

**CITY OF NEWPORT**

**RESOLUTION NO. 3877**

**A RESOLUTION AUTHORIZING THE  
EXERCISE OF EMINENT DOMAIN FOR RIGHTS-OF-WAY**

WHEREAS, the City of Newport is authorized to exercise the power of eminent domain under its Charter, under ORS Chapter 25, and under the law of the State of Oregon generally, when the exercise is deemed necessary by the governing body of the City of Newport to accomplish public purposes for which the city has responsibility; and

WHEREAS the City of Newport has the responsibility of providing safe transportation routes for commerce, convenience, and to adequately serve the traveling public; and

WHEREAS the project known as Highway 101 and SE 35<sup>th</sup> Street Signalization Project has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, and travelers safeguarded; and

WHEREAS to accomplish the project set forth above it is necessary to acquire the interests in the property described in Exhibit A, attached to this resolution and by this reference incorporated herein; and

WHEREAS the City Council previously authorized use of eminent domain to acquire property with Resolution No. 3867, but as a result of a design change, real property to be acquired along the south side of SE 35<sup>th</sup> Street, between US 101 and SE Ferry Slip Road, has been reduced and reconfigured such that it no longer matches the area targeted for acquisition with Resolution No. 3867; and

WHEREAS this resolution acknowledges the reduced real property footprint to be acquired at this location.

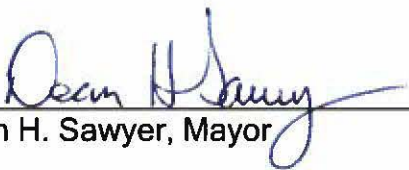
**THE CITY OF NEWPORT RESOLVES AS FOLLOWS:**

1. The foregoing statement of authority and need are, in fact, the case. The project or projects for which the property is required and being required are reasonably necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
3. The staff of the City of Newport, the Oregon Department of Transportation and the Oregon Attorney General are authorized and requested to attempt to agree with the

owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. The acquisition is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the City of Newport.

4. The City of Newport expressly reserves jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality or abandon any acquisition.

Adopted by the City Council of the City of Newport this 2<sup>nd</sup> day of March, 2020.

  
\_\_\_\_\_  
Dean H. Sawyer, Mayor

ATTEST:

  
\_\_\_\_\_  
Margaret M. Hawker, City Recorder

**Exhibit A**

Resolution No. 3877

**EXHIBIT A** - Page 1 of 2

**File 9128004**  
Drawing 11B-9-46  
02/14/2020

**PARCEL 1 – FEE**

A parcel of land lying in the SW¼SE¼ of Section 17, Township 11 South, Range 11 West, W.M., Lincoln County, Oregon and being a portion of that property described in that Warranty Deed – Statutory Form to Bungay Properties, LLC, a New Mexico Limited Liability Company, recorded November 22, 2004 in Lincoln County Book of Records as Instrument No. 200417736, the said parcel being that portion of said property lying Easterly of the following described line:

Beginning at a point opposite and 237.80 feet Easterly of Engineer's Station 249+20.00 on the center line of Oregon Coast Highway 101; thence Southeasterly in a straight line to a point opposite and 261.02 feet Easterly of Engineer's Station 249+60.00 on said center line.

The center line of the Oregon Coast Highway 101 is described as follows:

Beginning at Engineer's center line Station 197+06.80, said station being North 17°19'11" West, a distance of 5979.00 feet from the South One-Quarter Corner of Section 17, Township 11 South, Range 11 West of the Willamette Meridian, said corner monumented by an unstamped 3-inch brass disc on a 2-inch iron pipe, referenced as Monument No. 286 in Survey No. 20629, Lincoln County Survey Records; thence South 39°26'15" East 2758.67 feet; thence on a spiral curve right (the long chord of which bears South 38°00'55" East 399.90 feet) 400.00 feet; thence on a 2685.74 foot radius curve right (the long chord of which bears South 07°09'06" East 2523.34 feet) 2626.80 feet; thence on a spiral curve right (the long chord of which bears South 23°42'44" West 399.90 feet) 400.00 feet; thence South 25°08'03" West 3101.37 feet to Engineer's center line Station 289+93.63.

Bearings are based on County Survey No. 20629, filed April 16, 2017, Lincoln County, Oregon.

This Parcel of land contains 61 square feet, more or less, outside the existing right of way.

**PARCEL 2 – Temporary Easement For Work Area (3 years or duration of project, whichever is sooner)**

A parcel of land lying in the SW¼SE¼ of Section 17, Township 11 South, Range 11 West, W.M., Lincoln County, Oregon and being a portion of that property described in that Warranty Deed – Statutory Form to Bungay Properties, LLC, a New Mexico Limited Liability Company, recorded November 22, 2004 in Lincoln County Book of Records as Instrument No. 200417736, the said parcel being that portion of said property lying Easterly of the following described line:

Beginning at a point opposite and 235.07 feet Easterly of Engineer's Station 249+35.00 on the center line of Oregon Coast Highway 101; thence Southeasterly in a straight line to a point opposite and 255.59 feet Easterly of Engineer's Station 249+70.00 on said center line.

The center line of the Oregon Coast Highway 101 is described in Parcel 1.

EXCEPT therefrom Parcel 1.

This Parcel of land contains 163 square feet, more or less.



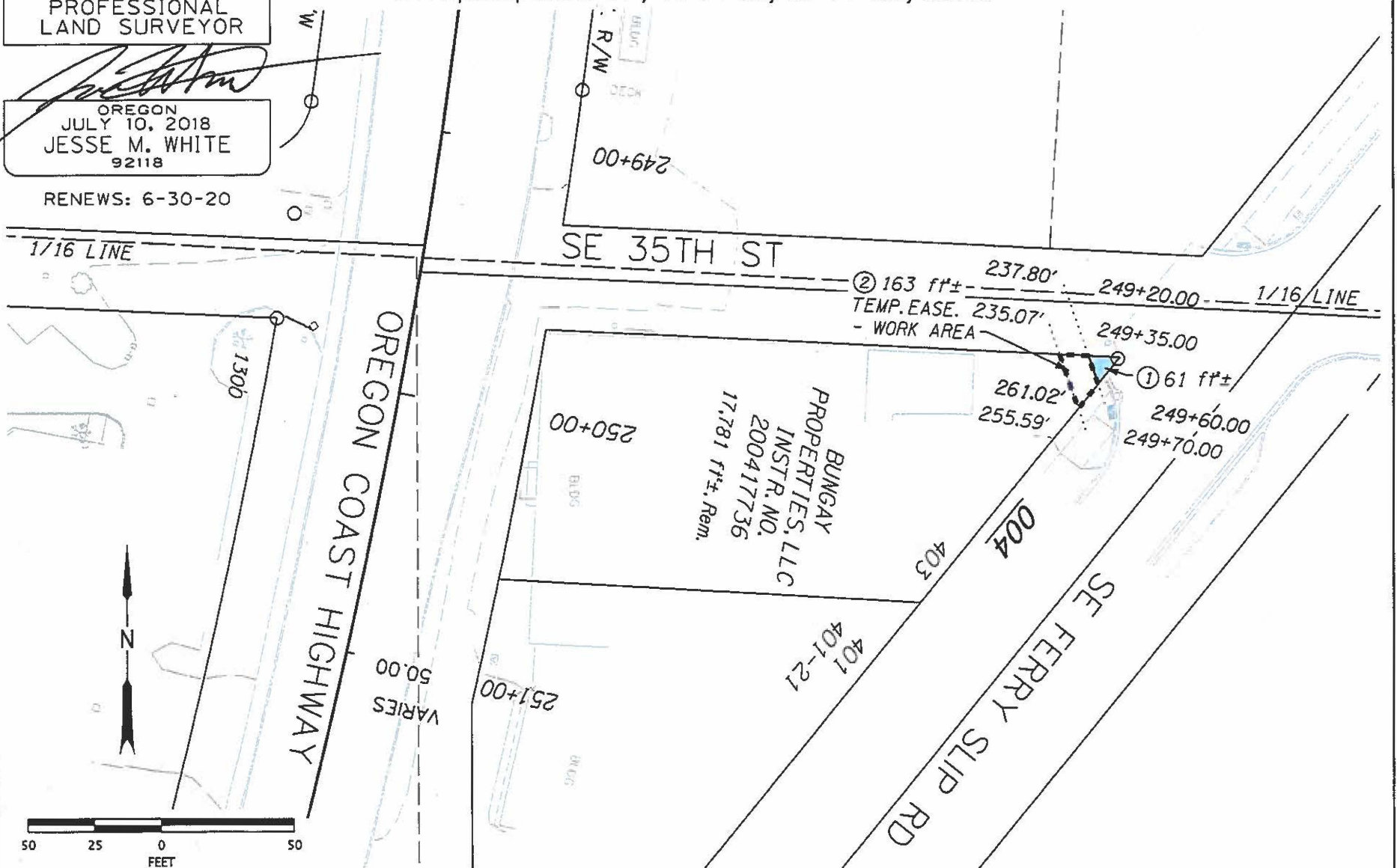


REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 10, 2018  
JESSE M. WHITE  
92118

RENEWS: 6-30-20

SW $\frac{1}{4}$ SE $\frac{1}{4}$  SEC. 17, T. 11 S., R. 11 W., W.M.



OREGON DEPARTMENT OF TRANSPORTATION



**RIGHT OF WAY  
ENGINEERING  
SKETCH MAP**

SECTION	US101 : SE 32nd Street - SE 35th Street (Newport)
HIGHWAY	Oregon Coast Highway (US101)
COUNTY	Lincoln
PURPOSE	Right of Way Acquisition

SCALE	1" = 50'
DATE	February, 2020
FILE	9128004
SEE DRAWING 11B-9-46	

THIS IS THE FILENAME LOCATION ##### DD-MMM-YYYY HH:MM USERNAME

Rotation: 0° Scale: 1"=50'