



7

**COPY**  
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 and Easements  
for the Boyer Drive Extension Project and  
Authorizing Negotiations and Eminent Domain Actions**

<b>Purpose/Outcomes</b>	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.
<b>Dollar Amount and Fiscal Impact</b>	The right of way budget for the project is \$1,500,000 and is included within the \$3,900,000 total approved project budget.
<b>Funding Source</b>	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District
<b>Safety Impact</b>	This project will provide safer access to and from 82 <sup>nd</sup> 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.
<b>Duration</b>	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.
<b>Previous Board Action</b>	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 HDR, Inc. on October 23, 2014.
<b>Contact Person</b>	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 Boyer Drive Extension Project, which will construct a new roadway from 82<sup>nd</sup> Avenue to Fuller Road. 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 and easements 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.

The Agency has developed the final legal descriptions required for acquisition of the rights of way and easement for two properties affected by the Project. 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.

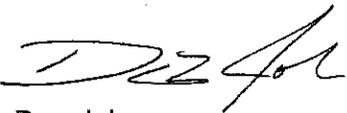
Staff respectfully requests that the Board approve a Resolution of Necessity and Purpose for the Boyer Drive Extension Project for the acquisition of necessary rights of way and easements to provide for construction of the project.

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

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

In the Matter of the Boyer Drive Extension 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 Boyer Drive Extension Project No. DA-00088 ("Project"), which will construct a new roadway extending Boyer Drive from 82<sup>nd</sup> Avenue on the east to Fuller Road on the west, 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 Boyer Drive Extension 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**  
**Boyer Drive Extension Project**

**Property No. 01; Tax Lot 12E32AA06102**

**Fee Simple Acquisition**

Real property in the County of Clackamas, State of Oregon, described as follows:

Beginning at an iron rod at the Northeast corner of Lot 181, PARK VIEW ACRES, as surveyed by Compass Corp., and recorded as P.S. 16546 in the Clackamas County Surveyor's Office, said parcel is located in the Northeast one-quarter of the Northeast one-quarter of Section 32, Township 1 South, Range 2 East, Willamette Meridian, in the County of Clackamas and State of Oregon, from the true point of beginning thence South 0° 11' 40" West 50.00 feet to an iron rod on the East line of Lot 181; thence North 89° 47' 35" West 78.00 feet to an iron rod; thence North 0° 12' 25" East 10.00 feet to an iron rod; thence North 89° 47' 35" West 144.26 feet to an iron rod; thence North 0° 11' 40" East 40.00 feet to an iron rod on the North line of Lot 181; thence South 89° 47' 35" East 222.26 feet to the iron rod at the true point of beginning to the tract herein described.

**Property No. 02; Tax Lot 12E32AA06100**

**Fee Simple Acquisition**

Real property in the County of Clackamas, State of Oregon, described as follows:

The East 222.26 feet of Lot 181, PARK VIEW ACRES, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion described in that certain Deed recorded on September 19, 1983, as Fee No. 83-30572, Records of Clackamas County, Oregon, more particularly described as follows:

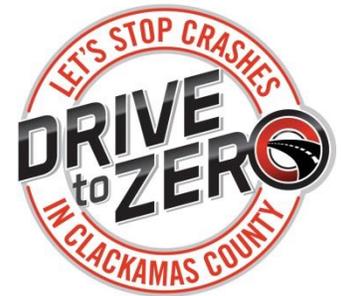
Beginning at an iron rod at the Northeast corner of Lot 181, PARK VIEW ACRES, as surveyed by Compass Corp., and recorded as P.S. 16546 in the Clackamas County Surveyor's Office, said parcel is located in the Northeast one-quarter of the Northeast one-quarter of Section 32, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon. From the true point of beginning: thence South 0° 11' 40" West 50.00 feet to an iron rod on the East line of Lot 181; thence North 89° 47' 35" West 78.00 feet to an iron rod; thence North 0° 12' 25" East 10.00 feet to an iron rod; thence North 89° 47' 35" West 144.26 feet to an iron rod; thence North 0° 11' 40" East 40.00 feet to an iron rod on the North line of Lot 181; thence South 89° 47' 35" East 222.26 feet to the iron rod at the true point of beginning to the tract herein described.

# Safe Roads Are No Accident

---

Safety is part of the County culture:

- Performance Clackamas
- Transportation System Plan
- Transportation Safety Action Plan
- Clackamas Safe Communities
- What we do every day
  - Education and outreach
  - Road maintenance



**Road maintenance is an integral component of that safety culture.**