

Memorandum Date: October 15, 2009
Order Date: November 4, 2009

W. 5. C. 1.

TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Frank Simas, Right of Way Manager

AGENDA ITEM TITLE: In the Matter of Authorizing a Resolution Pursuant to ORS Chapters 35 Affirming that there Exists a Necessity to Acquire and Immediately Occupy Real Property in Order to Construct the Lost Creek – Parvin Road Covered Bridge Rehabilitation Project

I. MOTION

Move approval of the Order

II. AGENDA ITEM SUMMARY

The terms of a proposed Right of Way Services Agreement to be executed with Oregon Department of Transportation (ODOT) in connection with the Lost Creek – Parvin Covered Bridge Rehabilitation Project require that the County adopt a resolution of intention and determination of necessity authorizing acquisition of the right of way needed for the project. The Resolution includes authority to commence and prosecute an action in the Circuit Court of Lane County to condemn and immediately occupy the real property needed for the project if County staff is not able by negotiations to reach an agreement for the acquisition of the property.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

By Order 6-11-1-3 the Board ratified a grant application submitted by Public Works staff under the 2006 Historic Bridge Preservation Program for rehabilitation of the Lost Creek – Parvin Covered Bridge. The grant has been approved in the amount of \$733,722.00, supplemented with an additional Highway Bridge Program (HBP) grant in the amount of \$64,606.00. The project is scheduled to go out for bid in March 2010.

In order to complete the planned work and to allow continuing maintenance once the project is completed, small areas of additional right of way are required on both sides of Lost Creek as shown on the attached Preliminary Right of Way Map marked as "Attachment 1". The properties to be affected by the project are as shown on the List of Affected Properties attached and marked as "Exhibit A".

B. Policy Issues

Execution of the Right of Way Services Agreement and adoption of the Resolution of Necessity is in accordance with the terms of the IGA between the State of Oregon (ODOT) and Lane County executed pursuant to the approval of the two grants used to fund the project.

Adoption of the Resolution is required prior to initiation of any acquisition pursuant to ORS 35.610.

C. Board Goals

Repair of this bridge is consistent with the County Goals of contributing "to appropriate community development in the area of transportation and telecommunications infrastructure, housing, growth management and land development", and protection of the "public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure". Also in the *Lane County Strategic Plan* under Section B-3(d)(6), it is stated that "Operation, maintenance and preservation (OM&P) of the existing County road system will receive the highest priority".

D. Financial and/or Resource Considerations

Lane County is obligated for project cost over and above the total amount of the two grants. The adopted *Lane County Public Works Capital Improvement Program 2010-2014* includes \$83,290 in Year 09/10 to allow for the County's match in excess of the grants.

E. Analysis

This bridge is in need of major repairs to preserve and restore its useful life. The grants are covering approximately 89.73% of project costs based on estimates prepared at the time of grant approval.

F. Alternatives/Options

1. Approve the Resolution authorizing acquisition of the needed right of way.
2. Deny the order and/or direct staff otherwise.

IV. RECOMMENDATION

Option 1.

V. TIMING/IMPLEMENTATION

Upon approval of the Resolution, staff will proceed with the acquisition of the right of way.

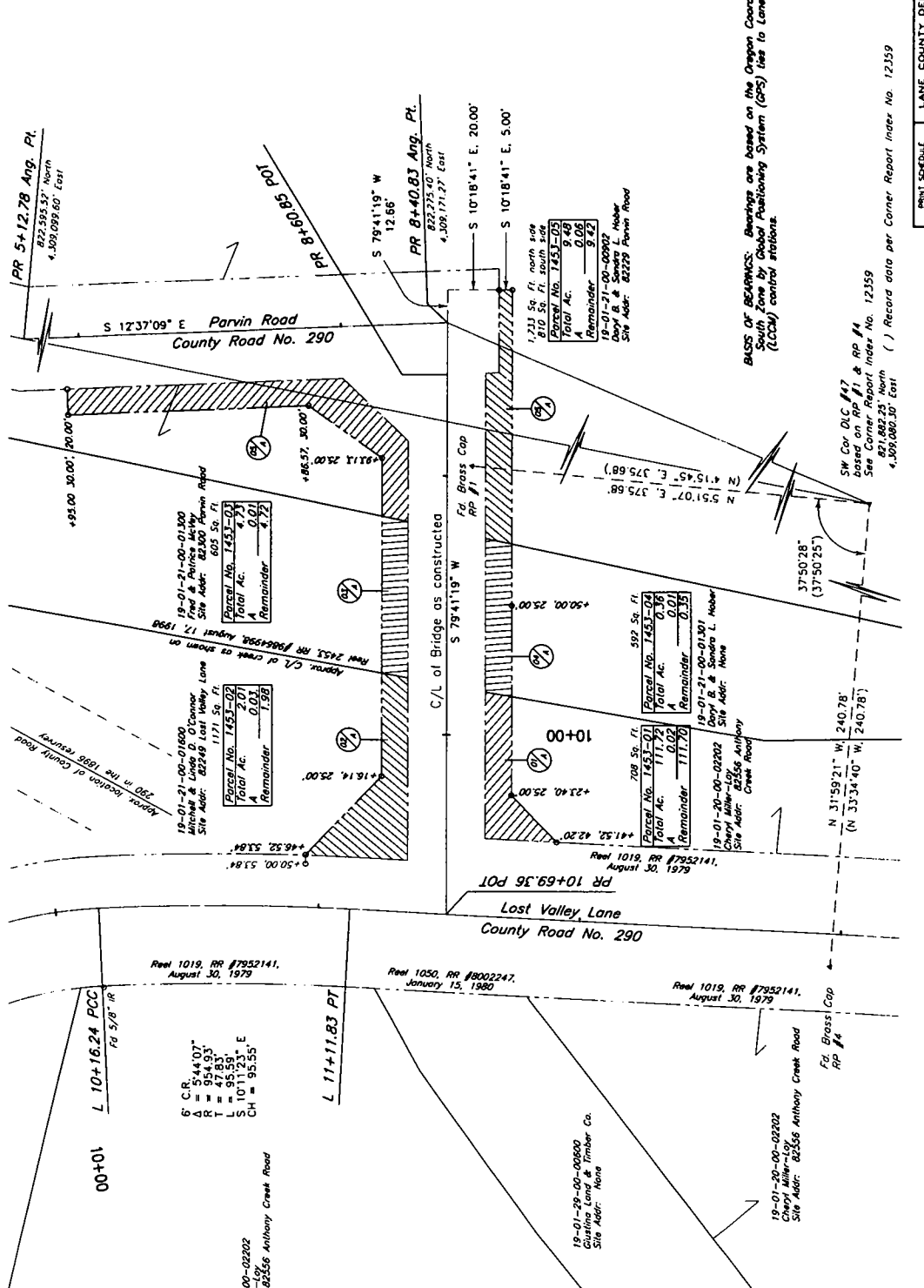
VI. FOLLOW-UP

N. A.

VII. ATTACHMENTS

1. Exhibit "A" – List of Affected Properties.
2. Attachment 1 – Preliminary Right of Way Map.

SW 1/4, SEC 21, T19S, R1W, W.M.



PR 5+12.78 Ang. Pt.
822,593.37' North
4,309,099.60' East

PR 8+40.83 Ang. Pt.
822,725.40' North
4,308,171.27' East

S 79°41'19\" W
12.66'

S 10°18'41\" E, 20.00'
S 10°18'41\" E, 5.00'

1,213 Sq. Ft. north side
810 Sq. Ft. south side
Parcel No. 1453-04
Total Ac. 0.06
A 0.06
Remainder 0.00
19-01-21-00-00902
Dory B. & Sandra L. Hober
Site Addr. 82258 Parvin Road

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A 0.06
Remainder 0.00
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BASE OF BEYONDNESS: Bearings are based on the Oregon Coordinate System (NAD 83/91) South Zone by Global Positioning System (GPS) ties to Lane County Common Mapping (LCCM) control stations.

SW Cor. D.C. #47
Based on RP #1 & RP #4
See Corner Report Index No. 12359
821,882.25' North
4,309,080.30' East



LEGEND
A = Fee Acquisition
C = Easement
TC = Temporary Construction Easement

PRINT SCHEDULE
September 8, 2009 8:00 AM
September 11, 2009 10:00 AM

LANE COUNTY DEPARTMENT OF PUBLIC WORKS
Parvin Road
Parvin Road Bridge
RIGHT OF WAY NO. 1453
COUNTY ENGINEER: BRILL MORICAN
DIRECTOR OF PUBLIC WORKS: MARSHA A. WALKER
COUNTY ROAD LEGAL NO. 390
SCALE: AS SHOWN PROJECT NO. 8122-1B SHEET 1 OF 1

Sept. 10, 2009 - Parcel 5, Added additional right of way on west side of road per change from OBEC.

**IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON**

RESOLUTION AND ORDER NO.

(**IN THE MATTER OF AUTHORIZING A**
(**RESOLUTION PURSUANT TO ORS CHAPTER**
(**35 AFFIRMING THAT THERE EXISTS A**
(**NECESSITY TO ACQUIRE AND**
(**IMMEDIATELY OCCUPY REAL PROPERTY IN**
(**ORDER TO CONSTRUCT THE LOST CREEK**
(**- PARVIN ROAD COVERED BRIDGE**
(**REHABILITATION PROJECT**

WHEREAS, by Order 06-11-1-3 the Board ratified the grant application submitted by staff under the National Historic Bridge Preservation Program for the rehabilitation of Lost Creek – Parvin Covered Bridge; and

WHEREAS, said grant was subsequently approved in the amount of \$733,722 and a Highway Bridge Program Grant was also approved in the amount of \$64,606 for use in the rehabilitation project; and

WHEREAS, Lane County has entered into an Intergovernmental Agreement with the State of Oregon concerning said project and said Agreement requires that the County enter into a Right of Way Services Agreement which includes a requirement that the Board adopt a resolution and determination of necessity authorizing the acquisition of necessary right of way for said project; and

WHEREAS, such a resolution is required pursuant to ORS 35.610; and

WHEREAS, said project is scheduled to be advertised for bids in March, 2010 and to be constructed during the 2010 construction season; **NOW, THEREFORE, IT IS HEREBY**

RESOLVED that under authority granted in ORS Chapter 35 there exists a necessity to acquire and immediately occupy portions of real property as shown on attached "Exhibit A" in order to construct said bridge rehabilitation project to serve the needs of Lane County for the general use and benefit of Lane County, and that the proposed use, improvement or project is planned or located in a manner which will be most compatible with the greatest public good and the least private injury; **AND, BE IT**

RESOLVED AND ORDERED, that the Director of the Department of Public Works or the Director's representative is hereby delegated the authority to purchase the necessary real property in accordance with Lane Manual Chapter 21 and to execute related instruments to accomplish the property acquisition. If Lane County is unable by negotiations to reach an agreement for the acquisition of the necessary real property rights, the Office of Legal Counsel of Lane County is hereby authorized to commence and prosecute in the Circuit Court of Lane County, in the name of Lane County, any necessary proceedings for the condemnation and immediate possession of necessary real property rights and for the assessment of damages for the taking thereof.

IT IS FURTHER ORDERED that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 2009.

APPROVED AS TO FORM

Date: 10-26-09 Lane County



OFFICE OF LEGAL COUNSEL

Chair,
Board of County Commissioners

Exhibit A

Real Property from which portions thereof may be acquired for:

Parvin Road Bridge
(SW ¼ Section 21, T19S, R1W, W.M.)
Project No. 6122-1B

<u>OWNER</u>	<u>SITE ADDRESS</u>	<u>TAXMAP NUMBER</u>
CHERYL LOY-MILLER	82556 ANTHONY CRK RD. DEXTER, OR. 97431	19-01-20-00-02202
MITCHELL & LINDA O'CONNOR	82249 LOST VALLEY LANE DEXTER, OR. 97431	19-01-21-00-01600
FRED & PATRICE MCVEY	82300 PARVIN ROAD DEXTER, OR. 97431	19-01-21-00-01300
DARYL B. & SANDRA L. HOBER	NONE	19-01-21-00-01301
DARYL B. & SANDRA L. HOBER	82229 PARVIN ROAD	19-01-21-00-00902