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Clackamas County
www.clackamas.us



DAN JOHNSON
DIRECTOR

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

May 14, 2026

BCC Agenda Item: _____

Board of County Commissioners
Clackamas County

Approval of a Resolution Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and, if Necessary, Condemnation Proceedings, for the Scotts Mills Road NE Butte Creek Bridge Replacement Project. No County General Funds are involved.

Previous Board Action/Review: Approved IGA with Marion County 1/25/24
Performance Clackamas: Strong Infrastructure
Counsel Review: Yes **Procurement Review:** No
Contact Person: Carol Hager **Contact Phone:** 503-742-4674

EXECUTIVE SUMMARY: Marion County’s Scotts Mills Rd NE: Butte Creek Bridge Replacement Project (the “Project”) will replace the existing bridge with a new bridge meeting current standards for alignment, grade, and structural capacity, and upgrade the adjacent approach roadway.

In order to construct the Project as designed, Marion County will need to acquire rights of way, easements, and fee property. The Project is expected to impact six (6) abutting properties. Three (3) of the properties are located in Clackamas County. Clackamas County has authority under ORS chapter 203 and ORS chapter 35 to acquire the needed property rights by agreement or purchase or by exercise of the power of eminent domain. In accordance with ORS chapter 35, the Board must adopt a Resolution of Necessity before Marion County can make any offers.

Marion County’s 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 attached resolution would direct Marion County to 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 compensation owed to each affected property owner, and to utilize authorized

real estate appraisers and other such experts to determine just compensation. The resolution would further require the Director of the Clackamas County

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Department of Transportation and Development to notify the Board if the exercise of the power of eminent domain becomes necessary. Only after this process is completed would the resolution authorize the Clackamas County Office of County Counsel to commence condemnation proceedings.

Marion County, as a recipient of federal funding to pay for the Project, is solely responsible for all costs and expenses of the Project, including the costs to acquire easements and rights of way on properties located in both counties. If condemnation becomes necessary, litigation and court filings for properties in Clackamas County will be handled by the Clackamas County Office of County Counsel. Pursuant to an intergovernmental agreement between the counties executed January 25, 2024, labor and overhead costs of Clackamas County employees, including legal costs and attorney fees, will be reimbursed by Marion County.

RECOMMENDATION: Staff recommends that the Board approve the attached Resolution of Necessity for the Project, authorizing acquisition of the needed property rights by good faith negotiations, if possible, or condemnation proceedings, if necessary.

Respectfully submitted,

Dan Johnson

Dan Johnson, Director
Department of Transportation and Development

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Proceedings, for the Scotts Mills Road NE: Butte Creek Bridge Replacement Project



Resolution No.

Page 1 of 2

Whereas, Marion County’s Scotts Mills Road NE: Butte Creek Bridge Replacement Project (the “Project”) will replace the Butte Creek Bridge with a new bridge meeting current standards for alignment, grade and structural capacity and upgrade the adjacent approach roadway; and

Whereas, the Project affects real properties within the jurisdictions of both Marion and Clackamas Counties; and

Whereas, pursuant to an intergovernmental agreement between Marion and Clackamas Counties executed January 25, 2024, the Project will be designed and constructed by Marion County; and

Whereas, the Project 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

Whereas, the Board is responsible for providing safe transportation routes for commerce, convenience, and to adequately serve the traveling public; and

Whereas, the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation is promoted, and travel is safeguarded; and

Whereas, 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; and

Whereas, in order to construct the Project as designed, rights of way, easements, and fee property will need to be acquired within the boundaries described and depicted in the attached Exhibits A to H (the “Exhibits”); and

Whereas, the width of the right of way will be in accordance with the Clackamas County Comprehensive Plan and Transportation System Plan; and

Whereas, ancillary easements for sign, slope, sidewalk, utility, wetland mitigation, storm water treatment, storm water detention, traffic and safety facility, and temporary construction purposes, together with incidental additional rights of way at intersections and due to topography, as may be reasonably necessary to accommodate the Project design, and any uneconomic remnants, as determined by appraisal, are all in the public interest in order to commence and complete the Project in a timely manner; and

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Declaring the Public Necessity and Purpose for the Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Proceedings, for the Scotts Mills Road NE: Butte Creek Bridge Replacement Project



Resolution No.

Page 2 of 2

Whereas, Clackamas County has authority under ORS chapter 203 and ORS chapter 35 to acquire the needed property rights by agreement or purchase through good faith negotiations or by exercise of the power of eminent domain through condemnation proceedings;

NOW, THEREFORE, the Clackamas County Board of Commissioners does hereby resolve as follows:

- Section 1:** The Board declares it necessary and in the public interest that Marion County begin the acquisition process for the needed property rights in accordance with all applicable laws, rules, and regulations.
- Section 2:** Marion County is directed to, in good faith, attempt to negotiate agreements of just compensation with the owners of property within the boundaries of the Exhibits and to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist with the acquisition process.
- Section 3:** It is the intention of the Board that the needed property rights be obtained through good faith negotiations. However, the Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director of the Clackamas County Department of Transportation and Development shall inform the Board when the Director deems that exercise necessary. Thereafter, the Clackamas County Office of County Counsel is authorized to file complaints of condemnation with the circuit court and to take such other steps as it determines necessary for the immediate possession of the needed property rights and for the successful litigation of the condemnation proceedings, including the retention of real estate appraisers, experts, and other consultants.

DATED this _____ day of _____ 2026

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A

Right-of-Way Dedication

A tract of land located in the Southeast One-Quarter of Section 15, Township 6 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the most easterly corner of Parcel 2 of Partition Plat No. 2021-047, Marion County Book of Partition Plats; thence along the northeasterly line of said Parcel 2, North 25°16'08" West 89.28 feet to the northwesterly right-of-way line of S Nowlens Bridge Road (20.00 feet from centerline), and the Point of Beginning; thence continuing along said northeasterly line, North 25°16'08" West 64.41 feet; thence leaving said northeasterly line along the following three (3) courses: North 35°03'10" East 120.40 feet, North 11°57'22" East 182.09 feet, North 19°07'45" East 174.37 feet to the westerly right-of-way line of S Nowlens Bridge Road (20.00 feet from centerline); thence along said westerly right-of-way line, South 11°35'10" West 13.22 feet to the northwesterly right-of-way line of said S Nowlens Bridge Road; thence along said northwesterly right-of-way line, South 02°13'24" West 237.09 feet; thence continuing along said northwesterly right-of-way line on a curve to the right with a Radius of 339.26 feet, a Delta of 48°35'41", a Length of 287.74 feet, and a Chord of South 26°31'14" West 279.19 feet to the Point of Beginning.

The above described tracts of land contain 25,131 square feet, more or less.

The Basis of Bearings for this description are based on the Oregon Coordinate Reference System (OCRS), Salem Zone, NAD83(2011) Epoch: 2010.0000.

7/28/2023

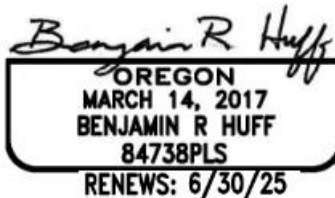
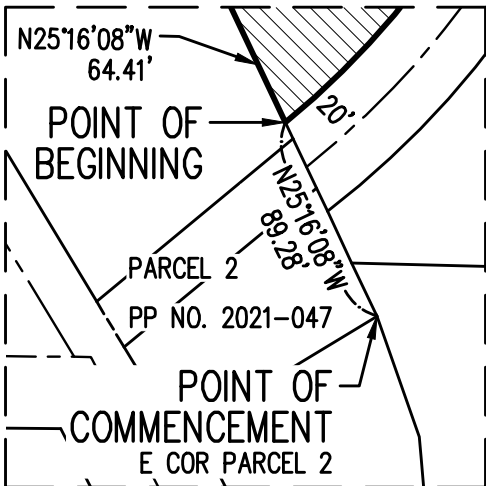


EXHIBIT B

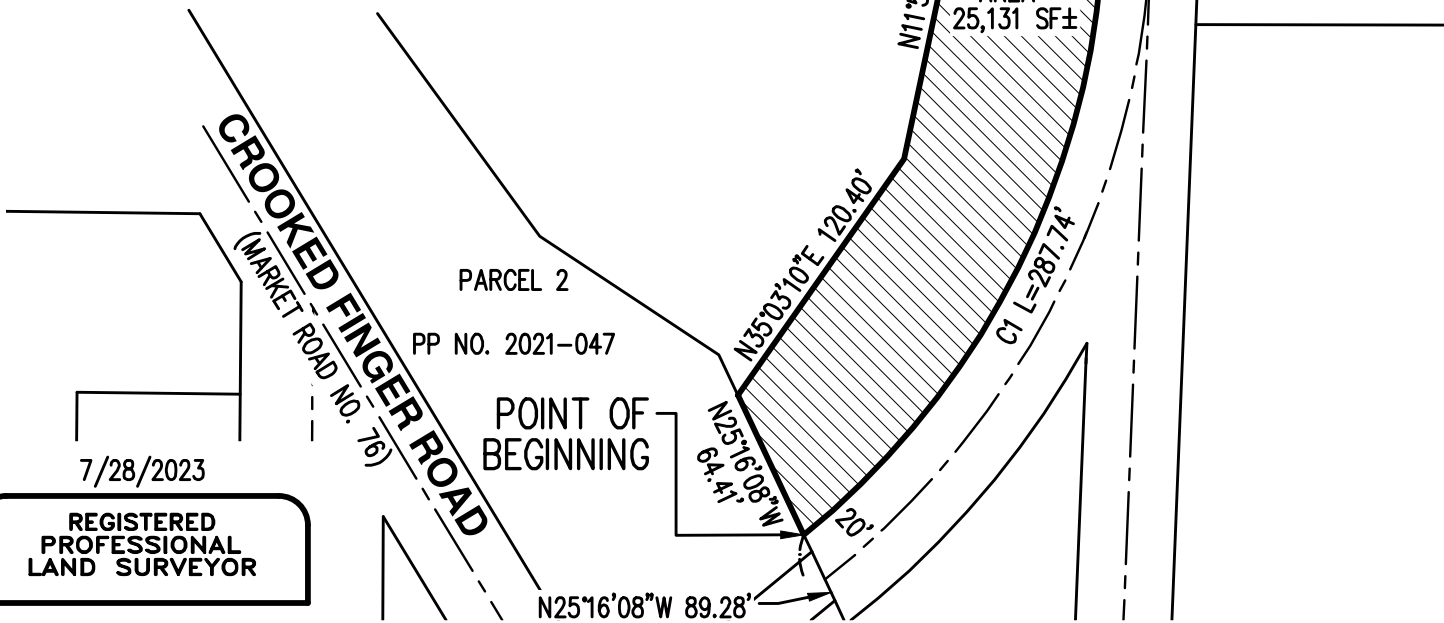
A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 15,
TOWNSHIP 6 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	339.26'	48°35'41"	287.74'	S26°31'14"W 279.19'



DOC. NO.
2001-025948



AREA =
25,131 SF±

7/28/2023

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

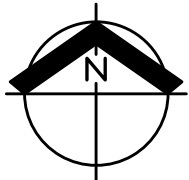
Benjamin R Huff
**OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS**

RENEWS: 6/30/25

PREPARED FOR

MARION COUNTY PUBLIC WORKS
5155 SILVERTON ROAD NE
SALEM, OR 9U305

SCALE: 1" = 80 FEET



AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM



RIGHT-OF-WAY DEDICATION

TL 61E14 00600	
DRWN: WCB	CHKD: BRH
AKS JOB: 8876	EXHIBIT B



EXHIBIT C

Temporary Construction Easement

A tract of land located in the Southeast One-Quarter of Section 15, Township 6 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the most easterly corner of Parcel 2 of Partition Plat No. 2021-047, Marion County Book of Partition Plats; thence along the northeasterly line of said Parcel 2, North 25°16'08" West 153.69 feet to the Point of Beginning; thence continuing along said northeasterly line, North 25°16'08" West 11.51 feet; thence leaving said northeasterly line along the following three (3) courses: North 35°03'10" East 112.66 feet, North 11°57'22" East 180.73 feet, North 19°44'45" East 231.69 feet to the westerly right-of-way line of S Nowlens Bridge Road (20.00 feet from centerline); thence along said westerly right-of-way line, South 11°35'10" West 57.23 feet; thence leaving said westerly right-of-way line along the following three (3) courses: South 19°07'45" West 174.37 feet, South 11°57'22" West 182.09 feet, South 35°03'10" West 120.40 feet to the Point of Beginning.

The above described tracts of land contain 4,793 square feet, more or less.

The Basis of Bearings for this description are based on the Oregon Coordinate Reference System (OCRS), Salem Zone, NAD83(2011) Epoch: 2010.0000.

7/28/2023

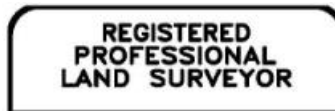
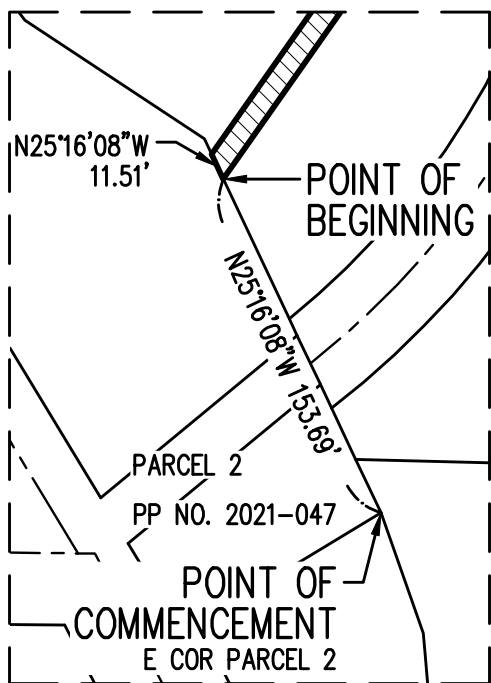


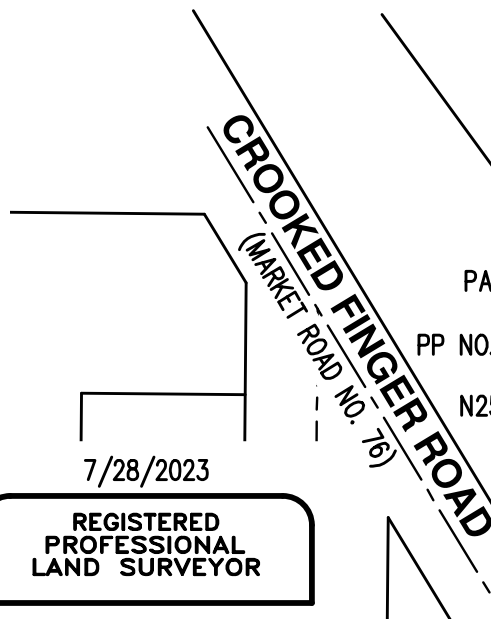
EXHIBIT D

A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 15,
TOWNSHIP 6 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON



AREA=4,793 SF±

DOC. NO.
2001-025948



PARCEL 2
PP NO. 2021-047

POINT OF BEGINNING

7/28/2023

REGISTERED
PROFESSIONAL
LAND SURVEYOR

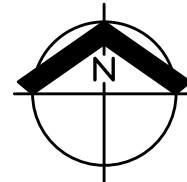
Benjamin R Huff
OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS

RENEWS: 6/30/25

PREPARED FOR
MARION COUNTY PUBLIC WORKS
5155 SILVERTON ROAD NE
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SEE BOX OUT

SCALE: 1" = 80 FEET



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TEMPORARY CONSTRUCTION
EASEMENT

TL 61E14 00600

DRWN: WCB CHKD: BRH

AKS JOB:

EXHIBIT

8876

D



EXHIBIT E

Right-of-Way Dedication

A portion of Lot 115 of the plat "Friends Oregon Colony", Plat No. 115, Clackamas County Plat Records, located in the Southeast One-Quarter of Section 15, Township 6 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the north corner of said Lot 115, also being the intersection of the east right-of-way line of S Nowlens Bridge Road (20.00 feet from centerline) and the southwesterly right-of-way line of S Maple Grove Road (20.00 feet from centerline); thence along said southwesterly right-of-way line, South 51°58'14" East 102.85 feet; thence leaving said southwesterly right-of-way line, South 86°49'56" West 83.78 feet to said east right-of-way line; thence along said east right-of-way line, North 02°13'24" East 68.05 feet to the Point of Beginning.

The above described tracts of land contain 2,838 square feet, more or less.

The Basis of Bearings for this description are based on the Oregon Coordinate Reference System (OCRS), Salem Zone, NAD83(2011) Epoch: 2010.0000.

7/28/2023

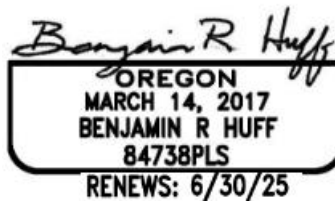
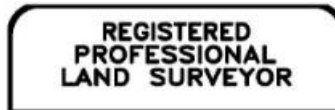
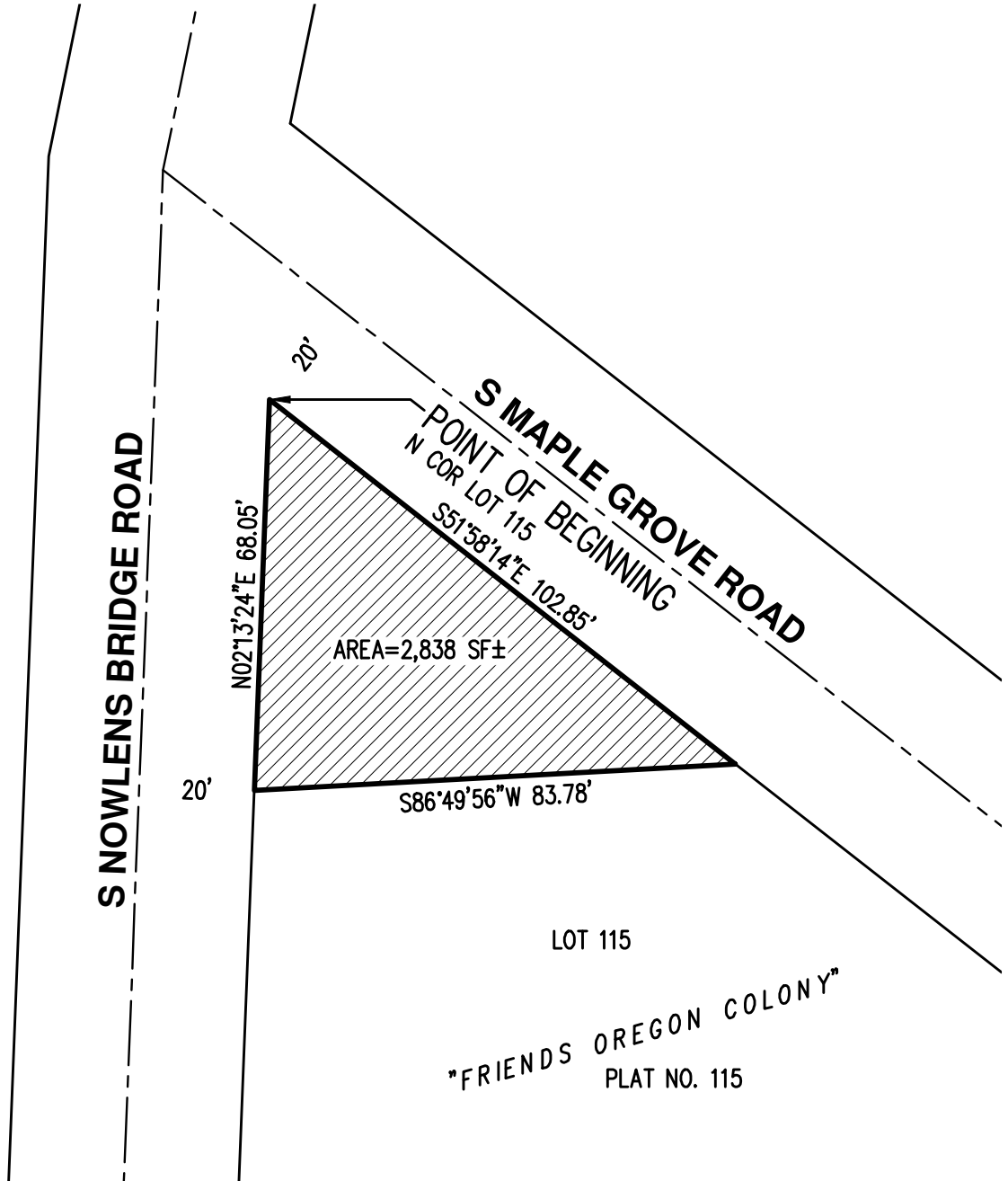


EXHIBIT F

A PORTION OF LOT 115 OF THE PLAT "FRIENDS OREGON COLONY",
 LOCATED IN THE SOUTHEAST 1/4 OF SECTION 15,
 TOWNSHIP 6 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



7/28/2023

**REGISTERED
 PROFESSIONAL
 LAND SURVEYOR**

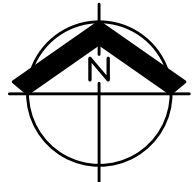
Benjamin R Huff
**OREGON
 MARCH 14, 2017
 BENJAMIN R HUFF
 84738PLS**

RENEWS: 6/30/25

PREPARED FOR
 MARION COUNTY PUBLIC WORKS
 5155 SILVERTON ROAD NE
 SALEM, OR 9U305

LOT 115
 "FRIENDS OREGON COLONY"
 PLAT NO. 115

SCALE: 1" = 30 FEET



AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 503.563.6151 WWW.AKS-ENG.COM



RIGHT-OF-WAY DEDICATION

TL 61E14 00800	
DRWN: WCB	CHKD: BRH
AKS JOB: 8876	EXHIBIT F



EXHIBIT G

Right-of-Way Dedication

A portion of Lot 116 of the plat "Friends Oregon Colony", Plat No. 115, Clackamas County Plat Records, located in the Southeast One-Quarter of Section 15, Township 6 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northerly southwest corner of said Lot 116, also being the intersection of the northeasterly right-of-way line of S Maple Grove Road (20.00 feet from centerline) and the east right-of-way line of S Nowlens Bridge Road (20.00 feet from centerline); thence along said east right-of-way line, North $11^{\circ}35'10''$ East 48.44 feet to the north line of said Lot 116; thence along said north line, North $89^{\circ}07'53''$ East 11.58 feet; thence leaving said north line, South $02^{\circ}13'52''$ West 44.01 feet; thence South $27^{\circ}33'32''$ East 36.16 feet to said northeasterly right-of-way line; thence along said northeasterly right-of-way line, North $51^{\circ}58'14''$ West 46.11 feet to the Point of Beginning.

The above described tracts of land contain 1,046 square feet, more or less.

The Basis of Bearings for this description are based on the Oregon Coordinate Reference System (OCRS), Salem Zone, NAD83(2011) Epoch: 2010.0000.

7/28/2023

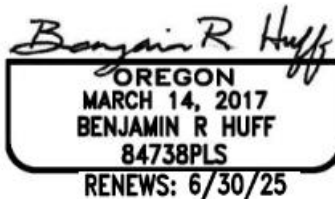
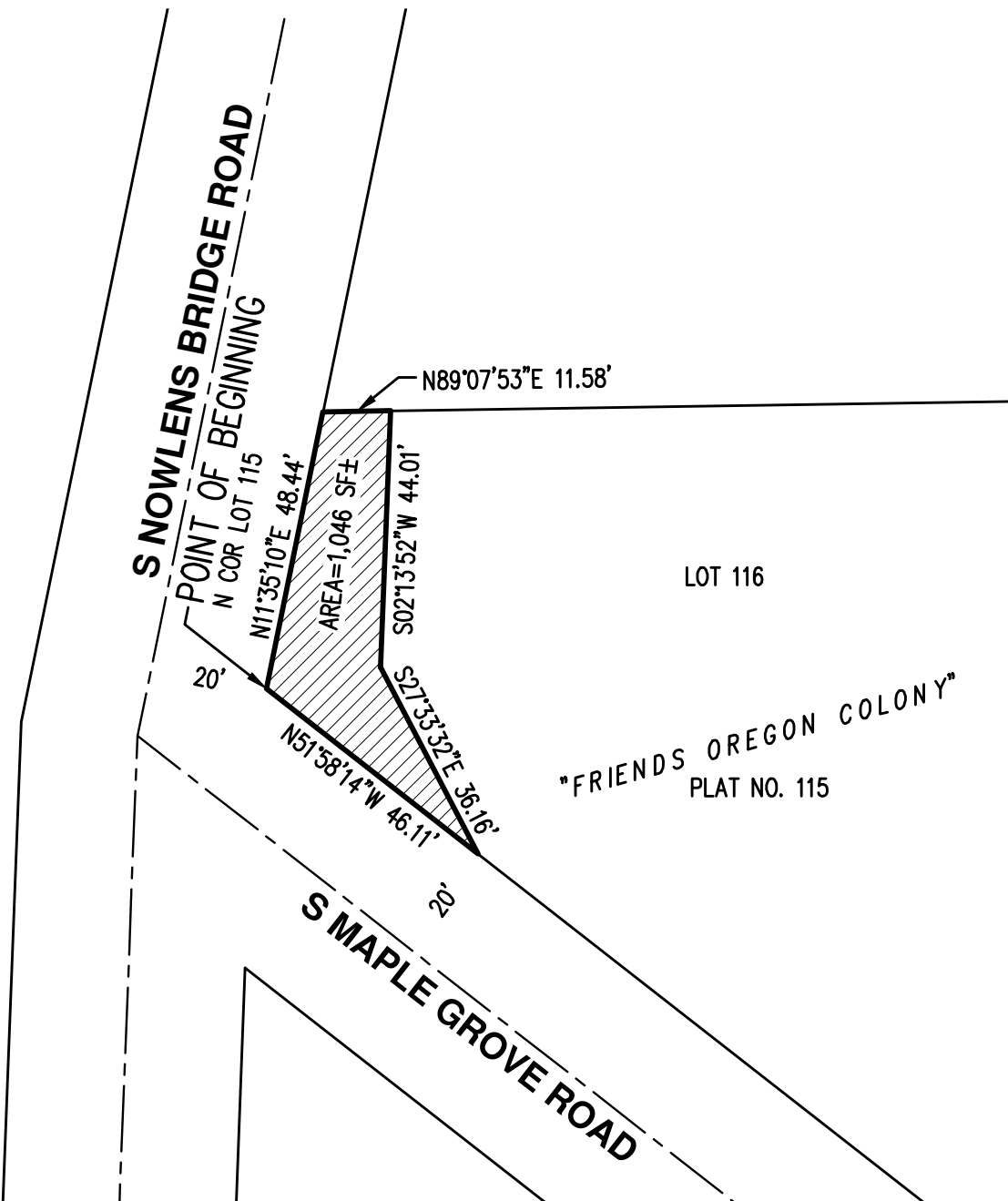


EXHIBIT H

A PORTION OF LOT 116 OF THE PLAT "FRIENDS OREGON COLONY",
 LOCATED IN THE SOUTHEAST 1/4 OF SECTION 15,
 TOWNSHIP 6 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



7/28/2023

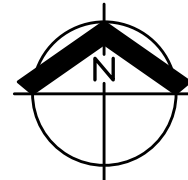
**REGISTERED
 PROFESSIONAL
 LAND SURVEYOR**

Benjamin R Huff
**OREGON
 MARCH 14, 2017
 BENJAMIN R HUFF
 84738PLS**

RENEWS: 6/30/25

PREPARED FOR
 MARION COUNTY PUBLIC WORKS
 5155 SILVERTON ROAD NE
 SALEM, OR 9U305

SCALE: 1" = 30 FEET



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RIGHT-OF-WAY DEDICATION

TL 61E14 00903	
DRWN: WCB	CHKD: BRH
AKS JOB: 8876	EXHIBIT H