



**OFFICIAL AGENDA OF THE TUALATIN DEVELOPMENT COMMISSION
MEETING FOR JULY 25, 2011**

A. CALL TO ORDER

B. ANNOUNCEMENTS

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Commission regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Chairman will first ask the staff, the public and Commissioners if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

1. Approval of the Minutes for the Meeting of July 11, 2011
2. Resolution No. 593-11 Authorizing the Chairman to Sign a Cooperative Improvement Agreement with Oregon Department of Transportation and the City of Tualatin for Improvements Associated with the SW Leveton Drive Project
3. Resolution No. 594-11 Awarding the Bid for the SW Leveton Drive Extension Project

E. SPECIAL REPORTS

F. PUBLIC HEARINGS

G. GENERAL BUSINESS

1. Resolution No. 595-11 Awarding the Bid for the Tualatin-Sherwood Road Landscaping Project

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Chairman may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COMMISSIONERS

J. EXECUTIVE SESSION

K. ADJOURNMENT



STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

APPROVED BY TUALATIN DEVELOPMENT
COMMISSION
Date 7-25-11
Recording Secretary MSmith

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator

FROM: Maureen Smith, Executive Assistant

DATE: 07/25/2011

SUBJECT: Approval of the Minutes for the Meeting of July 11, 2011

ISSUE BEFORE THE COMMISSION:

The issue before the Commission is to approve the minutes of the Meeting of July 11, 2011.

RECOMMENDATION:

Staff respectfully recommends that the Commission adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: A - Meeting Minutes of July 11, 2011



OFFICIAL MINUTES OF THE TUALATIN DEVELOPMENT
COMMISSION MEETING FOR JULY 11, 2011

Present: Chairman Lou Ogden, Commissioner Monique Beikman, Commissioner Joelle Davis, Commissioner Wade Brooksby, Commissioner Frank Bubenik, Commissioner Nancy Grimes, Commissioner Ed Truax

Staff Present: City Manager Sherilyn Lombos, City Attorney Brenda Braden, City Engineer Mike McKillip, Police Chief Kent Barker, Community Development Director Alice Rouyer, Assistant to the City Manager Sara Singer, Executive Assistant Maureen Smith

A. CALL TO ORDER

The meeting was called to order by Chairman Ogden at 7:41 p.m.

B. ANNOUNCEMENTS

1. Swearing-in of Commissioner-elect Nancy Grimes

Administrator Sherilyn Lombos swore in Nancy Grimes as commissioner of the Tualatin Development Commission.

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Commission regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Chairman will first ask the staff, the public and Commissioners if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

MOTION by Commissioner Joelle Davis, SECONDED by Commissioner Monique Beikman to approve the consent agenda as read.

Vote: 7 - 0 CARRIED.

1. Approval of the Minutes for the Meeting of June 27, 2011

E. SPECIAL REPORTS

F. PUBLIC HEARINGS

G. GENERAL BUSINESS

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Chairman may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COMMISSIONERS

None.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

MOTION by Commissioner Joelle Davis, SECONDED by Commissioner Monique Beikman to adjourn the meeting at 7:43 p.m.

Vote: 7 - 0 CARRIED.

Sherilyn Lombos, Administrator



/ Maureen Smith, Recording Secretary



STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

APPROVED BY TUALATIN DEVELOPMENT
COMMISSION
Date 7-25-11
Recording Secretary M. Smith

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator

FROM: Kaaren Hofmann, Civil Engineer
Alice Rouyer, Community Development Director

DATE: 07/25/2011

SUBJECT: Resolution Authorizing the Chairman to Sign a Cooperative Improvement Agreement with Oregon Department of Transportation and the City of Tualatin for Improvements Associated with the SW Leveton Drive Project

ISSUE BEFORE THE COMMISSION:

To consider entering into a cooperative agreement with the Oregon Department of Transportation and the City of Tualatin to allow the construction of the SW 130th Avenue/SW Pacific Highway intersection as a part of the SW Leveton Drive project.

RECOMMENDATION:

Staff recommends that the Commission adopt the attached resolution directing the Chairman to sign the intergovernmental agreement between the Tualatin Development Commission and the Oregon Department of Transportation dealing with the improvements that will be constructed as a part of the SW Leveton Drive project.

EXECUTIVE SUMMARY:

In the current Leveton Tax Increment Fund adopted budget, there is a project to construct SW Leveton Drive from its current terminus to SW 130th Avenue; SW 130th Avenue to a new intersection on SW Pacific Highway, and SW 128th Avenue south to SW Cummins Drive.

As a part of the SW Leveton Drive project, the Commission will be constructing improvements on SW Pacific Highway which is under the Oregon Department of Transportation's jurisdiction. They require that a cooperative agreement be signed for construction in their right-of-way and ongoing maintenance of the improvements prior to issuing a permit for the work.

This agreement is between the Oregon Department of Transportation, the Tualatin Development Commission and the City. By this agreement the Development Commission agrees to construct the improvements. The City is considering the same agreement for ongoing maintenance responsibilities.

OUTCOMES OF DECISION:

If the agreement isn't signed, the SW Leveton project will not be able to be constructed as designed.

FINANCIAL IMPLICATIONS:

There are adequate funds in the Leveton Tax Increment Fund to construct the improvements. There will be a minimal cost to the Operations Fund for ongoing maintenance of the street lights and landscaping.

Attachments: Resolution
 Agreement

RESOLUTION NO. 593-11

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A
COOPERATIVE IMPROVEMENT AGREEMENT WITH THE
OREGON DEPARTMENT OF TRANSPORTATION AND THE CITY
OF TUALATIN FOR SW LEVETON DRIVE PROJECT

WHEREAS this agreement will allow the installation of roadway, street lights, sidewalk and landscape improvements on the south side of SW Pacific Highway as a part of the Tualatin Development Commission SW Leveton Drive project; and

WHEREAS the Tualatin Development Commission will construct said improvements; and

WHEREAS the City will maintain the landscaping and irrigation to the area and be responsible for the power costs associated with the street lights and irrigation; and

WHEREAS the Chairman and Administrator are authorized to enter into the Cooperative Improvement Agreement.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF TUALATIN, OREGON that:

Section 1. The attached Cooperative Improvement Agreement Pacific Highway West at SW 130th Avenue Intersection Improvements Mile Point 12.97 to Mile Point 13.09 is for the purpose of allowing the construction of improvements associated with the SW Leveton Drive project.

Section 2. The Chairman and Administrator are authorized to sign the attached Cooperative Improvement Agreement.

ADOPTED AND APPROVED this 25th day of July, 2011.

TUALATIN DEVELOPMENT COMMISSION,
OREGON

By _____
Chairman

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

ATTEST:

By 
Administrator

COOPERATIVE IMPROVEMENT AGREEMENT
Pacific Highway West at SW 130th Avenue Intersection Improvements
Mile Point 12.97 to Mile Point 13.09

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," the City of Tualatin acting by and through its elected officials, hereinafter referred to as "CITY," and acting by and through its Tualatin Development Commission, hereinafter referred to as "COMMISSION," all herein referred to individually or collectively as "Party" or "Parties".

RECITALS

1. Pacific Highway West (OR 99W) and the intersection at SW 130th Avenue are part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). The intersection of said roadways falls within the city limits of the City of Tualatin.
2. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572, and 366.576, ODOT may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. ODOT, by ORS, is vested with complete jurisdiction and control over roadways of other jurisdictions taken for state highway purposes. By authority granted by ORS 373.020, such jurisdiction extends from curb to curb, or if there is no regular established curb, then control extends over such portion of the right of way as may be utilized by the department for highway purposes. Responsibility for and jurisdiction over all other portions of a city street remains with the respective city.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, ODOT and COMMISSION agree to COMMISSION constructing right turn channelization improvements from northbound (NB) Pacific Highway West (OR99W) to southbound (SB) SW 130th Avenue at the intersection of 99W and SW 130th Avenue, hereinafter referred to as "Project." The Project shall be constructed by COMMISSION or its contractors. Ongoing maintenance activities for the Project shall be the responsibility of and performed by the CITY. The Project

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consists of a right turn lane on NB Pacific Highway West (OR99W) onto SW 130th Avenue, roadway drainage, pedestrian improvements, sidewalks, landscaping, and bike lanes. The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The Project limits on 99W are from MP12.97 to MP 13.09.

2. The Project total estimated cost is \$162,000 in COMMISSION funds. The estimate for the total Project cost is subject to change. The COMMISSION shall be responsible for all Project costs to complete the Project.
3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

COMMISSION OBLIGATIONS

1. COMMISSION shall obtain a permit to "Occupy or Perform Operations upon a State Highway" from assigned ODOT District 2A Project Manager as well as land use permits, building permits, and engineering design review approval from ODOT. COMMISSION agrees to comply with all provisions of said permit(s), and shall require its developers, contractors, subcontractors, or consultants performing such work to comply with such permit and review provisions.
2. COMMISSION shall conduct the necessary field surveys, environmental studies, acquire all necessary right of way, identify and obtain required permits, arrange for relocation or reconstruction of any conflicting utility facilities, and perform all preliminary engineering and design work required to produce plans, specifications, and cost estimates.
3. COMMISSION shall, prior to its advertisement for construction bid proposals, provide the Project preliminary and final plans and specifications to ODOT's District 2A office for review and written concurrence. The plans and specification must be approved by the ODOT Office of the State Traffic Engineer. ODOT District 2A office shall coordinate all such review.
4. If COMMISSION chooses to use a contractor to construct the Project, COMMISSION shall, upon ODOT's written review and concurrence of final plans, prepare the contract and bidding documents, advertise for construction bid proposals, award all contracts, pay all contractor costs, furnish all construction engineering, field testing of materials, technical inspection (except as described in

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ODOT OBLIGATIONS) and project manager services for administration of the contract.

5. COMMISSION shall cause the Project to be designed and constructed in accordance with ODOT standards.
6. COMMISSION shall be the current permitting authority at locations where right of way is obtained by the COMMISSION for the Project, utility installations, relocations, and reconstructions. COMMISSION shall retain ownership or control of acquired right of way until it becomes ODOT right of way upon Project completion or property transfer by the COMMISSION to ODOT. COMMISSION shall, through its permit process, assign the rights, including signing authority, associated with its utility permit to ODOT and indicate in the permit that ODOT shall be the governing body that will manage and control the permitting authority over such areas of right of way transition. Additionally in such situations, ODOT shall also issue a separate permit to the utility at the same time as the COMMISSION permit.
7. COMMISSION certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within COMMISSION's current appropriation or limitation of current annual budget.
8. COMMISSION shall construct the Project in accordance with the requirements of ORS 276.071 including the public contracting laws within ORS Chapters 279A, 279B and 279C.
9. If COMMISSION chooses to assign its contracting responsibilities to a consultant or contractor, COMMISSION shall inform the consultant or contractor of the requirements of ORS 276.071 to ensure that the public contracting laws within ORS Chapters 279A, 279B and 279C are followed.
10. Pursuant to the statutory requirements of ORS 279C.380, COMMISSION shall require their contractor to submit a performance bond to COMMISSION for an amount equal to or greater than the estimated cost of the Project.
11. All employers, including COMMISSION, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. COMMISSION shall ensure that each of its contractors complies with these requirements.
12. COMMISSION shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including,

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but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.

13. COMMISSION acknowledges and agrees that ODOT, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of COMMISSION which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
14. COMMISSION shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of COMMISSION's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the contractor and subcontractor from and against any and all Claims.
15. Any such indemnification shall also provide that neither the COMMISSIONS's contractor and subcontractor nor any attorney engaged by COMMISSIONS contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that COMMISSION's contractor is prohibited from defending the State of Oregon, or that COMMISSION's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against COMMISSION's contractor if the State of Oregon elects to assume its own defense.
16. If COMMISSION enters into a construction contract for performance of work on the Project, then COMMISSION will require its contractor to provide the following:
 - a. Contractor shall indemnify, defend and hold harmless ODOT from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of

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- Contractor or its officers, employees, subcontractors, or agents under the resulting contract.
- b. Contractor and COMMISSION shall name ODOT as a third party beneficiary of the resulting contract.
 - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to ODOT. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$ 1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$ 2,000,000.
 - d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000.
 - e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include ODOT and its divisions, officers and employees as Additional Insured but only with respect to Contractor's activities to be performed under the resulting contract. Coverage will be primary and non-contributory with any other insurance and self-insurance.
 - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from Contractor's or its insurer(s) to ODOT. Any failure to comply with the reporting provisions of this clause will constitute a material breach of the resulting contract and will be grounds for immediate termination of the resulting contract and this Agreement.
21. COMMISSION shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS [279C.505](#), [279C.515](#), [279C.520](#), [279C.530](#) and [279B.270](#) incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, COMMISSION expressly agrees to comply with (i) [Title VI of Civil Rights Act of 1964](#); (ii) [Title V and Section 504 of the Rehabilitation Act of 1973](#); (iii) the [Americans with Disabilities Act of 1990](#) and ORS [659A.142](#); (iv) all regulations and administrative rules established pursuant to the

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foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

22. COMMISSION shall lay out and paint the necessary lane lines and erect the required directional and traffic control signing for the Project.
23. COMMISSION or its contractor shall follow the Oregon Locate Laws (ORS 757 and OAR 952).
24. COMMISSION is responsible for and ensures that all survey monuments recorded with a county and within or adjacent to the highway right-of-way shall be preserved in accordance with ORS 209.140 and 209.150. Any such monumentation that is damaged or removed during the course of the Project must be replaced in compliance with ORS Chapter 209 stipulations, the ODOT Right of Way Monumentation Policy, and at COMMISSION'S own expense.
25. COMMISSION is also responsible, at its own expense, for replacement of any additional ODOT survey marks or other monumentation not recorded with a county that are damaged or removed during the course of the Project. In the event of such replacement, COMMISSION shall contact ODOT's Geometronics Unit for replacement procedures.
26. COMMISSION shall ensure that landscape water systems shall be constructed on separate systems from any ODOT systems.
27. COMMISSION shall provide to ODOT permanent mylar "as constructed" plans for work on state highways. If COMMISSION redrafts the plans, done in Computer Aided Design and Drafting (CADD) or Microstation, to get the "as constructed" set, and they follow the most current version of the "Contract Plans Development Guide, Volume 1 Chapter 16" http://www.oregon.gov/State/HWY/ENGSERVICES/docs/dev_guide/vol_1/V1-16.pdf, COMMISSION shall provide to State a Portable Document Format (PDF) file and a paper copy of the plan set.
28. COMMISSION certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of COMMISSION, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind COMMISSION.
29. COMMISSION's Project Manager for this Project is Kaaren Hofmann, Civil Engineer, City of Tualatin, 18876 SW Martinazzi Avenue, Tualatin, Oregon 97062, phone: 503-691-3034, email: khofmann@ci.tualatin.or.us, or assigned designee upon individual's absence. COMMISSION shall notify the other Party in writing of any contact information changes during the term of this Agreement.

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CITY OBLIGATIONS

1. CITY shall ensure that landscape water systems shall be on separate systems from any ODOT systems.
2. CITY shall, at its own expense, be responsible for a two (2) year establishment period for landscape plantings for the Project.
3. CITY shall be responsible for 100 percent of maintenance, water, irrigation, power costs associated with the landscape and illumination installed as part of this Project. CITY shall require the water and power companies send invoices directly to CITY.
4. CITY may require the adjacent property owners to fund or perform maintenance of improvements, as permitted by CITY ordinance. CITY shall remain responsible for compliance with the terms of this Agreement, and shall be responsible for the performance of maintenance, even when maintenance is performed by CITY contractors or property owners.
5. CITY certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within CITY's current appropriation or limitation of current annual budget.
6. CITY certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of CITY, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind CITY.
7. CITY's Project Manager for this Project is Kaaren Hofmann, Civil Engineer, City of Tualatin, 18876 SW Martinazzi Avenue, Tualatin, Oregon 97062, phone: 503-691-3034, email: khofmann@ci.tualatin.or.us, or assigned designee upon individual's absence. CITY shall notify the other Party in writing of any contact information changes during the term of this Agreement.

ODOT OBLIGATIONS

1. ODOT grants authority to CITY and COMMISSION and their contractor(s), to enter upon ODOT right of way for the performance of necessary preliminary engineering, inspection, construction, and maintenance of this Project, as provided for in a miscellaneous permit to be issued to COMMISSION for construction of the Project and a miscellaneous permit to be issued to CITY for the maintenance of the Project by ODOT District Office. Miscellaneous permits shall be issued by ODOT District Office separately to COMMISSION and to CITY.

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2. ODOT's District Maintenance Manager shall assign a Project Manager for technical inspection to ensure ODOT standards are met, to monitor the roadway work performed by the COMMISSION, or its contractors, within the boundaries of the ODOT right of way, and for any necessary Right of Way services. ODOT's Project Manager will provide general oversight of such roadwork but the COMMISSION or its contractors shall perform all roadwork and contractor coordination.
3. ODOT's District Maintenance Manager or designee shall issue the required permits and review and concur with the Project plans and specifications. ODOT shall review and must concur with the plans before the Project is advertised for a construction contract or before construction begins.
4. ODOT, for purposes of performance of COMMISSION Obligation paragraph 6, hereby grants COMMISSION the ability to act on its behalf for relocation of the utilities, including issuance of conflict letters, on right of way purchased for the Project that shall become ODOT's on completion of the Project and property transfer by the COMMISSION.
5. Upon completion of the Project, ODOT shall retain ownership and complete jurisdiction and control of the roadway improvements from face of curb to face of curb. ODOT shall be responsible for all maintenance of Project improvements within ODOT right of way following completion, except for items expressly allocated to COMMISSION in this Agreement.
6. ODOT shall retain all utility and access permit-issuing authority along the state highway.
7. ODOT's Project Manager for this Project is Steven Schalk, District Engineering Coordinator, 6000 SW Raab Road, Portland, OR 97221; phone: 503-229-5002, email: steven.b.schalk@odot.state.or.us, or assigned designee upon individual's absence. ODOT shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of the Parties.
2. CITY or COMMISSION may terminate this Agreement effective upon delivery of written notice to ODOT, or at such later date as may be established by CITY or COMMISSION, under any of the following conditions:
 - a. If ODOT fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

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- b. If ODOT fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from CITY or COMMISSION fails to correct such failures within ten (10) days or such longer period as CITY or COMMISSION may authorize.
 - c. If ODOT fails to provide payment of its share of the cost of the Project.
- 3. ODOT may terminate this Agreement effective upon delivery of written notice to CITY or COMMISSION, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If CITY or COMMISSION fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If CITY or COMMISSION fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within ten (10) days or such longer period as ODOT may authorize.
 - c. If CITY or COMMISSION fails to provide payment of its share of the cost of the Project.
 - d. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.
- 4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
- 5. If CITY fails to maintain facilities in accordance with the terms of this Agreement, ODOT, at its option, may maintain the facility and bill CITY, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
- 6. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
- 7. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT

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or COMMISSION with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

8. With respect to a Third Party Claim for which ODOT is jointly liable with COMMISSION (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by COMMISSION in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of COMMISSION on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of COMMISSION on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
9. With respect to a Third Party Claim for which COMMISSION is jointly liable with ODOT (or would be if joined in the Third Party Claim), COMMISSION shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of COMMISSION on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of COMMISSION on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. COMMISSION's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
10. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

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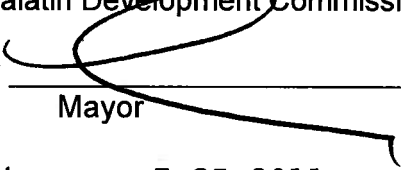
11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one Agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
12. This Agreement and attached exhibits constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby individually acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

COMMISSION/CITY/ODOT
Agreement No. 27831

CITY OF TUALATIN, by and through its
Tualatin Development Commission

By 
Mayor

Date 7-25-2011

By 
Recorder

Date 7-25-2011

APPROVED AS TO LEGAL SUFFICIENCY

By 
CITY/COMMISSION Counsel

Date 7/27/2011

CITY and COMMISSION Contact:

City of Tualatin
Kaaren Hofmann, Civil Engineer,
18876 SW Martinazzi Avenue
Tualatin, Oregon 97062
Phone: 503-691-3034
Email: khofmann@ci.tualatin.or.us

ODOT Contact:

Steven Schalk, District Engineering
Coordinator
6000 SW Raab Road
Portland, OR 97221
Phone: 503-229-5002
email: steven.b.schalk@odot.state.or.us,

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 1 Manager

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date _____

By _____
District 2A Manager

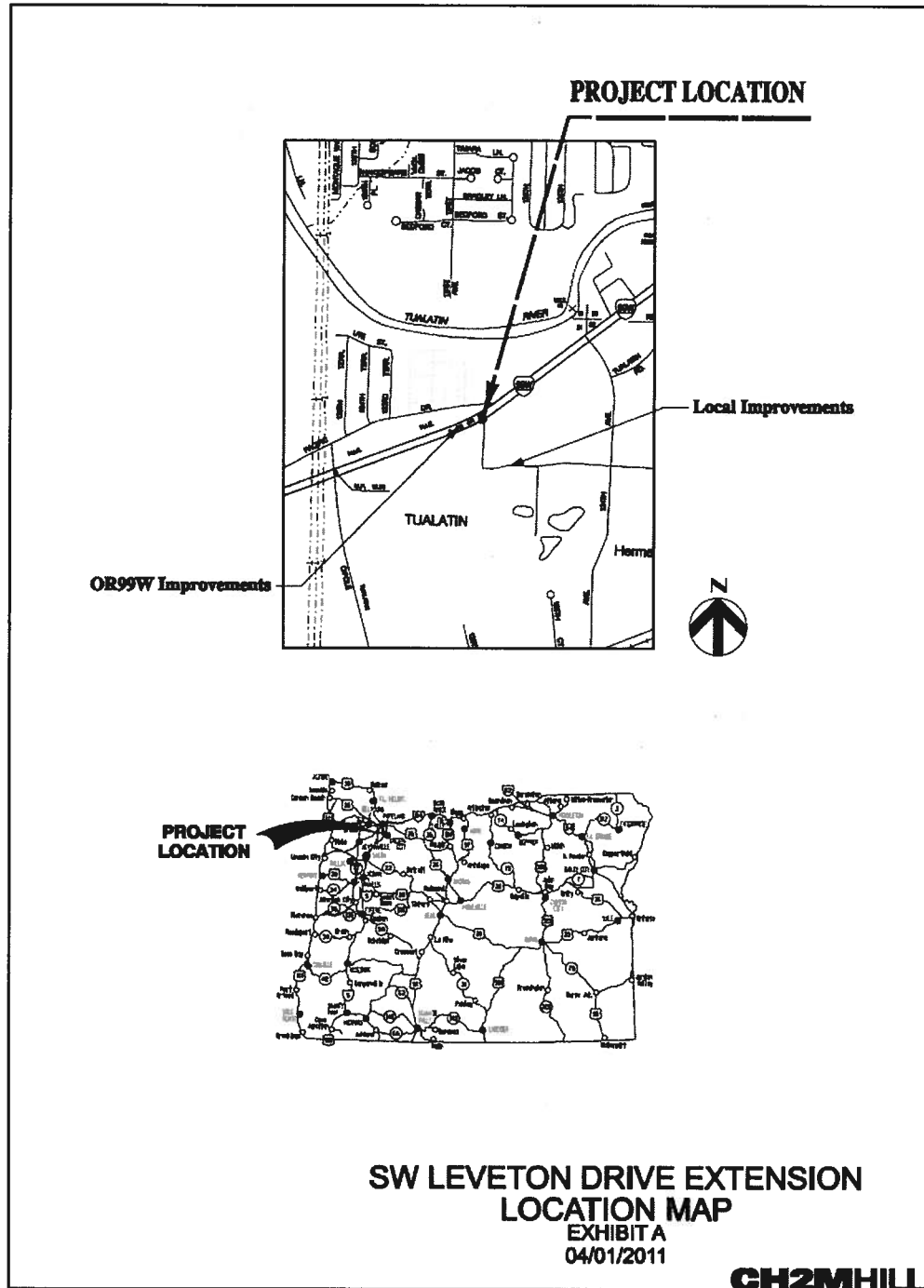
Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date: _____

EXHIBIT A – Project Location Map





STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator

FROM: Kaaren Hofmann, Civil Engineer
Alice Rouyer, Community Development Director

DATE: 07/25/2011

SUBJECT: Resolution Awarding the Bid for the SW Leveton Drive Extension Project

ISSUE BEFORE THE COMMISSION:

Awarding the SW Leveton Drive project to Westech Construction, Inc.

RECOMMENDATION:

Staff recommends that this project be awarded to Westech Construction, Inc. for \$3,248,892.90.

EXECUTIVE SUMMARY:

The scope of this project includes constructing SW Leveton Drive from the west terminus to the intersection with SW 130th Avenue. The project also includes construction of SW 130th Avenue and SW 128th Avenue.

The bids for this project were opened on Thursday, July 21st at 2:00 p.m. There were six bidders as follows:

Kodiak Pacific Construction	\$3,058,951.00
Westech Construction	\$3,248,892.90
Northwest Earthmovers, Inc.	\$3,372,468.60
Kerr Contractors	\$3,383,075.75
Bones Construction	\$3,464,975.25
Dirt & Aggregate, Inc.	\$3,912,774.05

The engineer's estimate is \$3,785,700.00.

Kodiak Pacific Construction was a non-responsive bidder at they did not submit their First Tier Subcontractor Disclosure Form. Therefore, Westech Construction, Inc is the lowest responsive bidder.

OUTCOMES OF DECISION:

Awarding of the contract will result in the following:

1. The proposed project will construct SW Leveton Drive, SW 130th Avenue and SW 128th Avenue in compliance with the Leveton Urban Renewal Plan.

Not awarding the contract will result in the following:

1. All work on the project will stop until a decision is made to re-bid the project.

FINANCIAL IMPLICATIONS:

There are adequate funds in the Leveton Tax Increment Fund.

Attachments: A - Vicinity Map
 Resolution



RESOLUTION NO. 594-11

RESOLUTION AWARDING THE BID FOR THE SW LEVETON
DRIVE PROJECT

WHEREAS the project was advertised in the *Daily Journal of Commerce* on July 1, 11 and 18, 2011; and

WHEREAS six proposals were received prior to the close of the bid period on July 21, 2011; and

WHEREAS Westech Construction, Inc. submitted the lowest responsible bid for the total project in the amount of \$3,248,892.90; and

WHEREAS there are funds available for this project in the Central Urban Renewal Fund.

BE IT RESOLVED BY THE DEVELOPMENT COMMISSION, CITY OF TUALATIN, OREGON, that:

Section 1. The contract is awarded to Westech Construction, Inc..

Section 2. The Chairman and Administrator are authorized to execute a contract with Westech Construction, Inc. in the amount of \$3,248,892.90.

Section 3. The Community Development Director is authorized to execute Change Orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 25th day of July, 2011.

TUALATIN DEVELOPMENT COMMISSION,
OREGON

By  _____
Chairman

ATTEST:

By  _____
Administrator

APPROVED AS TO LEGAL FORM


CITY ATTORNEY



STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator

FROM: Kaaren Hofmann, Civil Engineer
Alice Rouyer, Community Development Director

DATE: 07/25/2011

SUBJECT: Resolution Awarding the Bid for the Tualatin-Sherwood Road Landscaping Project

ISSUE BEFORE THE COMMISSION:

Awarding the Tualatin-Sherwood Road Landscaping project including all alternates to Brant Construction.

RECOMMENDATION:

Staff recommends that the bid be awarded to Brant Construction for the amount of \$949,759.00 per the attached resolution.

EXECUTIVE SUMMARY:

The scope of this project includes constructing landscaping, illumination and a new traffic signal on SW Tualatin-Sherwood Road. At the work session of March 28, 2011, the City Council gave direction to move forward with this project. An attached aerial shows the limits of the project; the improvements will start at the new gateway location and will end at the SW Boones Ferry Road intersection.

- The existing landscaping except for the trees will be removed and replaced with more native landscaping in keeping with the Ad-Hoc Committee's recommendation. Renderings of the cross-sections are attached.
- A median will be installed where the current 'extra turn lane' is. This will include curbs, irrigation and landscaping.
- Irrigation will be installed in all planter strips to allow for easier maintenance.
- Illumination will be installed to match the other lights in the downtown area. They will have a brighter light installed to provide for better light along the street which will also help improve safety in this area. This street section doesn't meet current safety standards.
- The existing lights in the median will remain but will be painted black to match the rest of the lighting.
- The signal at SW Tualatin-Sherwood Road and SW Martinazzi Avenue will be replaced with a signal that will match the other signals in the downtown area. At this intersection the sidewalk ramps will also be upgraded to meet current American's with Disabilities Act.

- The area for the gateway and in Triangle Park will be cleared and re-landscaped to work with the new gateway feature.

The bids for this project were opened on Tuesday, July 19th at 2:00 p.m. The bid results are as follows:

Contractor	Base Bid Amount	Alternative 1	Alternative 2	Total Construction
Brant Construction	\$897,659.00	\$40,000.00	\$12,100.00	\$949,759.00
Kodiak Pacific Construction	\$1,142,220.00	\$25,000.00	\$22,970.00	\$1,190,190.00

The engineer's estimate for the total construction costs was \$1,236,000.00.

OUTCOMES OF DECISION:

Awarding of the contract will result in the following: 1. Construction of the proposed project will construct SW Tualatin-Sherwood Road Landscaping in compliance with the Central Urban Renewal Plan and the Ad-Hoc Committee's recommendation.

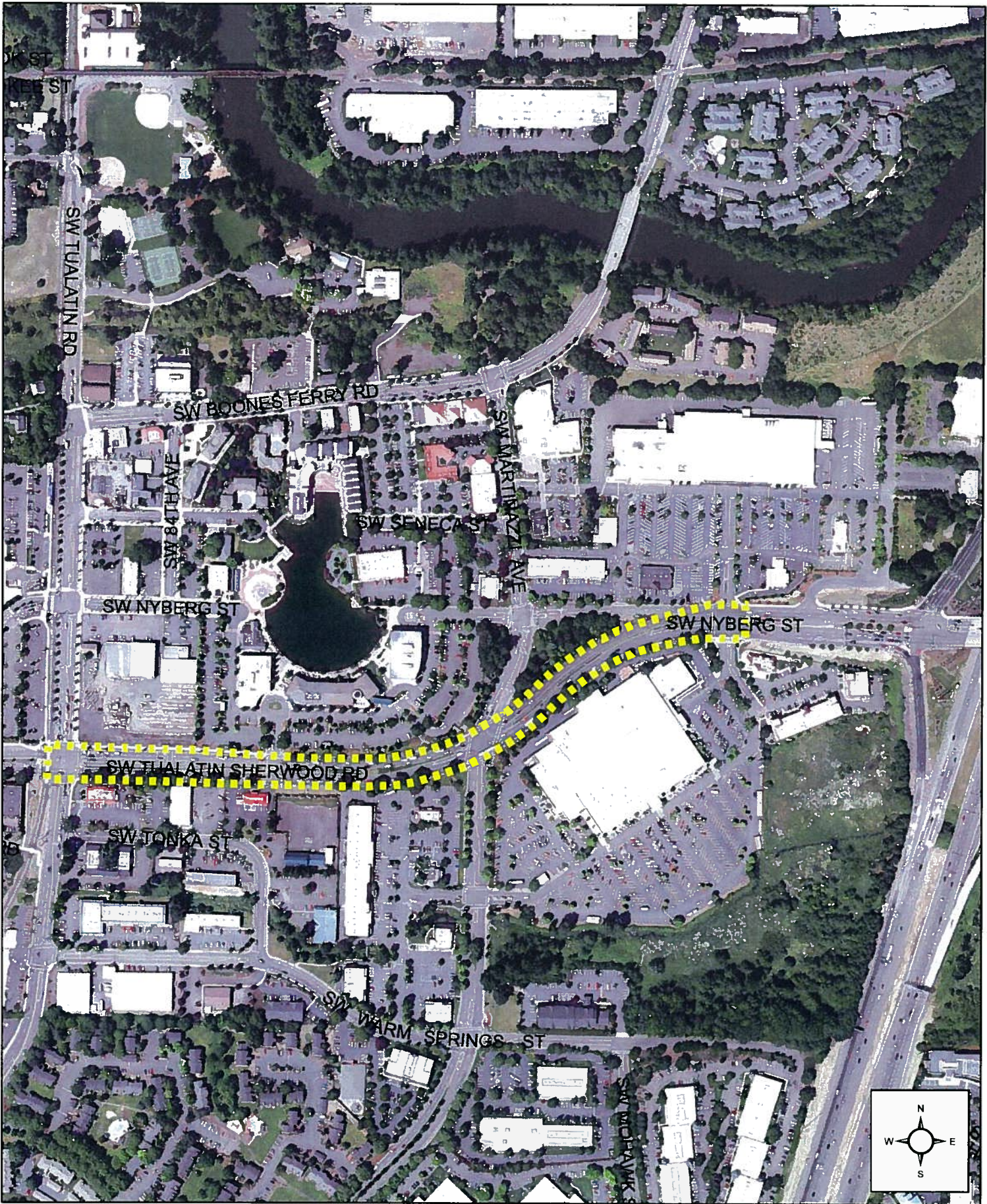
Not awarding the contract will result in the following: 1. All work on the project will stop until a decision is made to re-bid the project

FINANCIAL IMPLICATIONS:

There are adequate funds in the Central Tax Increment Fund.

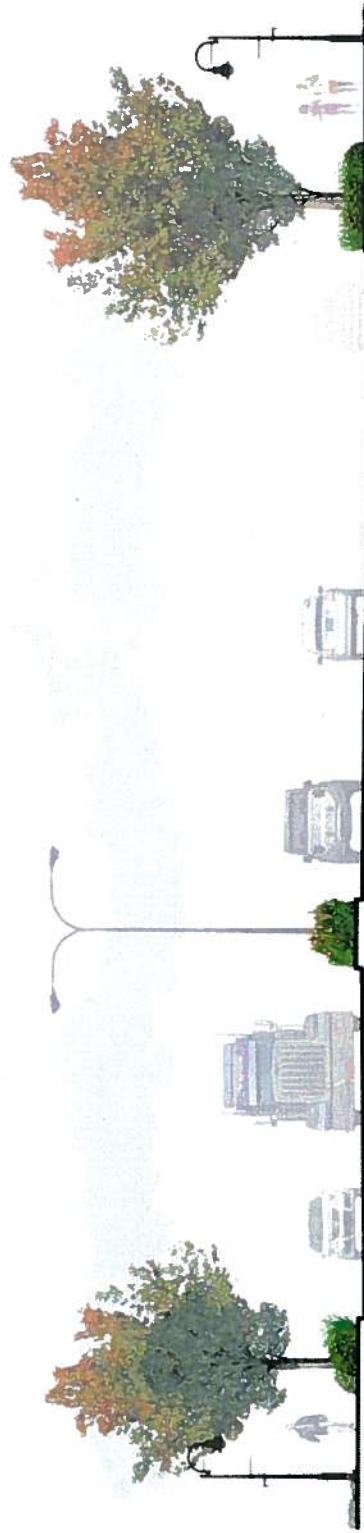
Attachments: A - Aerial
 B - Greenway Cross-sections
 C - Resolution
 D - PowerPoint Tualatin-Sherwood Rd Landscape

Project Area





Section A
Scale: 1/4" = 1'



Section B
Scale: 1/4" = 1'



Section C
Scale: 1/4" = 1'



RESOLUTION NO. 595-11

RESOLUTION AWARDING THE BID FOR THE SW TUALATIN-SHERWOOD ROAD LANDSCAPING PROJECT

WHEREAS the project was advertised in the *Daily Journal of Commerce* on June 29, July 5 and 12, 2011; and

WHEREAS two proposals were received prior to the close of the bid period on July 19, 2011; and

WHEREAS Brant Construction submitted the lowest responsible bid for the total project in the amount of \$949,759.00; and

WHEREAS there are funds available for this project in the Central Urban Renewal Fund.

BE IT RESOLVED BY THE DEVELOPMENT COMMISSION, CITY OF TUALATIN, OREGON, that:

Section 1. The contract is awarded to Brant Construction.

Section 2. The Chairman and Administrator are authorized to execute a contract with Brant Construction in the amount of \$949,759.00.

Section 3. The Community Development Director is authorized to execute Change Orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 25th day of July, 2011.

TUALATIN DEVELOPMENT COMMISSION,
OREGON

By _____
Chairman

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

ATTEST:

By  _____
Administrator



City of Tualatin

Presenters:

Kaaren Hofmann

Alice Rouyer

July 25, 2011

SW Tualatin- Sherwood Road Landscaping Project

Scope of Project

- Trees will be retained
- Existing landscaping removed and replaced with more native plants
- A median installed where the 'extra turn lane' is
- Irrigation installed in all planter strips
- Lighting installed to match the lights in the downtown area
- Existing lights in the median will remain but painted to match other lighting
- Signal at SW Tualatin-Sherwood Road and SW Martinazzi Avenue replaced to match other signals in the area.
- Sidewalk ramps upgraded
- Gateway area and Triangle Park cleared and re-landscaped

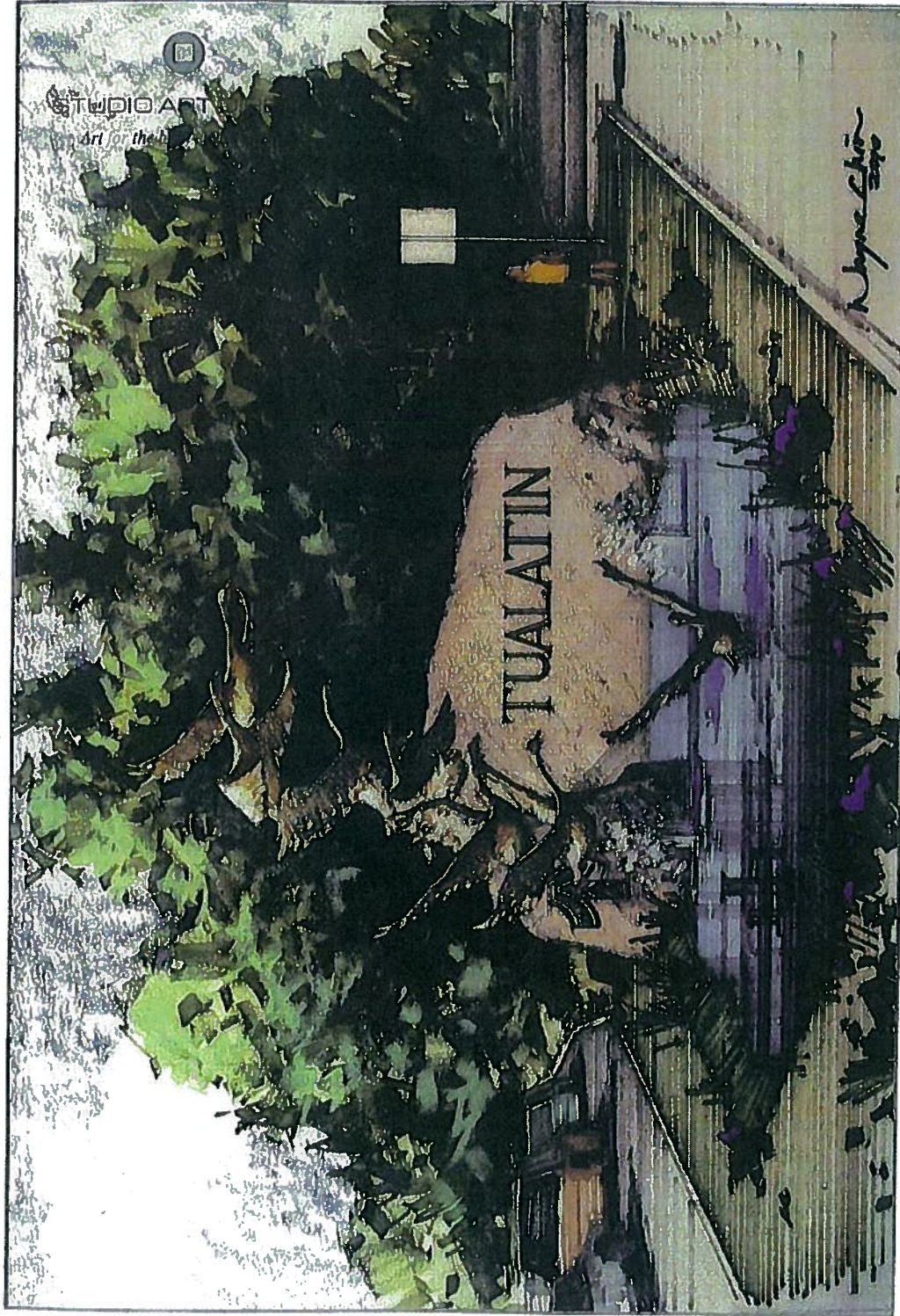


Spring 2009

Nature Greenway - Sections

SW Tualatin - Sherwood Road Landscape & Pedestrian Improvements

Mayer/Reed



FRONT VIEW DAY: Tualatin Gateway Feature & Monument Sign (Tualatin Community Totem)

You to scale

STUDIO ART DIRECT

Art for the built environment



7/25/11

Tualatin-Sherwood Road Landscaping

Next Steps

- Award bid July 2011
- Construction will start in August 2011 with expected completion in Winter 2012
- Pond and sign will be installed when gateway location is cleared
- Sculpture to be installed in December 2012