



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

May 21, 2015

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 – Group 1
for the Otty Street Realignment Project and
Authorizing Negotiations and Eminent Domain Actions**

Purpose/Outcomes	Under ORS 35.235 and the federal Uniform Act, a local governmental agency is required to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Condemnation Resolution prior to initiating acquisition of the easements or other property rights from abutters to the project.
Dollar Amount and Fiscal Impact	The right of way budget for the project is \$1,100,000 and is included within the \$3,500,000 total approved project budget.
Funding Source	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District
Safety Impact	This project will provide safer access to and from 82 nd Avenue and improve east/west connectivity for the traveling public and emergency service providers. Sidewalks, dedicated bike lanes and street lighting are included in the project.
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	Approved moving forward with this project, as recommended by the Clackamas Regional Center Working Group, at a business meeting on April 11, 2013 and subsequent study session on April 16, 2014. Approved engineering contract with Harper Houf Peterson Righellis Inc. on October 30, 2014.
Contact Person	David Queener, Development Agency Project Mgr @ 503-742-4322 Kath Rose, DTD Sr. Right of Way Agent @ 503-742-4713

BACKGROUND:

The Board of County Commissioners has approved funding for the Otty Street Realignment Project, which will realign Otty Street on the west to the intersection at 82nd Avenue and Otty Road to the east. Improvements will include a two-lane road section, storm drainage facilities, signal modifications,

sidewalks, bike lanes, street lighting and landscaping. The Board has authority under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or condemnation proceedings.

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 Development Agency (Agency) shall negotiate in good faith 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.

Although the Agency is in the process of developing the legal descriptions required for acquisition of rights of way and easements, one file will require a full fee purchase and relocation of the owner. In order to provide the maximum amount of time to support the owner's relocation assistance needs, the Agency is bringing this parcel to the Board as "Group 1". The remaining easements will be brought to the Board for approval as the "Group 2" Resolution. If, during the course of the project, design or construction modifications should effect acquisitions, staff will bring subsequent revisions to the Board for authorization.

The resolution directs the Agency to resolve issues of just compensation through good faith negotiations. It requires the Manager of the Agency to notify the Board if 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.

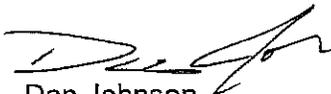
Staff respectfully requests that the Board approve a Resolution of Necessity and Purpose for the Otty Street Realignment Project for the acquisition of necessary rights of way and easements to provide for construction of the project.

The Resolution has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the Resolution authorizing the acquisition of rights of way and easements by negotiation if possible, or condemnation, if necessary.

Respectfully Submitted,



Dan Johnson
Development Agency Manager

Attachment

For information on this issue or copies of attachments please contact Kath Rose, Sr. Right of Way Agent at (503) 742-4713
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**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Otty Street Realignment Project, Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Negotiations and Eminent Domain Actions – Group 1



Order No. _____
(Page 1 of 2)

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on May 21, 2015; and,

It appearing that the Board previously approved funding for the Otty Street Realignment Project No. DA-00002 ("Project"), which will realign Otty Street on the west to the intersection of 82nd Avenue and Otty Road to the east, including a two-lane road section, storm drainage facilities, signal modifications, sidewalks, bike lanes, street lighting, and landscaping, that the Project is consistent with the powers and purposes of County government, and that the Project is necessary for the continued growth, safety and welfare of the community; 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 the acquisition of the rights of way, easements, and fee property described in Exhibit "A" is a necessary part of the Project and therefore is also consistent with the powers and purposes of County government, and necessary for the continued growth, safety and welfare of the community. This Board Order represents "Group 1" in a series of two Board Orders which will be submitted to the Board for the Project, with "Group 2" containing the remainder rights of way and easement descriptions developed from the approved engineering design plans and reviewed by County Staff; and,

It further appearing to the Board that immediate possession of the rights of way, easements, and fee property described in Exhibit "A" may be necessary and will be in the public interest in order to commence and complete the Project in a timely manner; and,

It further appearing that the Board has authority under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or eminent domain proceedings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County immediately start acquisition of rights of way, easements, and fee property described in Exhibit "A", either through negotiation and agreement, purchase, or, if necessary, by commencement of eminent domain proceedings.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Otty Street Realignment Project, Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Negotiations and Eminent Domain Actions – Group 1



Order No. _____
(Page 2 of 2)

IT IS FURTHER ORDERED THAT:

1). The Clackamas County Development Agency immediately, and in good faith, attempt to negotiate agreements as to amount of just compensation owed each owner of each property identified in Exhibit "A". In so doing, the department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to fairly determine the amount of just compensation owed; and,

2). If the Manager of the Clackamas County Development Agency (the "Manager") 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/or fee property required for the Project, the Manager shall promptly bring before the Board, and the Board shall promptly consider a resolution amending Exhibit "A"; and,

3). It is the intention of the Board that the required rights of way, easements, and fee property identified in Exhibit "A" be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Manager shall inform the Board when the Manager deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints in condemnation 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 _____, 2015.

John Ludlow, Chair

Mary Raethke, Recording Secretary

Exhibit "A"
Project Legal Descriptions – Group 1
Otty Street Realignment Project

Property No. 01; Tax Lot 12E29DA12800

PARCEL 1 (Fee Simple Acquisition)

A parcel of land lying in the Northeast One-Quarter of the Southeast One-Quarter of Section 29, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, said parcel being that portion of Lot 47, Plat of "Park View Acres", Plat No. 417, Clackamas County Survey Records, as described by that certain Quitclaim Deed recorded on December 14, 1998, as Record No. 98-119146, Clackamas County Deed Records:

EXCEPTING therefrom that portion lying within the existing right of way of S.E. Otty Street.

The parcel of land to which this description applies contains 10,165 square feet more or less.

This legal description, along with the basis of bearings thereof, is based upon an Oregon Coordinate Reference System (OCRS) – Portland Zone derived bearing of S1°10'41"E along the east line of the Southeast One-Quarter of Section 29, Township 1 South, Range 2 East, W.M., Clackamas County, Oregon, as measured between the East One-Quarter Section Corner and the Southeast Corner of said Section.