



COUNCIL RESOLUTION NO. 5012

**A RESOLUTION AUTHORIZING THE INSTITUTION OF
PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF
PROPERTY INTERESTS FOR THE WEST BANK WILLAMETTE
RIVER PEDESTRIAN/BICYCLE EXTENSION PATH PROJECT.**

PASSED: 6/2

REJECTED:

OPPOSED: Poling, Solomon

ABSENT:

CONSIDERED: July 26, 2010

RESOLUTION NO. 5012

A RESOLUTION AUTHORIZING THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF PROPERTY INTERESTS FOR THE WEST BANK WILLAMETTE RIVER PEDESTRIAN/BICYCLE EXTENSION PATH PROJECT.

The City Council of the City of Eugene finds that:

A. The City Council has authority under provisions of the City Charter and applicable state law to institute proceedings in eminent domain for the acquisition by condemnation of private property for public purposes, including rights-of-way and easements for improvement projects.

B. In February, 2006, the Oregon Transportation Commission approved a Federal Highway Administration transportation enhancement grant to construct a pedestrian-bicycle path in the vicinity of the Beltline Highway and the Willamette River. The West Bank Extension Project ("the Project") has been in planning and design for years. Environmental documentation is nearing completion and the Project is consistent with the adopted Metropolitan Transportation Improvement Program (MTIP) and Transplan policies.

C. The Project requires acquisition of property rights owned by Delta Property Company, a limited partnership. City staff has contacted the property owner and delivered an Offer to Purchase, but an agreement has not yet been reached. Timely acquisition of the easement is necessary in order to complete the Project. All of the permanent easements and temporary construction easements needed for construction of the Project are depicted on the map attached as Exhibit A to this Resolution.

D. The public good realized from the project far outweighs any damage which the property owner might sustain, particularly in light of the City's obligation to provide just compensation to the affected property owner.

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A Municipal Corporation of the State of Oregon, as follows:

Section 1. Based upon the above findings, which are adopted and incorporated herein by reference, the City Council of the City of Eugene finds, declares, and determines it necessary to acquire permanent easement rights of approximately .52 of an acre and a temporary construction easement area of approximately .23 of an acre, more particularly depicted on Exhibit A attached to this Resolution and incorporated herein by reference. The acquisition is necessary in order to construct the pedestrian-bicycle path under Beltline Highway and extending it adjacent to Division Avenue, including construction of a path undercrossing at the Delta Sand and Gravel

Company entrance driveway in accordance with the design prepared by the City Engineer and approved by the City Manager.

Section 2. The City Council directs that the City Manager or the Manager's designee shall continue negotiations with the affected property owner to acquire the needed property interests and, if necessary, institute proceedings in eminent domain for the condemnation of the real property interests described in Section 1. At least 40 days prior to the filing of any action for condemnation, the City Manager or the Manager's designee shall make a written offer to the owner or parties having an interest in the property of a stated amount as compensation therefore and for any compensable damages to the remaining property.

Section 3. The City Council further directs that the City Manager or the Manager's designee shall obtain for the City immediate possession of the real property interests described in Section 1 if negotiations will delay the construction of the described improvement.

Section 4. The City Council declares that the improvement described above is for a public purpose, is necessary for the public welfare, is the most compatible with the greatest public good and the least private injury, and is authorized under the laws of the State of Oregon and Charter and ordinances of the City of Eugene.

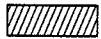
Section 5. The City Council further declares that the real property interest described in Section 1 shall be used by the City of Eugene for public purposes at the earliest possible date and, in any event, no later than ten years from the date this Resolution is adopted by the Council.

Section 6. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the 26th day of July, 2010.



Acting City Recorder

 DENOTES AREA OF RIGHT OF WAY ACQUISITION

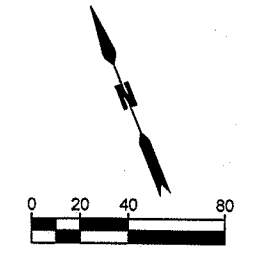
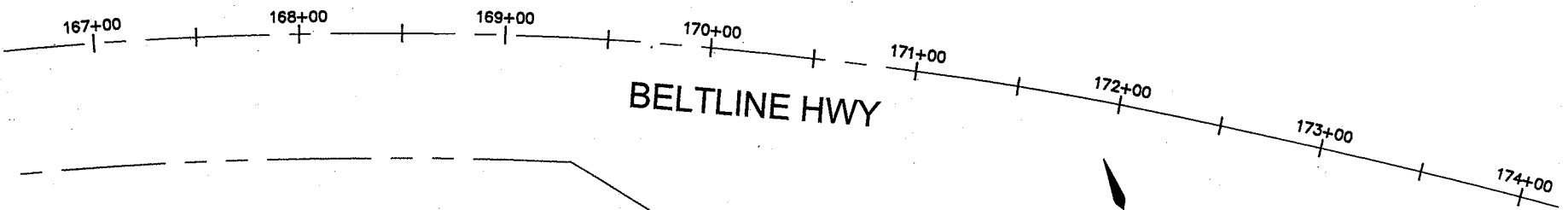
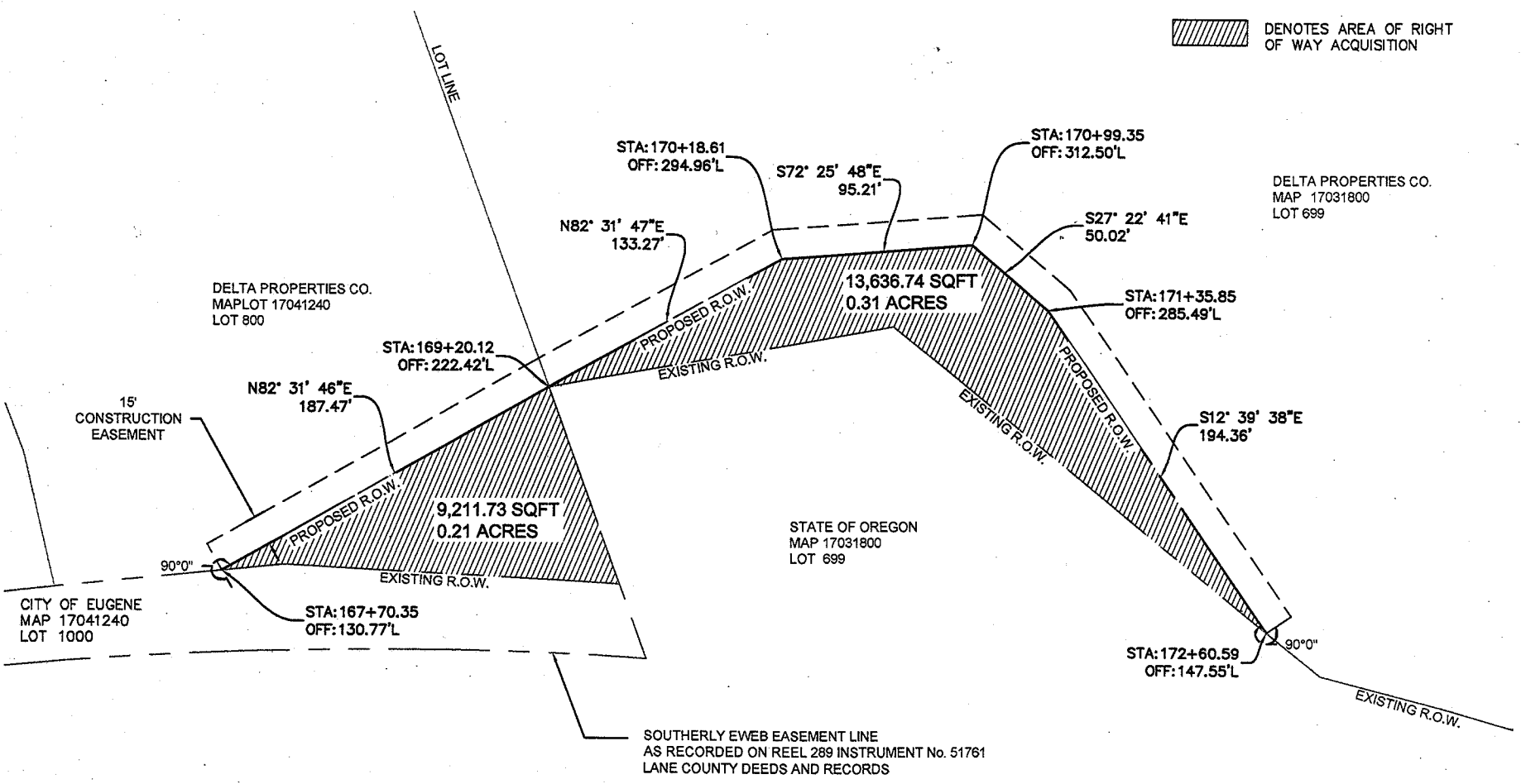


EXHIBIT "B"