

A RESOLUTION DECLARING A NECESSITY THAT THE CITY ACQUIRE CERTAIN REAL PROPERTY LOCATED IN THE CITY OF ALBANY CITY LIMITS FOR THE PURPOSE OF CREATING AND IMPROVING PUBLIC RIGHT-OF-WAY.

WHEREAS, the components of the Oak Street Local Improvement District (LID) project have been identified in the City's adopted Transportation System Plan as necessary to support new development and meet efficiency, capacity, and safety standards; and

WHEREAS, economic development in the area requires the infrastructure improvements identified in the Oak Street LID project; and

WHEREAS, the Oak Street LID project is within Albany's Urban Growth Boundary and within the City Limits; and

WHEREAS, the proposed improvements will create transportation infrastructure necessary for development of the area in the vicinity of the Oak Street LID project as called for in the Development Code and Comprehensive Plan; and

WHEREAS, the Oak Street LID project has been coordinated with Oregon Department of Transportation (ODOT) and is being designed to meet ODOT requirements; and

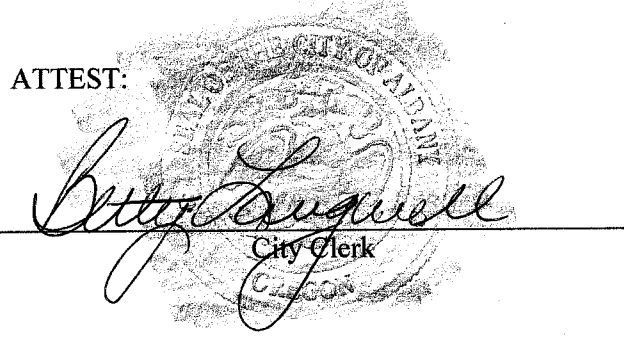
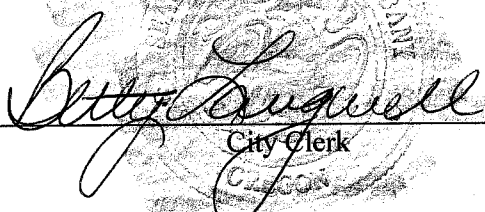
WHEREAS, there is an immediate need to commence the Oak Street LID project to meet commercial development and community needs within the area.

NOW, THEREFORE, BE IT RESOLVED that, based on the recitals set forth above which are fully incorporated herein, and the memorandum of City Engineer Jeff Blaine, dated December 8, 2011, which is attached hereto and incorporated herein as Exhibit "1" and the information provided by staff at the City Council Meeting held on December 14, 2011, the City of Albany and staff be and are hereby authorized to continue to negotiate an agreement with the owners and other persons of interest in the real property described in Exhibit "A", located in the City of Albany, Linn County, Oregon; and in the event that no satisfactory agreement can be reached, then the City of Albany be and the same hereby are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire said real property and interest therein, and that upon the filing of such proceeding, possession of the real property and interest therein may be taken immediately. The subject property is necessary for creation and improvement of public right-of-way in connection with the Oak Street LID project, and the proposed use is located in a manner that will be most compatible with the greatest public good and the least private injury.

DATED AND EFFECTIVE THIS 14TH DAY OF DECEMBER 2011.



Mayor

ATTEST:



City Clerk



TO: Albany City Council

VIA: Wes Hare, City Manager
Mark Shepard, P.E., Public Works Director *MWS*

FROM: Jeff Blaine, P.E., Assistant Public Works Director/City Engineer *JB*

DATE: December 8, 2011, for the December 14, 2011, City Council Meeting

SUBJECT: ST-09-03, Oak Street Local Improvement District (LID)
Resolution Authorizing Eminent Domain Proceedings

Action Requested:

Staff requests that the Council adopt the accompanying resolution authorizing the City to initiate eminent domain proceedings including condemnation of land and a motion for immediate possession to address the immediate needs for infrastructure improvements for the Oak Street improvement project.

Discussion:

Background

At the June 9, 2010, City Council Meeting, Council passed Resolution 5911 forming a Local Improvement District (LID) for construction of the Oak Street Improvement Project. The Oak Street Improvement Project includes street improvements between Queen Avenue and Ninth Avenue and a "punch through" of Oak Street between Ninth Avenue and Pacific Boulevard. Both the street improvements and the punch through are identified in the City's adopted Transportation System Plan as required projects.

The TSP names these required projects on Oak Street as L30 and L58, as shown in Exhibits A, B, and C. In general, the projects are required in order to allow commercial development in the area and for the street system to function adequately and safely through year 2030. Without these improvements, any significant additional development in the area would create an unsafe traffic condition where increased accidents and congestion would be expected beyond acceptable levels. As a result, in order to receive land use approval for a development proposal in the area both the City and the Oregon Department of Transportation (ODOT) would require these improvement projects, as was required of the Lowe's development. Additionally, although there are two distinct projects in the TSP, if the punch through (L30) were to be constructed independently, the northern most improvements of L58 would also need to be constructed in order for the Oak Street and Ninth Avenue intersection to function properly.

City staff initiated design of the Oak Street improvements following formation of the LID. The design has now progressed to a point where staff can clearly define the locations of required right-of-way dedications. In addition to the recently purchased property for the punch through, the project requires three right-of-way dedications, two of which have already been addressed. The one remaining right-of-way dedication is required from Ping's Garden at the southwest corner of the intersection of Ninth Avenue and Oak Street. The required dedication is approximately 2,200 square feet and is described on Exhibits D and E.

Immediate Need

In order to meet the needs of the community and the anticipated commercial development in the area, the City may need to obtain an Order of Immediate Possession for the right-of-way to facilitate timely construction. City staff anticipates completing design and putting the Oak Street LID project out to bid in spring 2012. All required rights-of-way should be in-hand prior to publicly bidding the project.

Negotiations

When the Oak Street LID was initially formed, Ping's representatives agreed to a proposed assessment methodology whereby the Ping family agreed to dedicate the necessary right-of-way for the improvements without charge and, through negotiations with the Lowe's development team that their assessment would be substantially lower than it would otherwise be for all the improvements being undertaken. The City preliminarily capped Ping's assessment upon their agreement to dedicate the land in question and because the Lowe's development team agreed to essentially pick up the remaining share of the improvement costs.

Although City staff continues to negotiate with the Ping family, we have not yet obtained the dedication as promised at the time of LID formation. City staff is optimistic that the dedication will be received as originally promised and that condemnation proceedings will not be necessary. However, at this point in the project schedule it is necessary that staff receive authorization to initiate eminent domain proceedings, including condemnation of land and a motion for immediate possession, to ensure the project schedule is not compromised by a lack of required right-of-way.

Budget Impact:

Initiation of eminent domain proceedings, including condemnation of land and a motion for immediate possession to address the immediate needs for infrastructure improvements for the Oak Street LID project, will require expenditures for legal proceedings. These costs will become a cost of the project that can be fairly apportioned among all benefitted property owners within the LID boundary.

JJB:prj

Attachments (6)

Exhibit "A"

(Right-of-Way Dedication)

A portion of that Lee Tract described by deed recorded in MF Volume 791, Page 689, Linn County, Oregon Deed Records on March 11, 1996, said portion being more particularly described as follows:

Beginning at the northeast corner of said Lee Tract, said corner being at the intersection of the westerly right-of-way line of Oak Street with the southerly right-of-way line of 9th Avenue; thence South 06°22'11" East, along said westerly right-of-way line of Oak Street, 295.20 feet to the southeast corner of said Lee Tract; thence South 81°45'00" West, along the south line of said Lee Tract, 1.50 feet; thence North 06°22'11" West, parallel with said westerly right-of-way line, 136.11 feet; thence along the arc of a 354.44 foot radius curve to the left (the long chord of which bears North 11°51'46" West 74.95 feet), a distance of 75.09 feet; thence North 17°55'55" West 43.95 feet; thence North 37°01'03" West 25.15 feet; thence North 21°30'58" West 18.48 feet to a point on said southerly right-of-way line of 9th Avenue; thence North 81°45'00" East, along said southerly right-of-way line, 33.49 feet to the point of beginning.

The bearings and right-of-way determination used in this description are based upon County Survey Number 25294, as filed in the office of the Linn County Surveyor.

EXHIBIT B
RIGHT-OF-WAY DEDICATION
PORTION OF LEE TRACT
LOCATED IN
NE 1/4 SEC. 7, T. 11S., R. 3 W., W.M.
CITY OF ALBANY, LINN COUNTY, OREGON

9TH AVENUE

66' R.O.W.

POINT OF BEGINNING

33.49'
 NB81°45'00"E
 13.48'
 N21°30'58"W
 25.15'
 N57°01'03"W
 43.95'
 N17°55'55"W

DEDICATION AREA:
 2,149.03 S.F.

60' R.O.W.

OAK STREET

R: 354.44'
 L: 75.09'
 CH: N11°51'46"W 74.95'
 DELTA: 12°08'19"

S06°22'11"E 295.20'

N06°22'11"W 136.11'

LEE TRACT
 MF. VOL. 791, PG. 689

1.50'
 SB1°45'00"W

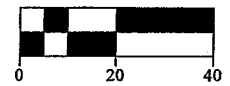


EXHIBIT C

11S03W07AD00100

Right-Of-Way Dedication
Portion of Lee Tract



Geographic Information Services

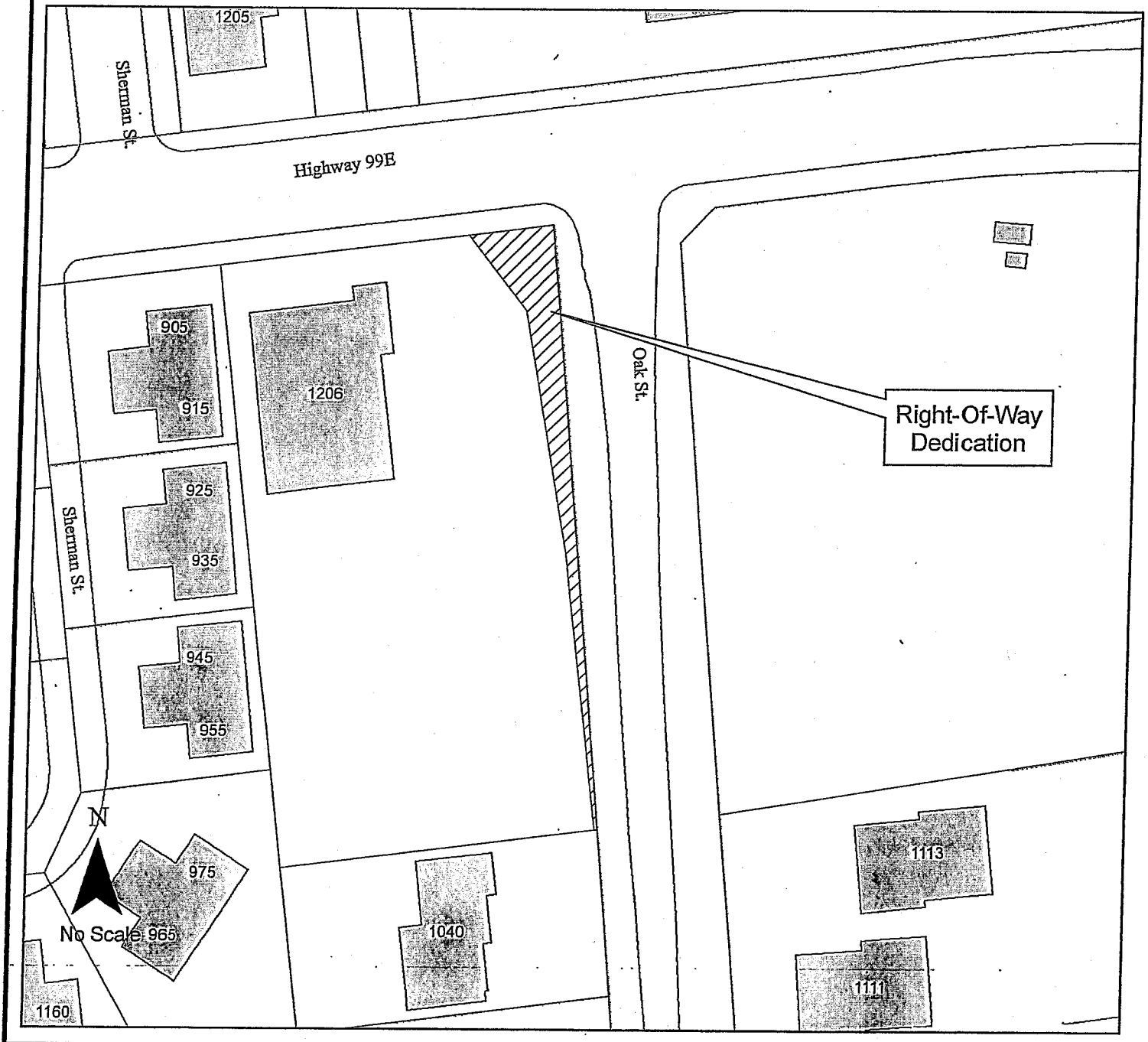
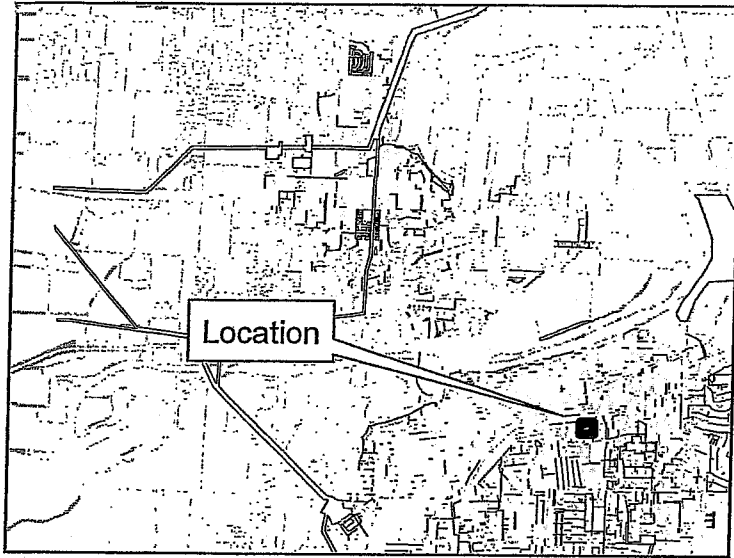


EXHIBIT D

Albany TSP
February 2010

Project #: 6497.0
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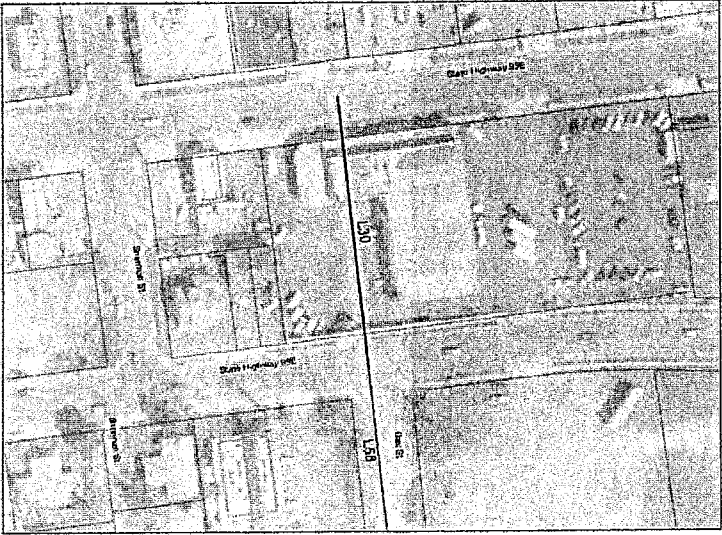
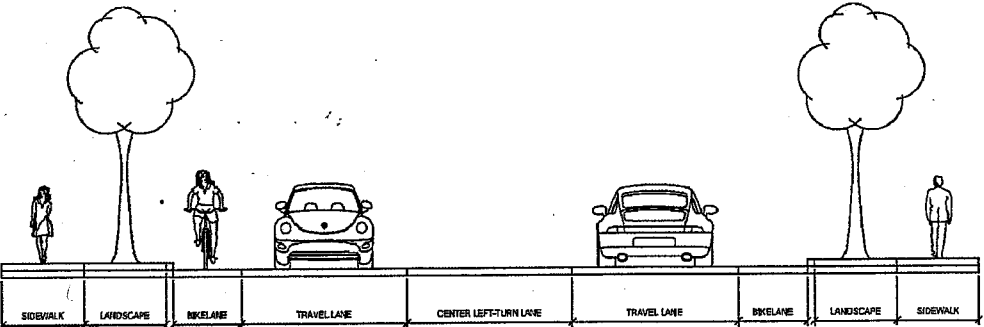
Project #: L30		Oak Street			
Description: Extend Oak Street north from 9th Street to Pacific Boulevard including sidewalk, curb, gutter, and bike lanes. Install traffic signals at 9th Street/Oak Street and Pacific Boulevard/Oak Street when warranted. Construct a 150-foot northbound right-turn lane on Oak Street at 9th Street.					
Category: New Road or Alignment		Classification: Minor Collector		Agency Coordination: ODOT	Time Frame: Short-term
Project Costs:	Const./Eng.	ROW	Other	Total Cost	SDC Eligible:
	\$1,005,000	\$750,000	\$75,000	\$1,830,000	100%
Project Goals Met:					
Efficiency <input checked="" type="checkbox"/>	Capacity <input checked="" type="checkbox"/>	Safety <input type="checkbox"/>	Transit <input type="checkbox"/>	Ped/Bike <input checked="" type="checkbox"/>	Livability <input checked="" type="checkbox"/>
Project Location:			Related Projects: L58		
					
Illustrative Section:					
					

EXHIBIT E

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Project #: L58		Oak Street			
Description: Add sidewalk, curb, gutter, and bike lanes from 9th Avenue to Queen Avenue.					
Category: Urban Upgrade		Classification: Minor Collector		Agency Coordination: Short-term	
Project Costs:	Const./Eng.	ROW	Other	Total Cost	SDC Eligible:
	\$2,394,000	\$51,000	\$0	\$2,445,000	65%
Project Goals Met:					
Efficiency <input type="checkbox"/>	Capacity <input type="checkbox"/>	Safety <input checked="" type="checkbox"/>	Transit <input type="checkbox"/>	Ped/Bike <input checked="" type="checkbox"/>	Livability <input checked="" type="checkbox"/>
Project Location:			Related Projects: L9, L30, I32		
Illustrative Section:					