



DAN JOHNSON
DIRECTOR

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

October 9, 2025

BCC Agenda Date/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 Bear Creek Culvert & Molalla Ave Shoulders Project. Project Value is \$2,146,718. Funding is through the Community Road Fund and Countywide Transportation System Development Charges. No County General Funds are involved.

Previous Board Action/Review	• 7/25/24: Approval of Personal Services Contract with RS&H Inc. for design services		
Performance Clackamas	• Strong infrastructure • Safe, secure and livable communities		
Counsel Review	Yes	Procurement Review	No
Contact Person	Carol Hager	Contact Phone	503-742-4674

EXECUTIVE SUMMARY: The Bear Creek Culvert & Molalla Ave Shoulders Project (the “Project”) will replace an undersized culvert at Bear Creek and improve the roadside shoulders along S Molalla Ave from Sawtell Road to the Molalla city limits.

In order to construct the Project as designed, the County will need to acquire rights of way, easements, and fee property. The Project is expected to impact two (2) abutting properties. The 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 the County can make any offers.

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’s (the “Department’s”) project development procedures, and final legal descriptions for the needed property rights are being developed.

The attached resolution would direct the Department 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 Department 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 Office of County Counsel to commence condemnation proceedings.

For Filing Use Only

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 Bear Creek Culvert &
Molalla Ave Shoulders Project



Resolution No.

Page 1 of 2

Whereas, this matter coming before the Board at this time, and it appearing that the Bear Creek Culvert & Molalla Ave Shoulders Project (the “Project”) will replace an undersized culvert at Bear Creek and improve the roadside shoulders along S Molalla Ave from Sawtell Road to the Molalla city limits; and

Whereas, it further appearing that 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, it further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience, and to adequately serve the traveling public; and

Whereas, it further appearing that 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, it further appearing that 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, it further appearing that, in order to construct the Project as designed, the County will need to acquire rights of way and easements within the boundaries described in the attached Exhibits A and B for file 1 and for Tract 2 in file 2 (the “Exhibits”);

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

Whereas, it further appearing that the 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;

\\

\\

\\

\\

\\

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 Bear Creek Culvert &
Molalla Ave Shoulders Project



Resolution No.

Page 2 of 2

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 the Department of Transportation and Development (the “Department”) begin the acquisition process for the needed property rights in accordance with all applicable laws, rules, and regulations.
- Section 2:** The Department 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; that the Board acknowledges that the exercise of the power of eminent domain may be necessary; that the Director of the Department shall inform the Board when the Director deems that exercise necessary; and that, thereafter, the 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 9th day of October 2025

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT "A"

Bear Creek Culvert & Molalla Ave
Shoulders Project
August 20, 2025

County Project No. 300324329
Map and Tax Lot No. 5 2E 17A 200
File No. 1

PERMANENT RIGHT-OF-WAY EASEMENT

Being a tract of land located in the NE 1/4 of Section 17, Township 5 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Deed to Marson Trucking, Inc an Oregon Corporation, recorded July 02, 2024 as Deed Document No. 2024-024277, Clackamas County Deed Records, said tract of land lying Easterly of the following described line:

Beginning at a point opposite and 57.00 feet right of existing Molalla Ave Centerline Station 7+30.60;

Thence Southerly, in a straight line to a point opposite and 57.00 feet right of existing Molalla Ave Centerline Station 7+95.60.

EXCEPTING therefrom any portion of said tract lying within the existing right-of-way of Molalla Ave. (Market Road 25).

The tract of land to which this description applies contains 1,618 square feet, more or less.

The stationing used to describe this tract is based on the existing centerline of Molalla Ave. (Market Road 25), Clackamas County and more particularly described as follows:

BEGINNING at Engineer's centerline station 0+00.00 of Molalla Ave. (Market Road 25), per SN 1970-016, said station being 330.67 feet South and 78.75 feet West of the Northeast corner of Section 17, Township 5 South, Range 2 East, W.M.; thence South $18^{\circ}44'48''$ West 900.00 feet to engineer's centerline station 9+00.00 and the **TERMINUS** of this centerline description.

Basis of Bearings:

The Basis of Bearing is the Oregon Coordinate Reference System (OCRS), Salem Zone, Lambert Conformal Conic Projection, NAD 83 (2011) Epoch 2010.00, International Feet Units.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Marcus T. Reedy

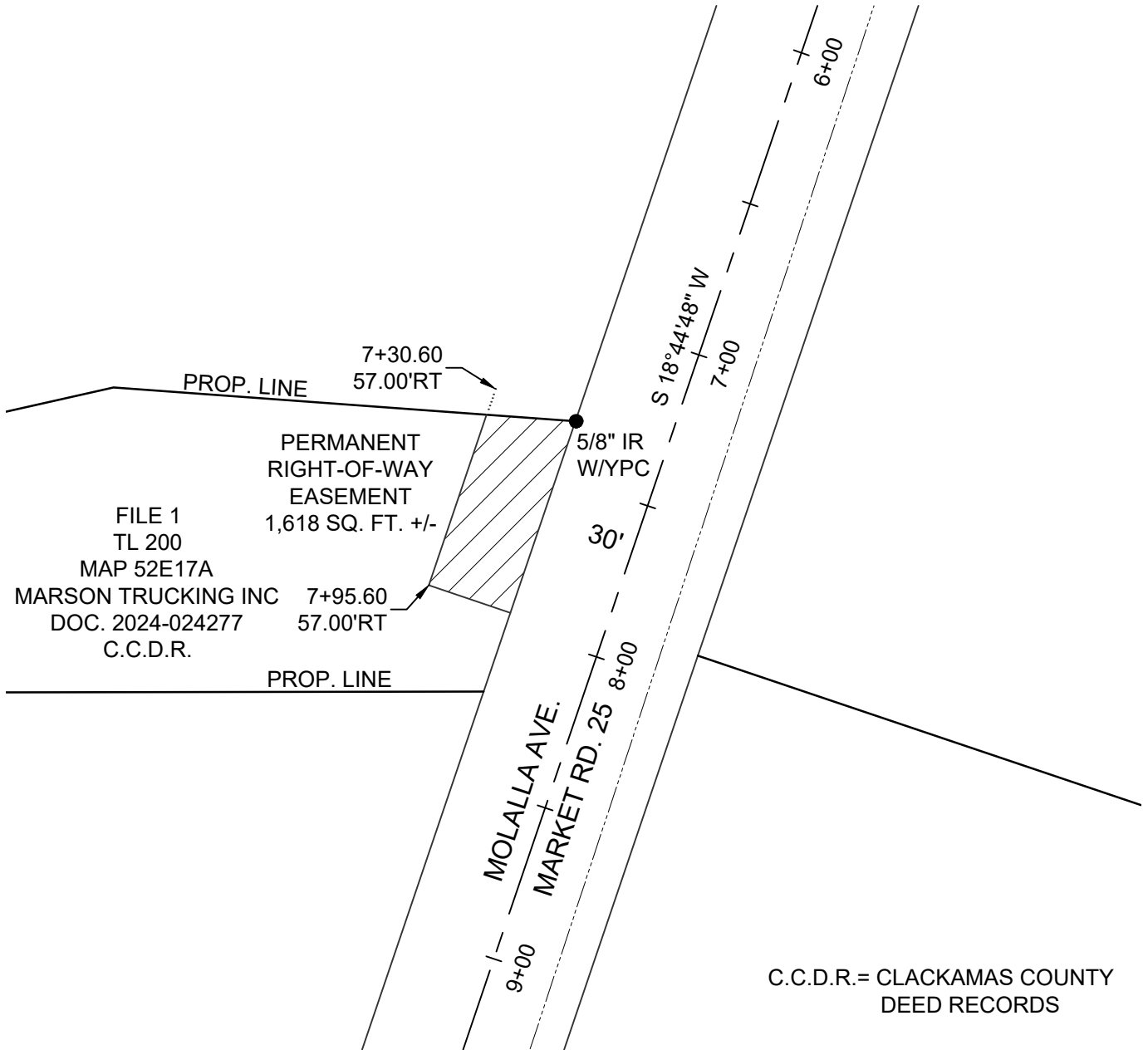
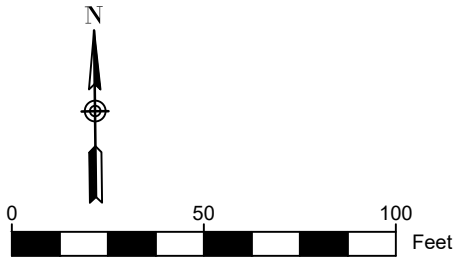
OREGON
JULY 21, 1998
MARCUS T. REEDY
2871

RENEWS: 12-31-2026

EXHIBIT "B"

FILE NO. 1

NE 1/4 SEC. 17 T. 5 S., R. 2 E., W.M.



C.C.D.R. = CLACKAMAS COUNTY
DEED RECORDS

SEE ATTACHED LEGAL DESCRIPTION



PERMANENT
RIGHT-OF-WAY
EASEMENT

MOLALLA AVE

COUNTY PROJECT NO. 300324329
RIGHT-OF WAY



**3 Point
Geomatics**
8910 SE Fuller Road
Happy Valley, Oregon 97086

CHECKED BY: MTR

DATE: 8-20-2025

EXHIBIT "A"

Bear Creek Culvert & Molalla Ave
Shoulders Project
September 17, 2025

County Project No. 300324329
Map and Tax Lot No. 5 2E 16 2900
File No. 2

TRACT 2- PERMANENT RIGHT-OF-WAY EASEMENT

Being a tract of land located in the NE 1/4 of Section 17, Township 5 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Deed to Avison Lumber Company, an Oregon Corporation, recorded March 2, 1972 as Deed Document 72-5613, Clackamas County Deed Records, said tract of land lying Westerly of the following described line:

Beginning at a point opposite and 117.67 feet left of existing Molalla Ave Centerline Station 6+09.00;

Thence Southerly, in a straight line to a point opposite and 117.67 feet left of existing Molalla Ave Centerline Station 6+45.00;

Thence Westerly, in a straight line to a point opposite and 50.00 feet left of existing Molalla Ave Centerline Station 6+45.00;

Thence Southerly, in a straight line to a point opposite and 50.00 feet left of existing Molalla Ave Centerline Station 7+95.00.

EXCEPTING therefrom any portion of said tract lying within the existing right-of-way of Molalla Ave.

The tract of land to which this description applies contains 6,044 square feet, more or less.

See Exhibit B attached hereto

The stationing used to describe this tract is based on the existing centerline of Molalla Ave. (Market Road 25), Clackamas County and more particularly described as follows:

BEGINNING at Engineer's centerline station 0+00.00 of Molalla Ave. (Market Road 25), per SN 1970-016, said station being 330.67 feet South and 78.75 feet West of the Northeast corner of Section 17, Township 5 South, Range 2 East, W.M.; thence South $18^{\circ}44'48''$ West 900.00 feet to engineer's centerline station 9+00.00 and the **TERMINUS** of this centerline description.

Basis of Bearings:

The Basis of Bearing is the Oregon Coordinate Reference System (OCRS), Salem Zone, Lambert Conformal Conic Projection, NAD 83 (2011) Epoch 2010.00, International Feet Units.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Marcus Reedy

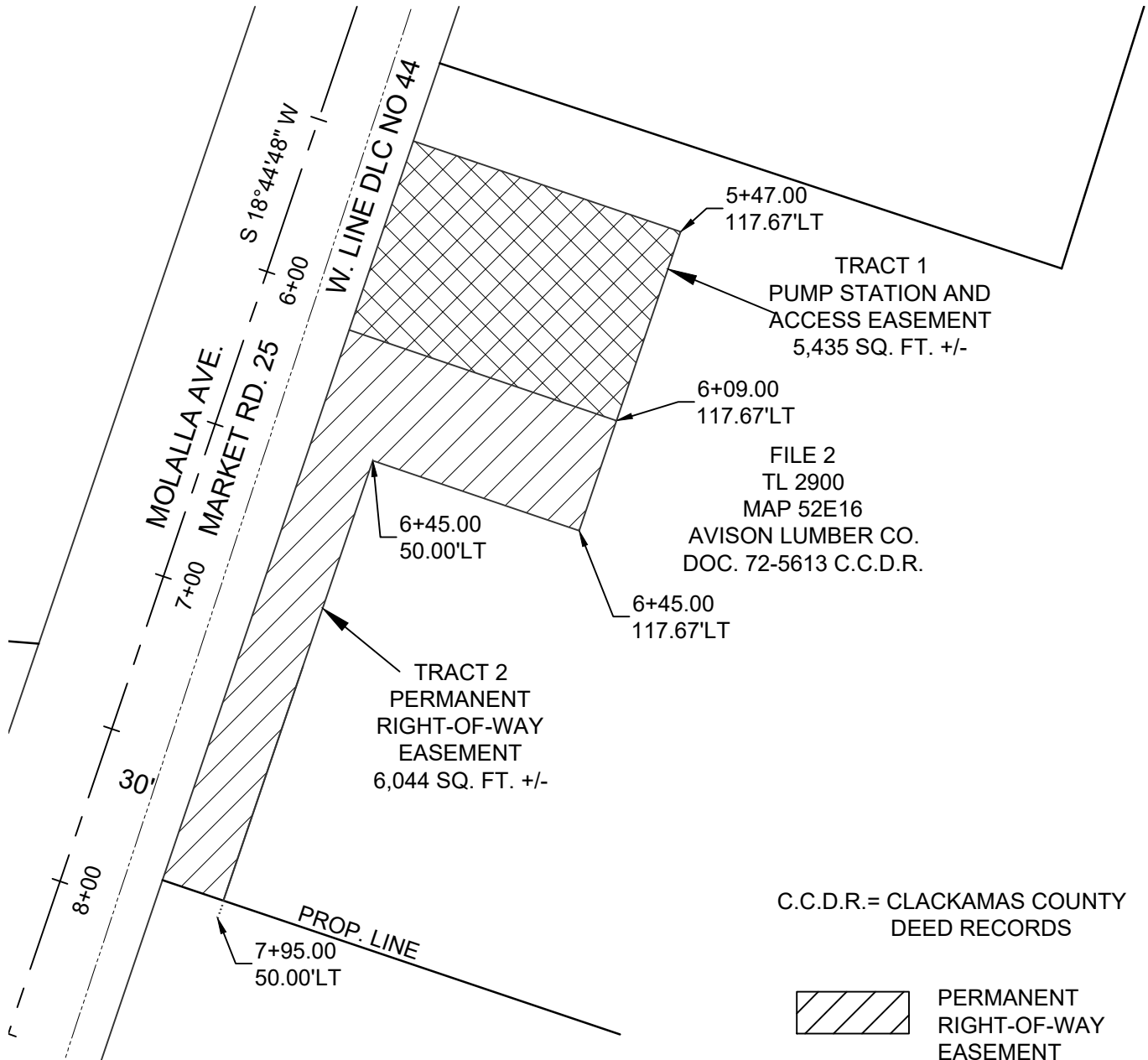
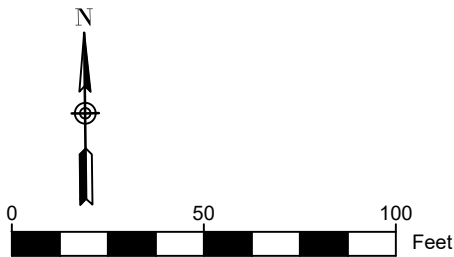
OREGON
JULY 21, 1998
MARCUS T. REEDY
2871

RENEWS: 12-31-2026

EXHIBIT "B"

FILE NO. 2

NE 1/4 SEC. 17 T. 5 S., R. 2 E., W.M.



SEE ATTACHED LEGAL DESCRIPTION

C.C.D.R. = CLACKAMAS COUNTY
DEED RECORDS



PERMANENT
RIGHT-OF-WAY
EASEMENT



PUMP STATION
AND ACCESS
EASEMENT

MOLALLA AVE.

COUNTY PROJECT NO. 300324329
RIGHT-OF WAY

CHECKED BY: MTR

DATE: 9-17-2025



8910 SE Fuller Road
Happy Valley, Oregon 97086