 S Ivy St. Canby, OR 97013	41E04AB00902
69	638 S Ivy St. Canby, OR 97013	41E04AB00903
70	630 S Ivy St. Canby, OR 97013	41E04AB00800
71	610 S Ivy St. Canby, OR 97013	41E04AB00700
74	590 S Ivy St. Canby, OR 97013	41E04AB00502
75	580 S Ivy St. Canby, OR 97013	41E04AB00501
76	574 S Ivy St. Canby, OR 97013	41E04AB00500
77	119 SE Township Rd. Canby, OR 97013	41E04AB00400
78	450 S Ivy St. Canby, OR 97013	31E33DC06000
79	372 S Ivy St. Canby, OR 97013	31E33DC06100
80	360 S Ivy St. Canby, OR 97013	31E33DC06200
81	318 S Ivy St. Canby, OR 97013	31E33DC06300
82	276 S Ivy St. Canby, OR 97013	31E33DC06500
83	242 S Ivy St. Canby, OR 97013	31E33DC06700
84	221 SE 2nd Ave. Canby, OR 97013	31E33DC07301
85	144 SE 2nd Ave. Canby, OR 97013	31E33DC01400

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension
- Other Resolution

Originating County Department: Transportation & Development

Purchasing for: _____

Other party to contract/agreement: Oregon Department of Transportation

Title from Business Meeting Agenda:

Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the South Ivy Street Pedestrian Intersection Improvements Project and Authorizing Good Faith Negotiations and Condemnation Actions.

After recording please return to: _____

Clerk to the Board please complete below this line after Board approval

Board Agenda Date: _____

Agenda Item Number: _____