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DEVELOPMENT AGENCY

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

October 29, 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 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. Approval of Resolution of Necessity on May 21, 2015 to allow the maximum amount of time to support one property owner's relocation assistance needs.
Contact Person	David Queener, Development Agency Project Manager at 503-742-4322

BACKGROUND:

The Board of County Commissioners has approved funding for the Otty Street Realignment Project, which will realign the street 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 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 four 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.

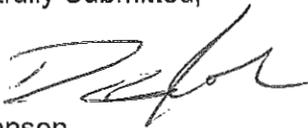
Staff respectfully requests that the Board approve a Resolution of Necessity and Purpose for the Otty Street Realignment Project for the acquisition of necessary rights of way and easements to provide for construction of the project.

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 David Queener at (503) 742-4322

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

In the Matter of the Otty Street Realignment
Declaring the Necessity
and Purpose for Acquisition of Rights of
Way and Easements, and Authorizing
Negotiations and Eminent Domain Actions

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
October 29, 2105 and,

It appearing that the Board previously approved funding
for the Otty Street Realignment Project No. DA-02 ("Project"), which will provide for the realignment of SE
Otty Street with the intersection at 82nd Avenue and Otty Road and the widening of Otty Road east of
82nd Avenue, including sidewalks, landscaping, traffic signal improvements, lighting, a bike lane, and
storm drainage facilities; 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 and easements, 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; and,

It further appearing to the Board that immediate
possession of the rights of way and easements 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 and easements 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 and easements 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
Declaring the Necessity
and Purpose for Acquisition of Rights of
Way and Easements, and Authorizing
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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 and easements 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 and easements 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 and easements 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
Otty Street Realignment Project

Property No. 04; Tax Lot No. 12E29DA13000

PARCEL 1 (Permanent Right-Of-Way Easement For Road Purposes)

A parcel of land, as shown on attached Exhibit "B", 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, and being a portion of Lot 48, Plat of "PARK VIEW ACRES", Plat No. 417, Clackamas County Survey Records, also being a portion of that tract of land as described by Statutory Bargain and Sale Deed to Gustafson Real Estate LLC, an Oregon Limited Liability Company, recorded July 10, 2014 as Fee No. 2014-033222, Clackamas County Deed Records, said parcel being that portion of said property lying northeasterly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property:

Beginning at a point 210.92 feet right of Existing 82nd Avenue Centerline Station 367+98.53, and the beginning of a 175.00 foot radius curve to the left, having a central angle of 41°42'14", the radius point of which bears N41°51'13"E;

Thence southeasterly along the arc of said curve to the left (the long chord of which bears S68°59'54"E, 124.58 feet) 127.38 feet to a point 95.55 feet right of Existing 82nd Avenue Centerline Station 368+45.56;

Thence easterly, in a straight line, to a point 68.15 feet right of Existing 82nd Avenue Centerline Station 368+46.19;

Thence southeasterly, in a straight line, to a point 16.58 feet right of Existing 82nd Avenue Centerline Station 369+00.00;

EXCEPTING therefrom that portion of said property lying easterly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property:

Beginning at a point 46.50 feet right of Existing 82nd Avenue Centerline Station 368+15.00;

Thence southerly, in a straight line, to a point 46.50 feet right of Existing 82nd Avenue Centerline Station 369+50.00.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

The parcel of land to which this description applies contains 2,749 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of SE 82nd Avenue, being more particularly described as follows:

Beginning at a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon and being a point on the Existing Centerline of 82nd Avenue (Market Road number 38) (Cascade Highway) (State Highway 213) , said Point also being Existing Centerline Station 357+89.36 PI per Oregon State Highway Department Drawing No. 7B-29-19 (Cascade Highway North, S.E. Flavel St. - Lake Road Section);

Thence S 01°10'41" E, along said Existing Centerline of 82nd Avenue, 2646.24 feet to a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-091, Clackamas County Survey Records, at the Section Corner common to Sections 29, 28, 32, and 33, T.1S , R.2E, W.M., Clackamas County, Oregon, said point also being Existing Centerline Station 384+35.60, (shown as Station 384+35.67 per Oregon State Highway Department Drawing No. 7B-29-20) (Cascade Highway North, S.E. Flavel St. - Lake Road Section) and the terminus of this description.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be S 01°10'41"E, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

PARCEL 2 (Temporary Construction Easement)

A parcel of land, as shown on attached Exhibit "B", 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, and being a portion of Lot 48, Plat of "PARK VIEW ACRES", Plat No. 417, Clackamas County Survey Records, also being a portion of that tract of land as described by Statutory Bargain and Sale Deed to Gustafson Real Estate LLC, an Oregon Limited Liability Company, recorded July 10, 2014 as Fee No. 2014-033222, Clackamas County Deed Records, said parcel being that portion of said property lying northerly and easterly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property:

Beginning at a point 329.96 feet right of Existing 82nd Avenue Centerline Station 367+98.53;

Thence southerly, in a straight line, to a point 330.15 feet right of Existing 82nd Avenue Centerline Station 368+26.81;

Thence easterly, in a straight line, to a point 314.73 feet right of Existing 82nd Avenue Centerline Station 368+27.17;

Thence southeasterly, in a straight line, to a point 282.13 feet right of Existing 82nd Avenue Centerline Station 368+47.81;

Thence southerly, in a straight line, to a point 282.67 feet right of Existing 82nd Avenue Centerline Station 368+71.40;

Thence easterly, in a straight line, to a point 266.84 feet right of Existing 82nd Avenue Centerline Station 368+71.77;

Thence southeasterly, in a straight line, to a point 247.34 feet right of Existing 82nd Avenue Centerline Station 368+85.25;

Thence easterly, in a straight line, to a point 84.86 feet right of Existing 82nd Avenue Centerline Station 368+89.82;

Thence easterly, in a straight line, to a point 48.50 feet right of Existing 82nd Avenue Centerline Station 368+92.08;

Thence southerly, in a straight line, to a point 48.50 feet right of Existing 82nd Avenue Centerline Station 369+50.00.

EXCEPTING therefrom the above described Parcel 1.

ALSO EXCEPTING therefrom that portion of said property lying easterly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property:

Beginning at a point 46.50 feet right of Existing 82nd Avenue Centerline Station 368+15.00;

Thence southerly, in a straight line, to a point 46.50 feet right of Existing 82nd Avenue Centerline Station 369+50.00.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

The parcel of land to which this description applies contains 13,597 square feet more or less.

The stationing used to described this parcel is based on the Existing Centerline of 82nd Avenue described herein, being more particularly described in Parcel 1.

PARCEL 1 (Permanent Easement For Highway Right of Way Purposes)

A parcel of land, as shown on attached Exhibit "B", 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, and being a portion of Lot 48, Plat of "PARK VIEW ACRES", Plat No. 417, Clackamas County Survey Records, also being a portion of that tract of land as described by Statutory Bargain and Sale Deed to Gustafson Real Estate LLC, an Oregon Limited Liability Company, recorded July 10, 2014 as Fee No. 2014-033222, Clackamas County Deed Records, said parcel being that portion of said property lying easterly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property:

Beginning at a point 46.50 feet right of Existing 82nd Avenue Centerline Station 368+15.00;

Thence southerly, in a straight line, to a point 46.50 feet right of Existing 82nd Avenue Centerline Station 369+50.00.

EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

The parcel of land to which this description applies contains 1,666 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of SE 82nd Avenue, being more particularly described as follows:

Beginning at a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon and being a point on the Existing Centerline of 82nd Avenue (Market Road number 38) (Cascade Highway) (State Highway 213) , said Point also being Existing Centerline Station 357+89.36 PI per Oregon State Highway Department Drawing No. 7B-29-19 (Cascade Highway North, S.E. Flavel St. - Lake Road Section);

Thence S 01°10'41" E, along said Existing Centerline of 82nd Avenue, 2646.24 feet to a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-091, Clackamas County Survey Records, at the Section Corner common to Sections 29, 28, 32, and 33, T.1S , R.2E, W.M., Clackamas County, Oregon, said point also being Existing Centerline Station 384+35.60, (shown

as Station 384+35.67 per Oregon State Highway Department Drawing No. 7B-29-20) (Cascade Highway North, S.E. Flavel St. - Lake Road Section) and the terminus of this description.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be S 01°10'41"E, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

Property No. 10; Tax Lot No. 12E28CB3200

PARCEL 1 (Permanent Right-Of-Way Easement For Road Purposes)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lots 10 and 11, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of Parcel 2 of that tract of land as described by Quit Claim Deed to BAR-AM Limited Liability Company, recorded June 16, 1999 as Fee No. 99-061162, Clackamas County Deed Records, said parcel being that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 74.64 feet left of Existing Otty Road Centerline Station 0+15.00;

Thence southeasterly, in a straight line, to a point 41.50 feet left of Existing Otty Road Centerline Station 0+53.98;

Thence easterly, in a straight line, to a point 41.50 feet left of Existing Otty Road Centerline Station 2+00.00;

EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of Otty Road.

The parcel of land to which this description applies contains 1,810 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of Otty Road, being more particularly described as follows:

Beginning at a point on the Existing Centerline of Otty Road (William Otty Road, County Road No. 196) from which a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon, bears N 01°10'41" W, 1027.40 feet, said point being Existing Centerline Station 0+00.00 (also being Existing 82nd Avenue Centerline Station 368+16.76);

Thence S 89°09'39" E, along said Existing Centerline of Otty Road, 607.62 feet, as shown on SN22842, Clackamas County Survey Records, to the centerline intersection with Fuller Road (Price-Fuller Road, County Road No. 53), as shown on said survey and being Centerline Station 6+07.62 and the terminus of this description;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be S 01°10'41"E, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

PARCEL 2 (Temporary Construction Easement)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lots 10 and 11, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of Parcel 2 of that tract of land as described by Quit Claim Deed to BAR-AM Limited Liability Company, recorded June 16, 1999 as Fee No. 99-061162, Clackamas County Deed Records, said parcel being that portion of said property lying westerly and southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 105.00 feet left of Existing Otty Road Centerline Station 0+34.83;

Thence southerly, in a straight line, to a point 70.28 feet left of Existing Otty Road Centerline Station 0+36.05;

Thence easterly, in a straight line, to a point 70.28 feet left of Existing Otty Road Centerline Station 1+30.71;

Thence southerly, in a straight line, to a point 44.86 feet left of Existing Otty Road Centerline Station 1+30.72;

Thence easterly, in a straight line, to a point 44.87 feet left of Existing Otty Road Centerline Station 1+89.36;

Thence northerly, in a straight line, to a point 52.50 feet left of Existing Otty Road Centerline Station 1+89.36;

Thence easterly in a straight line, to a point 52.50 feet left of Existing Otty Road Centerline Station 2+00.00;

EXCEPTING therefrom that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminated at the boundary lines of said property;

Beginning at a point 63.82 feet left of Existing Otty Road Centerline Station 0+15.00;

Thence easterly, in a straight line, to a point 64.57 feet left of Existing Otty Road Centerline Station 0+36.39;

Thence southerly, in a straight line, to a point 35.00 feet left of Existing Otty Road Centerline Station 0+37.43;

ALSO EXCEPTING therefrom the above described Parcel 1.

ALSO EXCEPTING therefrom that portion lying within the Existing right-of-way of 82nd Avenue.

ALSO EXCEPTING therefrom that portion lying within the Existing right-of-way of Otty Road.

The parcel of land to which this description applies contains 2,931 square feet more or less.

The stationing used to described this parcel is based on the Existing Centerline of Otty Road described herein, being more particularly described in Parcel 1.

PARCEL 1 (Permanent Easement For Traffic Control Facilities)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lot 11, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion

of Parcel 2 of that tract of land as described by Quit Claim Deed to BAR-AM Limited Liability Company, recorded June 16, 1999 as Fee No. 99-061162, Clackamas County Deed Records, said parcel being that portion of said property lying southerly and westerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 63.82 feet left of Existing Otty Road Centerline Station 0+15.00;

Thence easterly, in a straight line, to a point 64.57 feet left of Existing Otty Road Centerline Station 0+36.39;

Thence southerly, in a straight line, to a point 35.00 feet left of Existing Otty Road Centerline Station 0+37.43;

EXCEPTING therefrom that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminated at the boundary lines of said property;

Beginning at a point 74.64 feet left of Existing Otty Road Centerline Station 0+15.00;

Thence southeasterly, in a straight line, to a point 41.50 feet left of Existing Otty Road Centerline Station 0+53.98;

Thence easterly, in a straight line, to a point 41.50 feet left of Existing Otty Road Centerline Station 2+00.00;

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of Otty Road.

The parcel of land to which this description applies contains 29 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of Otty Road, being more particularly described as follows:

Beginning at a point on the Existing Centerline of Otty Road (William Otty Road, County Road No. 196) from which a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon, bears N 01°10'41" W, 1027.40 feet, said point being Existing Centerline Station 0+00.00 (also being Existing 82nd Avenue Centerline Station 368+16.76);

Thence S 89°09'39" E, along said Existing Centerline of Otty Road, 607.62 feet, as shown on SN22842, Clackamas County Survey Records, to the centerline intersection with Fuller Road (Price-Fuller Road, County Road No. 53), as shown on said survey and being Centerline Station 6+07.62 and the terminus of this description;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be S 01°10'41"E, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

Property No. 11; Tax Lot No. 12E28CB3203

PARCEL 1 (Permanent Right-Of-Way Easement For Road Purposes)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lot 10, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of Parcel 1 of that tract of land as described by Quit Claim Deed to BAR-AM Limited Liability Company, recorded June 16, 1999 as Fee No. 99-061162, Clackamas County Deed Records, said parcel being that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 41.50 feet left of Existing Otty Road Centerline Station 1+75.00;

Thence easterly, in a straight line, to a point 41.50 feet left of Existing Otty Road Centerline Station 2+05.00 and the beginning of a 547.50 foot radius curve to the right, having a central angle of 1°27'47";

Thence southeasterly along the arc of said curve to the right (the long chord of which bears S88°25'46"E, 13.98 feet) 13.98 feet to a point 41.32 feet left of Existing Otty Road Centerline Station 2+18.98;

Thence easterly, in a straight line, to a point 39.89 feet left of Existing Otty Road Centerline Station 2+75.00;

EXCEPTING therefrom that portion lying within the existing right-of-way of Otty Road.

The parcel of land to which this description applies contains 546 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of Otty Road, being more particularly described as follows:

Beginning at a point on the Existing Centerline of Otty Road (William Otty Road, County Road No. 196) from which a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon, bears N 01°10'41" W, 1027.40 feet, said point being Existing Centerline Station 0+00.00 (also being Existing 82nd Avenue Centerline Station 368+16.76);

Thence S 89°09'39" E, along said Existing Centerline of Otty Road, 607.62 feet, as shown on SN22842, Clackamas County Survey Records, to the centerline intersection with Fuller Road (Price-Fuller Road, County Road No. 53), as shown on said survey and being Centerline Station 6+07.62 and the terminus of this description;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be S 01°10'41"E, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

PARCEL 2 (Temporary Construction Easement)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lots 10 and 11, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of Parcel 1 of that tract of land as described by Quit Claim Deed to BAR-AM Limited Liability Company, recorded June 16, 1999 as Fee No. 99-061162, Clackamas County Deed Records, said parcel being that portion of said property lying westerly, and southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 155.00 feet left of Existing Otty Road Centerline Station 0+33.06;

Thence southerly, in a straight line, to a point 90.00 feet left of Existing Otty Road Centerline Station 0+35.35;

TOGETHER with that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 52.50 feet left of Existing Otty Road Centerline Station 1+75.00;

Thence easterly, in a straight line, to a point 52.50 feet left of Existing Otty Road Centerline Station 2+75.00;

EXCEPTING therefrom the above described Parcel 1.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of 82nd Avenue.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of Otty Road.

The parcel of land to which this description applies contains 776 square feet more or less.

The stationing used to described this parcel is based on the Existing Centerline of Otty Road described herein, being more particularly described in Parcel 1.

Property No. 12; Tax Lot No. 12E28CB3000

PARCEL 1 (Permanent Right-Of-Way Easement For Road Purposes)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lots 7, 8 and 9, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of that tract of land as described by Warranty Deed to Interstate Manufacturing Inc, an Oregon Corporation, recorded August 25, 1967 in Book 695, Page 874, Clackamas County Deed Records, said parcel being that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 41.17 feet left of Existing Otty Road Centerline Station 2+25.00;

Thence easterly, in a straight line, to a point 38.58 feet left of Existing Otty Road Centerline Station 3+26.35 and the beginning of a 547.50 foot radius curve to the right, having a central angle of $3^{\circ}54'33''$;

Thence southeasterly along the arc of said curve to the right (the long chord of which bears $S85^{\circ}44'35''E$, 37.35 feet) 37.36 feet to a point 36.35 feet left of Existing Otty Road Centerline Station 3+63.63;

Thence southeasterly, in a straight line, to a point on the existing north right-of-way line of Otty Road, said point being 20.00 feet left of Existing Otty Road Centerline Station 5+37.52;

Thence easterly along the said north right-of-way line of Otty Road, to a point 20.00 feet left of Existing Otty Road Centerline Station 5+64.76;

Thence leaving said north right-of-way line northeasterly, in a straight line, to a point 46.77 feet left of Existing Otty Road Centerline Station 6+00.00;

EXCEPTING therefrom that portion lying within the existing right-of-way of Otty Road.

ALSO EXCEPTING therefrom that portion lying within the existing right-of-way of Fuller Road.

The parcel of land to which this description applies contains 3,903 square feet more or less.

The stationing used to describe this parcel is based on the Existing Centerline of Otty Road, being more particularly described as follows:

Beginning at a point on the Existing Centerline of Otty Road (William Otty Road, County Road No. 196) from which a 3-1/4 inch bronze disk in monument well per U.S.B.T. Entry 2002-083, Clackamas County Survey Records, at the One-Quarter Section Corner common to Sections 29 and 28, T.1S, R.2E, W.M., Clackamas County, Oregon, bears $N 01^{\circ}10'41'' W$, 1027.40 feet, said point being Existing Centerline Station 0+00.00 (also being Existing 82nd Avenue Centerline Station 368+16.76);

Thence $S 89^{\circ}09'39'' E$, along said Existing Centerline of Otty Road, 607.62 feet, as shown on SN22842, Clackamas County Survey Records, to the centerline intersection with Fuller Road (Price-Fuller Road, County Road No. 53), as shown on said survey and being Centerline Station 6+07.62 and the terminus of this description;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast one-quarter of said Section 29 was held to be $S 01^{\circ}10'41'' E$, as measured between the above-described East One-Quarter Section Corner and the Southeast corner of said Section 29.

This legal description is established from survey data provided by the Clackamas County Department of Transportation and Development.

PARCEL 2 (Temporary Construction Easement)

A parcel of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of the Southwest One-Quarter of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of Lots 7, 8 and 9, Plat of "MARYLAND FRACTIONAL ACRES", Plat No. 494, Clackamas County Survey Records, also being a portion of that tract of land as described by Warranty Deed to Interstate Manufacturing Inc, an Oregon Corporation, recorded August 25, 1967 in Book 695, Page 874, Clackamas County Deed Records, said parcel being that portion of said property lying southerly of the following described line, said line is to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point 52.50 feet left of Existing Otty Road Centerline Station 2+25.00;

Thence easterly, in a straight line, to a point 52.50 feet left of Existing Otty Road Centerline Station 2+49.52;

Thence southerly, in a straight line, to a point 42.12 feet left of Existing Otty Road Centerline Station 2+49.53;

Thence easterly, in a straight line, to a point 42.17 feet left of Existing Otty Road Centerline Station 3+93.35;

Thence northerly, in a straight line, to a point 85.60 feet left of Existing Otty Road Centerline Station 3+93.77;

Thence easterly, in a straight line, to a point 78.99 feet left of Existing Otty Road Centerline Station 5+09.15;

Thence northerly, in a straight line, to a point 94.87 feet left of Existing Otty Road Centerline Station 5+10.65;

Thence easterly, in a straight line, to a point 86.47 feet left of Existing Otty Road Centerline Station 6+00.00;

EXCEPTING therefrom that portion lying within the above described Parcel 1.

ALSO EXCEPTING therefrom that portion lying within the Existing right-of-way of Otty Road.

ALSO EXCEPTING therefrom that portion lying within the Existing right-of-way of Fuller Road.

The parcel of land to which this description applies contains 12,362 square feet more or less.

The stationing used to described this parcel is based on the Existing Centerline of Otty Road described herein, being more particularly described in Parcel 1.