
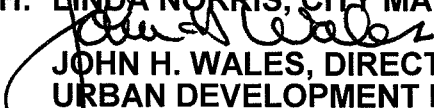


FOR COUNCIL MEETING OF: November 14, 2011  
AGENDA ITEM NO: 4.2 (a)

TO: MAYOR AND CITY COUNCIL  
THROUGH:  LINDA NORRIS, CITY MANAGER  
FROM:  JOHN H. WALES, DIRECTOR  
URBAN DEVELOPMENT DEPARTMENT

  
ROBERT D. CHANDLER, Ph.D., P.E.,  
INTERIM PUBLIC WORKS DIRECTOR

SUBJECT: MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION  
IMPROVEMENTS INITIATION OF EMINENT DOMAIN/CONDEMNATION  
PROCEEDINGS

**ISSUE:**

Shall the City Council adopt resolutions authorizing eminent domain proceedings to acquire right-of-way and easements from three properties located near the intersection of Market Street NE and Lancaster Drive NE?

**RECOMMENDATION:**

Staff recommends the City Council adopt the following resolutions authorizing eminent domain proceedings to acquire right-of-way and easements from three properties located near the intersection of Market Street NE and Lancaster Drive NE:

- a) Resolution No. 2011-71;
- b) Resolution No. 2011-72; and
- c) Resolution No. 2011-73.

**BACKGROUND:**

In November 2008, the City of Salem voters approved the Streets and Bridges General Obligation Bond Measure to fund transportation related improvement projects in Salem. The Market Street NE at Lancaster Drive NE Intersection Widening Project (Project) as shown in Attachment A was one of the projects identified for bond funding. The purpose of the project is to reduce congestion and improve safety at the intersection. The intersection widening will provide two left-turn lanes from northbound Lancaster Drive NE to westbound Market Street NE, and two left-turn lanes from eastbound Market Street NE to northbound Lancaster Drive NE.

Additionally, on Market Street NE east of Lancaster Drive NE, a second westbound through lane will be provided for a short distance. In order to reduce collisions and vehicle movement conflicts, a traffic separator will be provided along widened areas

north, south, and west of the intersection. Other improvements will include traffic signal revisions, new curbs, new sidewalks, and storm water modifications.

Design work started in the spring of 2009 and construction is planned for 2012. Staff invited affected property owners to meet individually and also invited all property owners, business owners, and neighborhood association members to attend a public informational meeting in the fall of 2009.

On March 8, 2010, Salem City Council adopted Resolution No. 2010-5 (Attachment B) declaring the necessity to acquire portions of property from 24 parcels adjacent to the Project.

Agreement has been reached with the majority of owners in the Project area; however, staff has been unable to reach agreement and or close with the property owners and others with a security interest for three parcels that will be impacted by the Project in early 2012. Due to a potentially lengthy legal process, staff needs to proceed with these property acquisitions to protect the project timeline.

### **FACTS AND FINDINGS:**

Project design is progressing and plans are now 90 percent complete. Utility work on the Project is expected to begin later this fall. Street improvements are scheduled to begin in April 2012. Acquisition of necessary right-of-way and easements, which began in spring of 2010, has been unsuccessful with three properties (Attachment C).

Negotiations with the three owners have included multiple letters, phone calls, and site visits in an attempt to reach an equitable agreement. While two of these owners are in agreement with City offers, title and other issues have been identified which can only be resolved through the court process. A brief summary of the circumstances surrounding the properties with title and other issues are as follows:

- File #10 owners Linda Denise Orr, Deborah Bancroft, and James L. McNeill - Agreement with owners in July 2011; however, staff has not been able to obtain a partial release from the mortgage lender. The lender is demanding a \$3,000 administrative fee in addition to all costs and expenses incurred by lender in connection with the proposed release and reconveyance, including without limitation, title and survey costs in advance. The lender has not responded to requests as to what those charges might total.
- Files #13-16 owner Wyant Heritage Square, LLC – Agreement with owner in August 2011; however, staff has concerns about obtaining a partial release and reconveyance for the land being acquired from the mortgage lender.
- Files #20-23 & 25 owner Metropolitan Life Company, a New York Corporation – Owner authorized Fred Meyer, Inc. (the master tenant) to lead negotiations on their behalf. Progress has been made in negotiations with Fred Meyer, Inc. and

their tenants on issues such as the relocation of vaults related to water service and fire suppression, and removing a drive through lane from Wells Fargo Bank and relocating an ATM, etc. Staff is still hopeful of reaching final agreement on all construction related and compensation issues; however, in the event that a final agreement cannot be reached with all interest holders, it is necessary to authorize the initiation of condemnation.

In order to maintain the project construction schedule, it is now necessary to initiate legal proceedings in Marion County Circuit Court to determine just compensation and to provide the City with immediate possession, which will allow preliminary construction activities to commence.

**Attachment A: Project Area Map**

**Attachment B: Resolution Authorizing Acquisitions**

**Attachment C: Unresolved Property Acquisitions Map**

Report Prepared by: John Gibson, Real Property Services Specialist

G:\URBANDEVADMINISTRATION\Final Council Staff Reports\2011\Nov 14\Market-Lancaster Condemnations\Council Staff Rpt draft Reso's Condemn Market - Lancaster Proj JG.DOC

# PROJECT AREA MAP

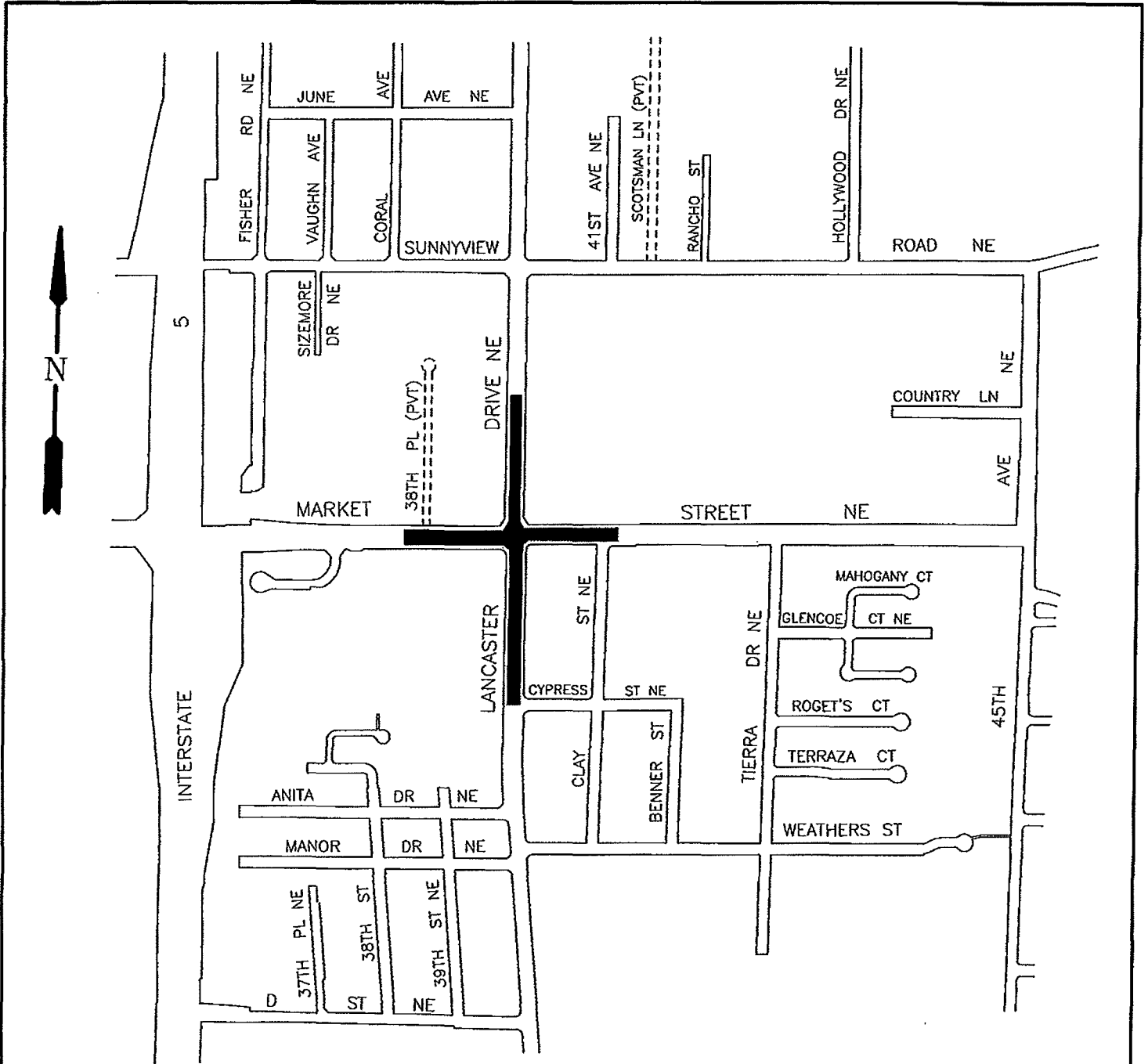
MARKET STREET NE AT LANCASTER DRIVE NE  
INTERSECTION WIDENING PN 709502

SHEET PREPARED BY:



CITY OF SALEM  
DEPT. OF PUBLIC WORKS  
555 LIBERTY STREET SE  
SALEM OREGON 97301

BY: G Sc 10-04-11



## PROJECT AREA

PROJECT LIMITS

ATTACHMENT A

**RESOLUTION NO. 2010-5**

**A RESOLUTION AUTHORIZING NEGOTIATION FOR THE ACQUISITION OF RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION AND PERMANENT EASEMENTS FOR THE CONSTRUCTION OF THE MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION IMPROVEMENT PROJECT**

**Whereas**, for the purposes of the Market Street NE at Lancaster Drive NE Intersection Improvement Project, it is necessary for the City of Salem to acquire right-of-way and temporary construction and permanent easements over certain real property depicted on "Exhibit A," which is attached hereto and incorporated herein by reference ("the Properties"); and

**Whereas**, construction of the Market Street NE at Lancaster Drive NE Intersection Improvement Project is a public purpose for which the City is authorized by law to acquire interests in real property;

**NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:**

**Section 1.** It is necessary, expedient, and in the public interest that the City of Salem acquire right-of-way and temporary construction and permanent easements over the Properties in conjunction with the Market Street NE at Lancaster Drive NE Intersection Improvement Project.

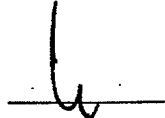
**Section 2.** Real estate staff is authorized to negotiate with the owners of the Properties identified on "Exhibit B," which is attached hereto and incorporated herein by reference, as to the just compensation to be paid therefor.

**Section 3.** This resolution is effective upon adoption.

ADOPTED by the City Council this 8<sup>th</sup> day of March, 2010.

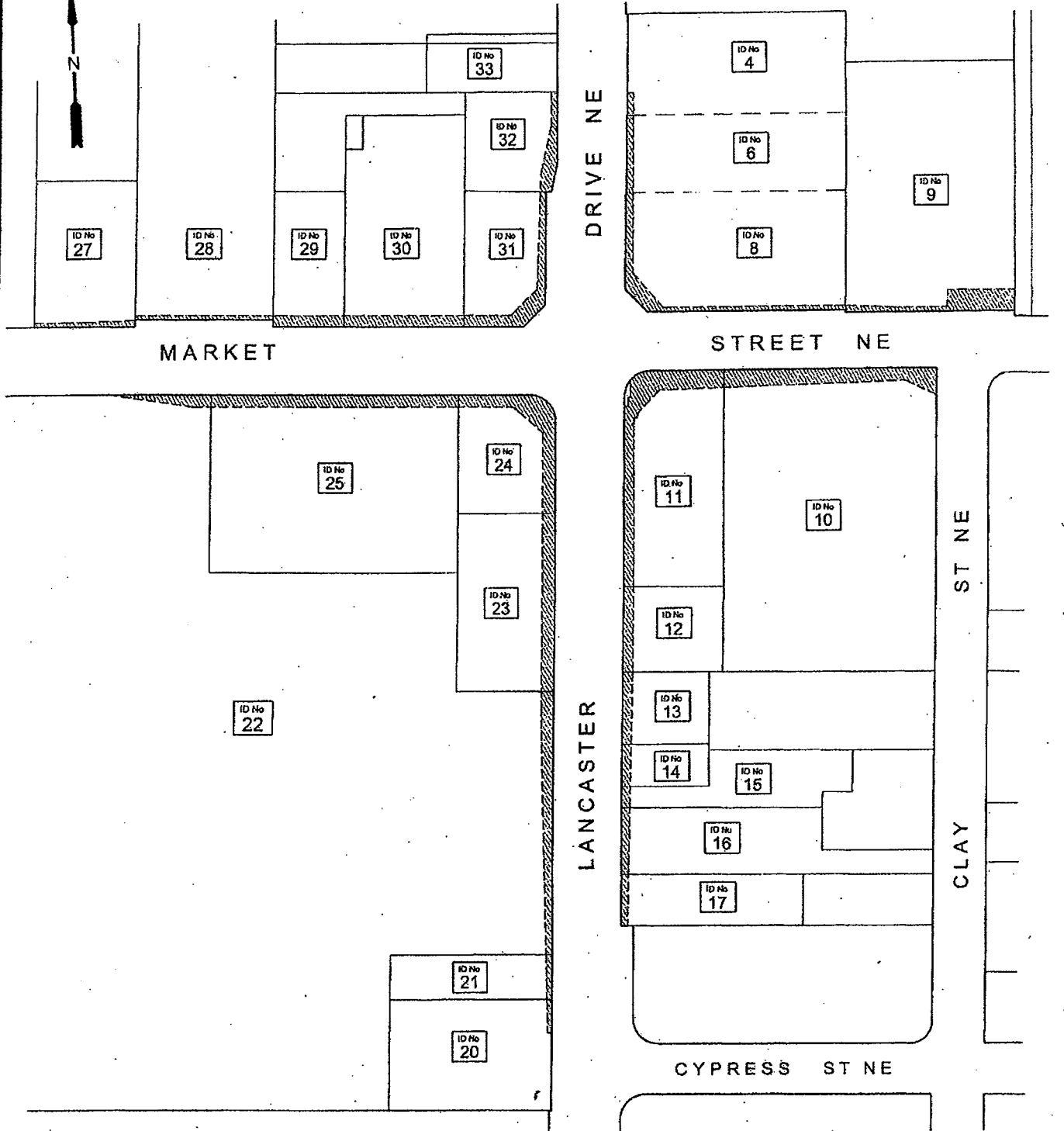
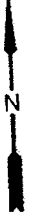
ATTEST:

  
City Recorder

Approved by City Attorney: 

# EXHIBIT A: IDENTIFIED PROPERTIES

LANCASTER DRIVE NE AT MARKET STREET NE  
INTERSECTION WIDENING  
PN 709502



SHEET PREPARED BY:



CITY OF SALEM  
DEPT. OF PUBLIC WORKS  
555 LIBERTY STREET SE  
SALEM OREGON 97303

BY: G Sc 02-22-10

## LEGEND



APPROXIMATE  
ACQUISITION AREA

Market Street NE at Lancaster Drive NE Intersection Improvements  
Owner of Record and Type of Acquisition

Project ID No.	Property Owner	Taxmap/Lot No.	Right-of-way	Permanent Easement	Temporary Construction Easement
4	Schwab Properties, LTD	072W19BD01100		X	X
6	Schwab Properties, LTD	072W19BD01101	X	X	X
8	Schwab Properties, LTD	072W19BD01200	X	X	X
9	Bible Center Fellowship	072W19BD00700	X	X	X
10	Orr, Bancroft, and McNeill	072W19BD02400	X	X	X
11	Orr, Bancroft, and McNeill	072W19BD01300	X	X	X
12	Bruce W. & Paula L. Boer	072W19BD01400	X	X	X
13	Wyant Heritage Square LLC	072W19BD01500	X	X	X
14	Wyant Heritage Square LLC	072W19BD01600	X	X	X
15	Wyant Heritage Square LLC	072W19BD01700	X	X	X
16	Wyant Heritage Square LLC	072W19BD01800	X	X	X
17	Wyant Family LLC	072W19BD01900	X	X	X
20	Metropolitan Life Insurance Co.	072W19BC03901	X	X	X
21	Metropolitan Life Insurance Co.	072W19BC03900	X	X	X
22	Metropolitan Life Insurance Co.	072W19BC03500	X	X	X
23	Metropolitan Life Insurance Co. and Wells Fargo Bank	072W19BC03800	X	X	X
24	Realty Income Corporation	072W19BC03700	X	X	X
25	Metropolitan Life Insurance Co.	072W19BC03600	X	X	X
27	Gilbertson Living Trust	072W19BC01201	X	X	X
28	Brian L. Fitterer	072W19BB09200	X	X	X
29	Charles E. and Wilma J. Wyant	072W19BC00800	X	X	X
30	Charles E. and Wilma J. Wyant	072W19BC00700	X	X	X
31	Powell Distributing Company, Inc.	072W19BC00600	X	X	X
32	Powell Distributing Company, Inc.	072W19BC00500	X	X	X

# UNRESOLVED PROPERTY ACQUISITIONS MAP

MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION WIDENING PN 709502

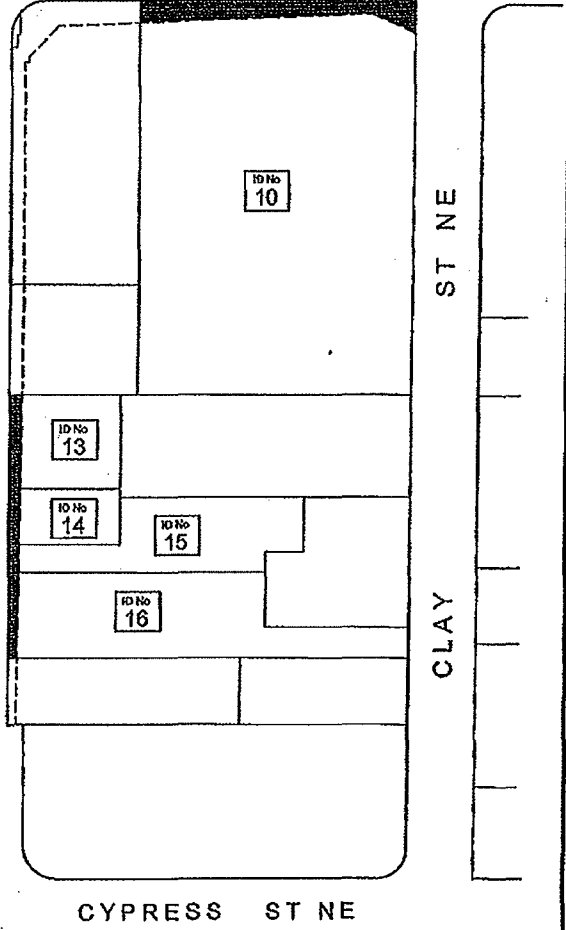
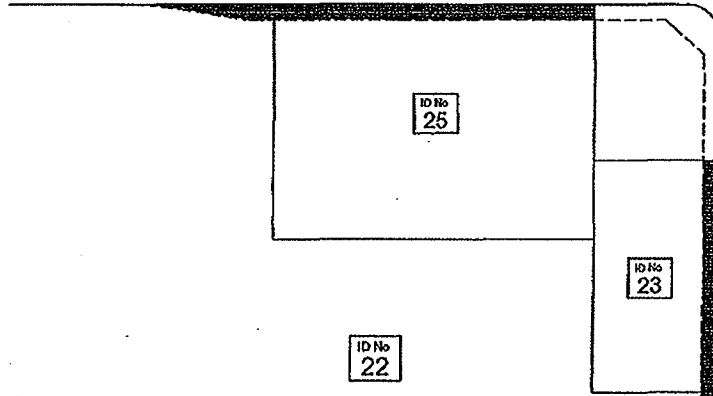
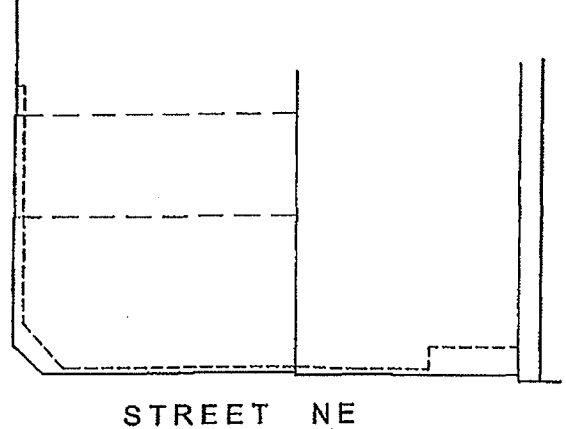
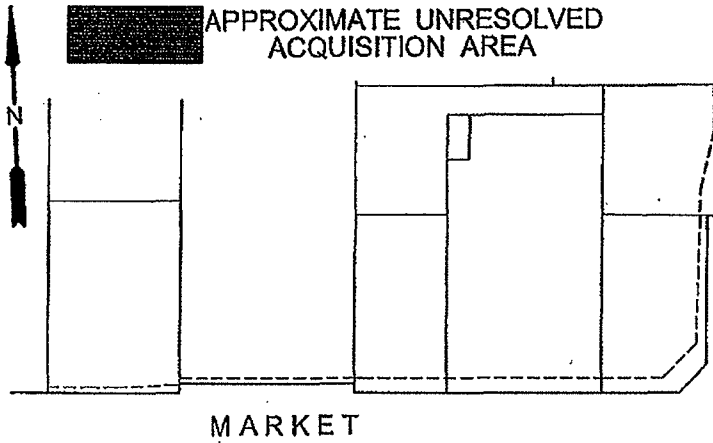
SHEET PREPARED BY:



CITY OF SALEM  
DEPT. OF PUBLIC WORKS  
655 LIBERTY STREET SE  
SALEM OREGON 97301

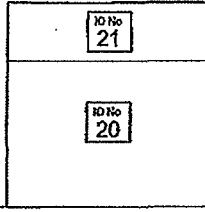
BY: G So 10-07-11

## LEGEND



MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION IMPROVEMENTS OWNER OF RECORD

PROJ. ID No.	PROPERTY OWNER	TAXMAP/LOT No.
10	Orr, Bancroft, and McNeill	072W19BD02400
13	Wyant Heritage Square LLC	072W19BD01500
14	Wyant Heritage Square LLC	072W19BD01600
15	Wyant Heritage Square LLC	072W19BD01700
16	Wyant Heritage Square LLC	072W19BD01800
20	Metropolitan Life Insurance Co.	072W19BC03901
21	Metropolitan Life Insurance Co.	072W19BC03900
22	Metropolitan Life Insurance Co.	072W19BC03500
23	Metropolitan Life Insurance Co. and Wells Fargo Bank	072W19BC03600
25	Metropolitan Life Insurance Co.	072W19BC03800



**ATTACHMENT C**

**RESOLUTION NO. 2011-71**

**A RESOLUTION AUTHORIZING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAY, EASEMENTS AND ALL PROPERTY RIGHTS NECESSARY FOR THE MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION IMPROVEMENT PROJECT**

**Whereas, the City of Salem (the City) has the authority and responsibility of certain utility systems, streets and roads for commerce, convenience and to adequately serve the public; and**

**Whereas, the City Council by Resolution No. 2010-5 deemed it necessary and expedient to acquire right-of-way and easements over certain real property in conjunction with the Market Street NE at Lancaster Drive NE Intersection Improvement Project (the Project) in Salem, Oregon; and**

**Whereas, the City has attempted to acquire a portion of property owned by Linda Denise Orr, Deborah Bancroft, and James L. McNeill, located at 4040 Market Street NE, Salem, Marion County, Oregon, the property being more particularly described in "Exhibits 1-3" and depicted on "Exhibit 4," which are attached hereto and incorporated herein by negotiation, purchase and agreement, but has been unable to obtain an agreement with the owners upon the compensation to be paid therefore; and**

**Whereas, the Project for which the property is required and is being acquired is necessary in the public interest, and the same has 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;**

**NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:**

**Section 1.** The City Attorney is authorized to commence and prosecute to final determination such eminent domain proceedings as may be necessary for the acquisition by the City of the property, more particularly described in "Exhibits 1-3" and depicted on "Exhibit 4," and to seek immediate possession thereof.

**Section 2.** This resolution is effective upon adoption.

ADOPTED by the City Council this 14th day of November, 2011.

ATTEST:

City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked by: J. Gibson

## Exhibit 1

### Right-of-way Acquisition

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Linda Denise Orr, as to an undivided 33-1/3% interest; Deborah Bancroft, as to an undivided 33-1/3% interest; and James L. McNeill, as to an undivided 33-1/3% interest; as tenants in common, recorded in Reel 2747, Page 356, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the south side of Market Street NE Resolved Center Line (East Portion), which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

#### Market Street NE Resolved Center Line (East Portion):

Beginning at a 3" brass cap at Market Street NE Resolved Center Line Station 0+00; said brass cap being South 02° 02' 11" West 1354.78 feet from the southwest corner of Donation Land Claim No. 41 and marking the point of intersection with the Lancaster Drive NE Resolved Center Line as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence:  
along Market Street NE Resolved Center Line South 88° 22' 01" East 2644.16 feet to an iron rod in 45<sup>th</sup> Avenue NE.

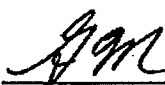
Basis of bearings as per Marion County Survey No. 37702.

The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the South Side of Market Street NE Resolved Center Line (East Portion)
1+45 to 3+76	45.77' on a straight line to 39'
3+76 to 4+15	39' on a straight line to 63.59'

SAVE AND EXCEPT that portion of said strip lying within public roads.

The parcel of land to which this description applies contains 3,191 square feet or 0.0733 acres of land, more or less.

Checked By:   
Project No.: 709502-10  
October 19, 2011

**Exhibit 2**

**Temporary Construction Easement**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Linda Denise Orr, as to an undivided 33-1/3% interest; Deborah Bancroft, as to an undivided 33-1/3% interest; and James L. McNeill, as to an undivided 33-1/3% interest; as tenants in common, recorded in Reel 2747, Page 356, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the south side of Market Street NE Resolved Center Line (East Portion), which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Market Street NE Resolved Center Line (East Portion):**

Beginning at a 3" brass cap at Market Street NE Resolved Center Line Station 0+00; said brass cap being South 02° 02' 11" West 1354.78 feet from the southwest corner of Donation Land Claim No. 41 and marking the point of intersection with the Lancaster Drive NE Resolved Center Line as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence:  
along Market Street NE Resolved Center Line South 88° 22' 01" East 2644.16 feet to an iron rod in 45<sup>th</sup> Avenue NE.

Basis of bearings as per Marion County Survey No. 37702.


The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the South Side of Market Street NE Resolved Center Line (East Portion)
1+40 to 3+74.62	50.92' on a straight line to 44.04'
3+74.62 to 4+08	44.04' on a straight line to 65.09'

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 1.

The parcel of land to which this description applies contains 1,268 square feet or 0.0291 acres of land, more or less.

Checked By:   
Project No.: 709502-10  
October 19, 2011

**Exhibit 3**

**Public Utility Easement**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Linda Denise Orr, as to an undivided 33-1/3% interest; Deborah Bancroft, as to an undivided 33-1/3% interest; and James L. McNeill, as to an undivided 33-1/3% interest; as tenants in common, recorded in Reel 2747, Page 356, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the south side of Market Street NE Resolved Center Line (East Portion), which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Market Street NE Resolved Center Line (East Portion):**

Beginning at a 3" brass cap at Market Street NE Resolved Center Line Station 0+00; said brass cap being South 02° 02' 11" West 1354.78 feet from the southwest corner of Donation Land Claim No. 41 and marking the point of intersection with the Lancaster Drive NE Resolved Center Line as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence:  
along Market Street NE Resolved Center Line South 88° 22' 01" East 2644.16 feet to an iron rod in 45<sup>th</sup> Avenue NE.

Basis of bearings as per Marion County Survey No. 37702.


The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the South Side of Market Street NE Resolved Center Line (East Portion)
1+50 to 3+66	47.62' on a straight line to 41.29'
3+66	41.29' on a straight line to 49.3'
3+66 to 3+87.58	49.3' on a straight line to 48.67'
3+87.58 to 4+05	48.67' on a straight line to 59.65'

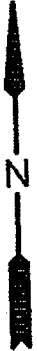
SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 1.

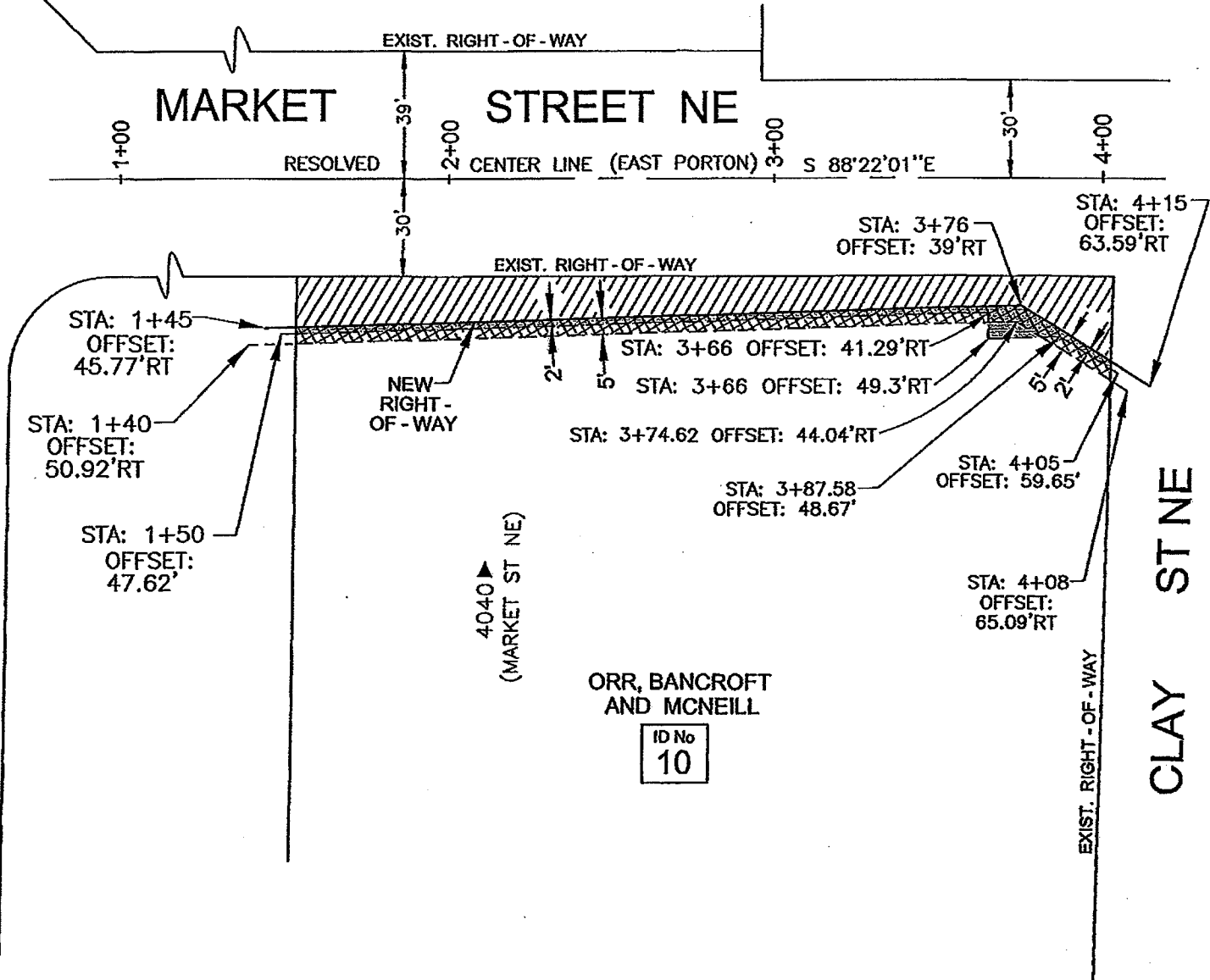
The parcel of land to which this description applies contains 631 square feet or 0.0145 acres of land, more or less.

Checked By:   
Project No.: 709502-10  
October 19, 2011

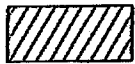
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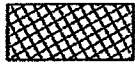
LANCASTER DR NE



CLAY ST NE



**RIGHT - OF - WAY**  
(3191 SQ. FT.)



**TEMPORARY CONSTRUCTION EASEMENT**  
(1268 SQ. FT.)



**PUBLIC UTILITY EASEMENT**  
(631 SQ. FT.)

**LANCASTER DRIVE NE AT MARKET STREET NE INTERSECTION WIDENING**

**PROPERTY ID#** 10  
 4040 MARKET STREET NE  
 SALEM, OR 97301  
 TAX MAP: 072W19BD  
 TAX LOT: 02400  
 SECTION 19, TOWNSHIP 7 SOUTH  
 RANGE 2 WEST, WILL. MERIDIAN  
 MARION COUNTY, OREGON  
 REEL 2747 PAGE 356

**CITY OF SALEM  
DEPARTMENT OF  
PUBLIC WORKS**

**ACQUISITION  
MAP**

OWNER  
NAME/  
ADDRESS

**ORR, BANCROFT  
AND MCNEILL**  
2262 MCGILCHRIST ST SE, SUITE 200  
SALEM, OR 97302

**P.N. 709502**

BY: GSC DATE: 10-19-11

**RESOLUTION NO. 2011-72**

**A RESOLUTION AUTHORIZING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAY, EASEMENTS AND ALL PROPERTY RIGHTS NECESSARY FOR THE MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION IMPROVEMENT PROJECT**

**Whereas**, the City of Salem (the City) has the authority and responsibility of certain utility systems, streets and roads for commerce, convenience and to adequately serve the public; and

**Whereas**, the City Council by Resolution No. 2010-5 deemed it necessary and expedient to acquire right-of-way and easements over certain real property in conjunction with the Market Street NE at Lancaster Drive NE Intersection Improvement Project (the Project) in Salem, Oregon; and

**Whereas**, the City has attempted to acquire a portion of property owned by Wyant Heritage Square LLC, located at 1570–1630 Lancaster Drive NE, Salem, Marion County, Oregon, the property being more particularly described in “Exhibits 1-3” and depicted on “Exhibit 4,” which are attached hereto and incorporated herein by negotiation, purchase and agreement, but has been unable to obtain an agreement with the owners upon the compensation to be paid therefore; and

**Whereas**, the Project for which the property is required and is being acquired is necessary in the public interest, and the same has 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;

**NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:**

**Section 1.** The City Attorney is authorized to commence and prosecute to final determination such eminent domain proceedings as may be necessary for the acquisition by the City of the property, more particularly described in “Exhibits 1-3” and depicted on “Exhibit 4,” and to seek immediate possession thereof.

**Section 2.** This resolution is effective upon adoption.

**ADOPTED** by the City Council this 14th day of November, 2011.

**ATTEST:**

City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked by: J. Gibson

Exhibit 1

**Right-of-way Acquisition**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Wyant Heritage Square LLC, an Oregon limited liability company, recorded in Reel 2370, Page 495, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the east side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Lancaster Drive NE Resolved Center Line:**

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating.  
Basis of bearings as per Marion County Survey No. 37702.

The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the East Side of Lancaster Drive NE Resolved Center Line
74+90 to 76+95	43.09' on a straight line to 46.5'
76+95 to 77+50	46.5'

SAVE AND EXCEPT that portion of said strip lying within public roads.

The parcel of land to which this description applies contains 1,235 square feet or 0.0284 acres of land, more or less.

Checked By: AGM  
Project No.: 709502-13, 14, 15, and 16  
October 19, 2011

**Exhibit 2**

**Temporary Construction Easement**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Wyant Heritage Square LLC, an Oregon limited liability company, recorded in Reel 2370, Page 495, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the east side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Lancaster Drive NE Resolved Center Line:**

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating.  
Basis of bearings as per Marion County Survey No. 37702.

The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the East Side of Lancaster Drive NE Resolved Center Line
74+95 to 76+94.96	48.17' on a straight line to 51.5'
76+94.96 to 77+45	51.5'

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 1.

FURTHER SAVE AND EXCEPT that portion of said strip lying within the footprint of existing buildings.

The parcel of land to which this description applies contains 1,194 square feet or 0.0274 acres of land, more or less.


Checked By:   
Project No.: 709502-13, 14, 15, and 16  
October 19, 2011

Exhibit 3

Public Utility Easement

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in that deed to Wyant Heritage Square LLC, an Oregon limited liability company, recorded in Reel 2370, Page 495, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the east side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Lancaster Drive NE Resolved Center Line:**

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating.  
Basis of bearings as per Marion County Survey No. 37702.

The width in feet of the strip of land referred to above is as follows:

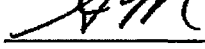
Station to Station	Width on the East Side of Lancaster Drive NE Resolved Center Line
74+95 to 75+03	45.17' on a straight line to 45.31'
75+03	45.31' on a straight line to 44.70'
75+03 to 75+73	44.70'
75+73	44.70' on a straight line to 46.47'
75+73 to 76+19	46.47' on a straight line to 47.24'
76+19	47.24' on a straight line to 54.24'
76+19 to 76+25	54.24' on a straight line to 47.34'
76+25 to 76+95	47.34' on a straight line to 47.50'
76+95 to 77+18	47.50'
77+18	47.50' on a straight line to 48.50'
77+18 to 77+45	48.50'

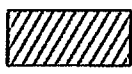
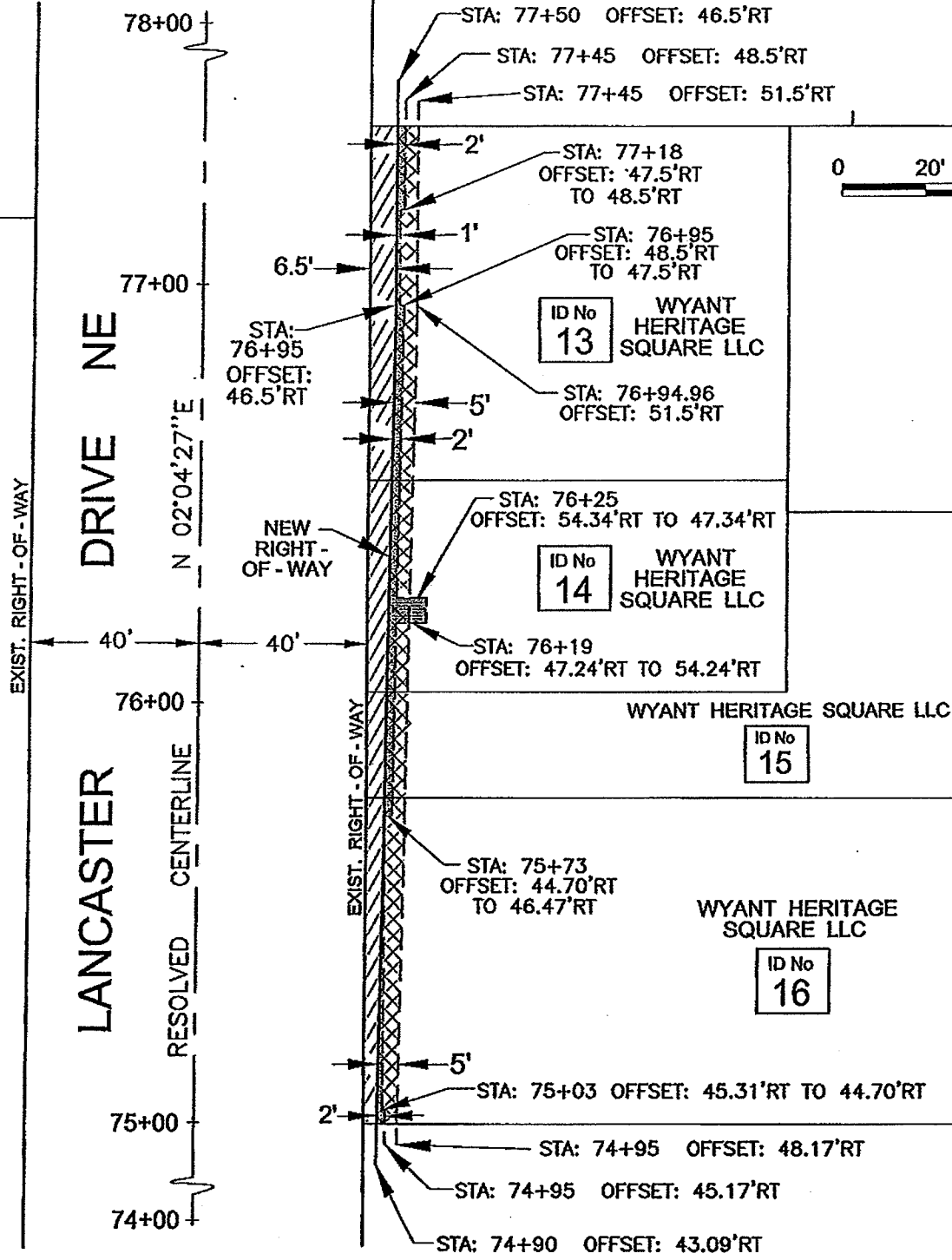
Checked By: AM  
Project No.: 709502-13, 14, 15, and 16  
October 19, 2011

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 1.

The parcel of land to which this description applies contains 414 square feet or 0.0095 acres of land, more or less.

Checked By:   
Project No.: 709502-13, 14, 15, and 16  
October 19, 2011



**RIGHT - OF - WAY**  
(1235 SQ. FT.)



**TEMPORARY CONSTRUCTION EASEMENT**  
(1194 SQ. FT.)



**PUBLIC UTILITY EASEMENT**  
(414 SQ. FT.)

**LANCASTER DRIVE NE  
AT MARKET STREET NE  
INTERSECTION WIDENING**

**PROPERTY ID#** 13 14 15 16  
 1570 - 1630 LANCASTER DR NE  
 SALEM, OR 97301  
 TAX MAP: 072W19BD  
 TAX LOTS: 01500, 01600, 01700 AND 01800  
 SECTION 19, TOWNSHIP 7 SOUTH  
 RANGE 2 WEST, WILL. MERIDIAN  
 MARION COUNTY, OREGON  
 REEL 2370 PAGE 495

**CITY OF SALEM  
DEPARTMENT OF  
PUBLIC WORKS**

**ACQUISITION  
MAP**

**OWNER NAME/  
ADDRESS**  
**WYANT HERITAGE  
SQUARE LLC**  
 PO BOX 17008  
 SALEM, OR 97305

**P.N. 709502**  
 BY: GSC DATE: 10-19-11

**RESOLUTION NO. 2011-73**

A RESOLUTION AUTHORIZING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAY, EASEMENTS AND ALL PROPERTY RIGHTS NECESSARY FOR THE MARKET STREET NE AT LANCASTER DRIVE NE INTERSECTION IMPROVEMENT PROJECT

**Whereas**, the City of Salem (the City) has the authority and responsibility of certain utility systems, streets and roads for commerce, convenience and to adequately serve the public; and

**Whereas**, the City Council by Resolution No. 2010-5 deemed it necessary and expedient to acquire right-of-way and easements over certain real property in conjunction with the Market Street NE at Lancaster Drive NE Intersection Improvement Project (the Project) in Salem, Oregon; and

**Whereas**, the City has attempted to acquire a portion of property owned by Metropolitan Life Insurance Company, located at 3740, 3820 and 3950 Market Street NE, continuing with 1501 and 1565 Lancaster Drive NE, Salem, Marion County, Oregon, the property being more particularly described in "Exhibits 1-3" and "Exhibits 5-9," and depicted on "Exhibit 4" and "Exhibit 10," which are attached hereto and incorporated herein by negotiation, purchase and agreement, but has been unable to obtain an agreement with the owners upon the compensation to be paid therefore; and

**Whereas**, the Project for which the property is required and is being acquired is necessary in the public interest, and the same has 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;

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

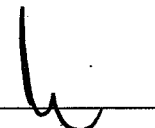
**Section 1.** The City Attorney is authorized to commence and prosecute to final determination such eminent domain proceedings as may be necessary for the acquisition by the City of the property, more particularly described in "Exhibits 1-3" and "Exhibits 5-9," and depicted on "Exhibit 4" and "Exhibit 10," and to seek immediate possession thereof.

**Section 2.** This resolution is effective upon adoption.

ADOPTED by the City Council this 14th day of November, 2011.

ATTEST:

City Recorder

Approved by City Attorney: 

Checked by: J. Gibson





Exhibit 3

**Public Utility Easement**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described in Tract I and Tract II in that deed to Metropolitan Life Insurance Company, a New York corporation, recorded in Reel 508, Page 238, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the south side of Market Street NE Resolved Center Line (West Portion), which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Market Street NE Resolved Center Line (West Portion):**

Beginning at a point designated as 47+00 on Market Street NE Resolved Center Line as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; said point of beginning being South 02° 02' 11" West 1354.78 feet, South 01° 54' 12" West 17.31 feet and North 88° 02' 13" West 660.49 feet from a 3" brass cap marking the southwest corner of Donation Land Claim No. 41; and running thence:  
along Market Street NE Resolved Center Line South 88° 02' 13" East 660.49 feet to a 3" brass cap (Station 53+60.49), and there terminating.  
Basis of bearings as per Marion County Survey No. 37702.


The width in feet of the strip of land referred to above is as follows:

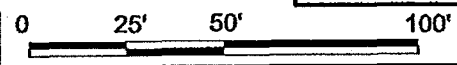
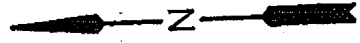
Station to Station	Width on the South Side of Market Street NE (West Portion ) Resolved Center Line
48+20 to 48+94.80	36.04' on a straight line to 51'
48+94.80 to 52+15	51'

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 1.

The parcel of land to which this description applies contains 725 square feet or 0.01664 acres of land, more or less.

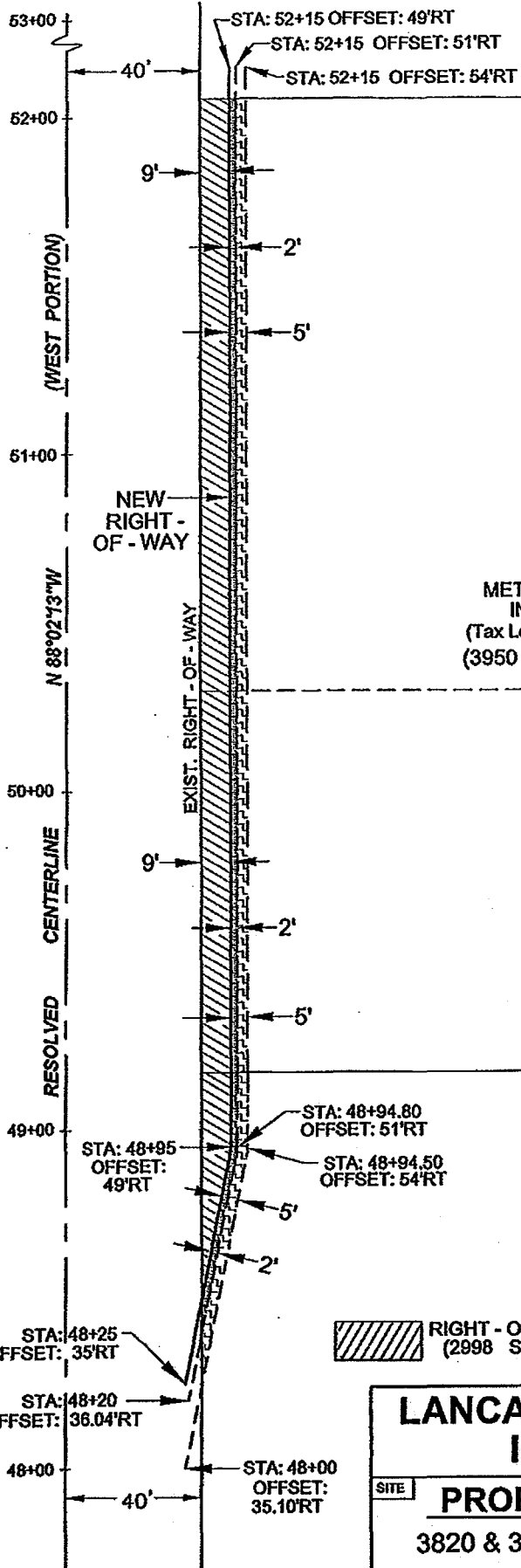
Checked By:   
Project No.: 709502-22 and 25  
October 25, 2011



**STREET NE**  
(WEST PORTION)

**MARKET**  
RESOLVED CENTERLINE

EXIST. RIGHT-OF-WAY



**TRACT II**  
(Reel 508, Page 238)

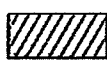
ID No  
**25**

**METROPOLITAN LIFE INSURANCE CO**  
(Tax Lot: 072W19BC03600)  
(3950 Market Street NE)

**TRACT I**  
(Reel 508, Page 238)

ID No  
**22**

**METROPOLITAN LIFE INSURANCE CO**  
(Tax Lot: 072W19BC03500)  
(3820 Market Street NE)



**RIGHT - OF - WAY**  
(2998 SQ. FT.)



**PUBLIC UTILITY EASEMENT**  
(725 SQ. FT.)



**TEMPORARY CONSTRUCTION EASEMENT**  
(1848 SQ. FT.)

**LANCASTER DR NE AT MARKET ST NE INTERSECTION WIDENING**

SITE **PROPERTY ID#** **22** **25**

3820 & 3950 Market St NE  
TAX MAP: 072W19BC  
TAX LOTS: 03500 & 3600  
SECTION 19, TOWNSHIP 7 SOUTH  
RANGE 2 WEST, WILL. MERIDIAN  
MARION COUNTY, OREGON  
REEL 508 PAGE 238

CITY OF SALEM  
DEPARTMENT OF  
PUBLIC WORKS

**ACQUISITION MAP**

P.N. 709502

BY: GSC | DATE: 11-03-11

OWNER NAME/ ADDRESS

**METROPOLITAN LIFE INSURANCE CO.**  
C/O GREG HILL  
DIRECTOR REAL ESTATE INVESTMENTS  
425 MARKET ST. SUITE 1050  
SAN FRANCISCO, CA 94105



Exhibit 6

Temporary Construction Easement

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described as Tract II, Tract III, Tract VII, and Tract VIII in that deed to Metropolitan Life Insurance Company, a New York corporation, recorded in Reel 508, Page 238, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the west side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

Lancaster Drive NE Resolved Center Line:

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating. Basis of bearings as per Marion County Survey No. 37702.

The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the West Side of Lancaster Drive NE Resolved Center Line
73+15	35' on a straight line to 45'
73+15 to 73+23.94	45'
73+23.94 to 76+94.94	45' on a straight line to 54.5'
76+94.94 to 79+30	54.5'

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 5.

The parcel of land to which this description applies contains 3,050 square feet or 0.07002 acres of land, more or less.

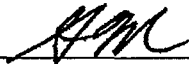
Checked By:   
Project No.: 709502-20, 21, 22, and 23  
October 25, 2011

Exhibit 7

Public Utility Easement

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described as Tract II, Tract III, Tract VII, and Tract VIII in that deed to Metropolitan Life Insurance Company, a New York corporation, recorded in Reel 508, Page 238, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the west side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

Lancaster Drive NE Resolved Center Line:

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating. Basis of bearings as per Marion County Survey No. 37702.

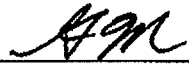
The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the West Side of Lancaster Drive NE Resolved Center Line
73+15	35' on a straight line to 42'
73+15 to 73+23.97	42'
73+23.97 to 76+94.97	42' on a straight line to 51.5'
76+94.97 to 78+03	51.5'
78+03	51.5' on a straight line to 49.5'
78+03 to 78+32	49.5'
78+32	49.5' on a straight line to 51.5'
78+32 to 79+30	51.5'

SAVE AND EXCEPT that portion of said strip lying within public roads.

ALSO SAVE AND EXCEPT that portion previously described in Exhibit 5.

The parcel of land to which this description applies contains 1163 square feet or 0.02670 acres of land, more or less.

Checked By:   
Project No.: 709502-20, 21, 22, and 23  
October 25, 2011

**Exhibit 8**

**Retaining Wall Easement**

A parcel of land lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, Marion County, Oregon, and being a portion of the property described as Tract III, Tract VII, and Tract VIII in that deed to Metropolitan Life Insurance Company, a New York corporation, recorded in Reel 508, Page 238, Marion County Records; said parcel being that portion of said property included in a strip of land varying in width lying on the west side of Lancaster Drive NE Resolved Center Line, which Center Line is shown on Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM) and is described as follows:

**Lancaster Drive NE Resolved Center Line:**

Beginning at a 3" brass cap at Lancaster Drive NE Resolved Center Line Station 72+71.78; said brass cap being the point of intersection of the Center Line of Cypress Street NE as depicted in Marion County Survey No. 37702 (PRE-CONSTRUCTION RECORD OF SURVEY FOR CITY OF SALEM), lying in Section 19, Township 7 South, Range 2 West of the Willamette Meridian, City of Salem, Marion County, Oregon; and running thence: along Lancaster Drive NE Resolved Center Line North 02° 04' 27" East 832.81 feet to a 3" brass cap at Station 81+04.59; thence continuing along Lancaster Drive NE Resolved Center Line North 01° 54' 12" East 17.31 feet to a 3" brass cap at Station 81+21.90; thence continuing along Lancaster Drive NE Resolved Center Line North 02° 02' 11" East 1354.78 feet to a 3" brass cap marking the southwest corner of Donation Land Claim No. 41, at Station 94+76.68, and there terminating. Basis of bearings as per Marion County Survey No. 37702.


The width in feet of the strip of land referred to above is as follows:

Station to Station	Width on the West Side of Lancaster Drive NE Resolved Center Line
73+53.54	40.76' on a straight line to 45.76'
73+53.54 to 76+50	45.76' on a straight line to 53.35'
76+50	53.35' on a straight line to 45'

SAVE AND EXCEPT that portion of said strip lying within public roads.

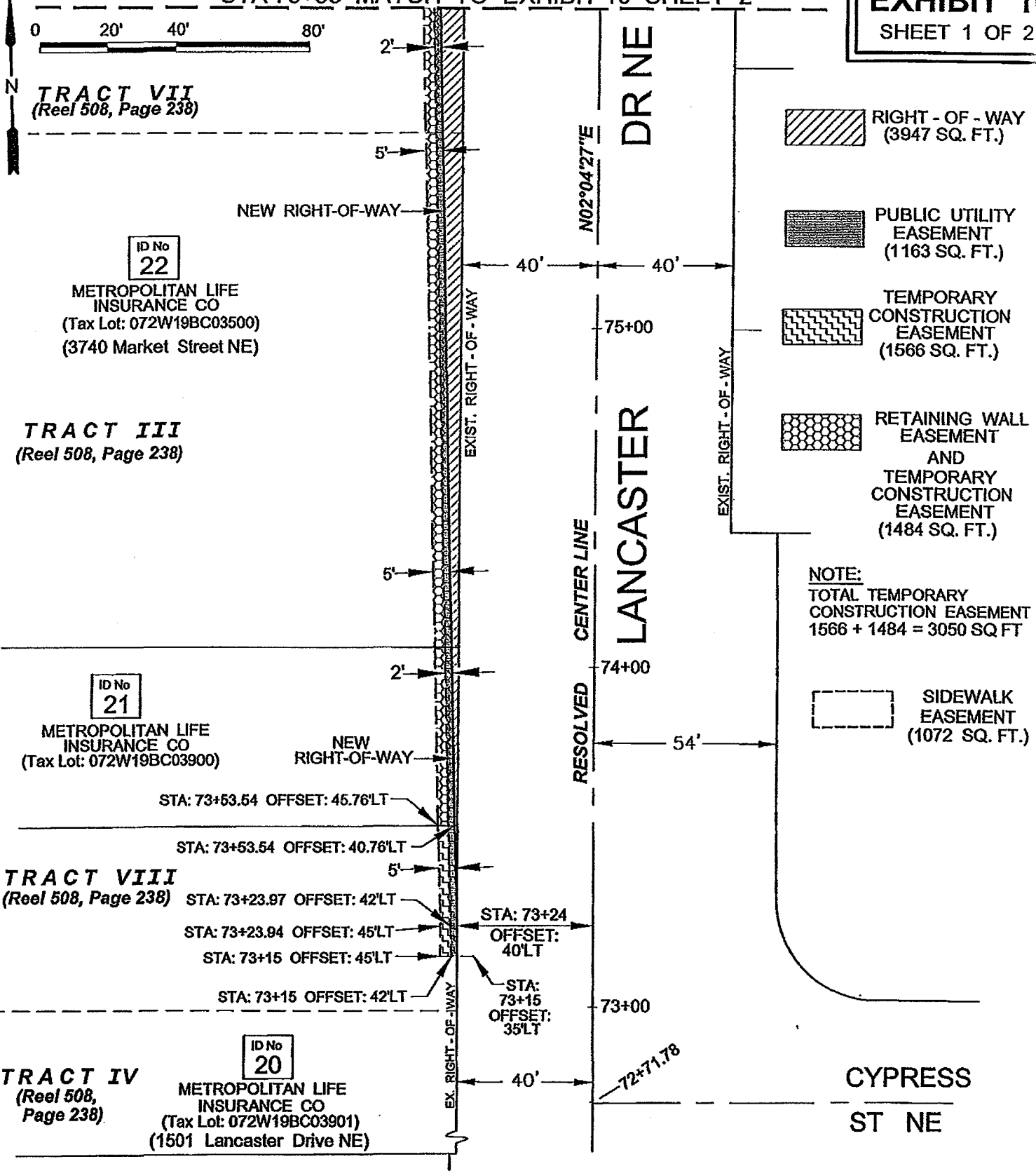
ALSO SAVE AND EXCEPT that portion previously described in Exhibit 5.

The parcel of land to which this description applies contains 1,484 square feet or 0.03407 acres of land, more or less.

Checked By:   
Project No.: 709502-20, 21, and 22  
October 25, 2011



STA 75+95 MATCH TO EXHIBIT 10 SHEET 2



**LANCASTER DR NE  
AT MARKET ST NE  
INTERSECTION WIDENING**

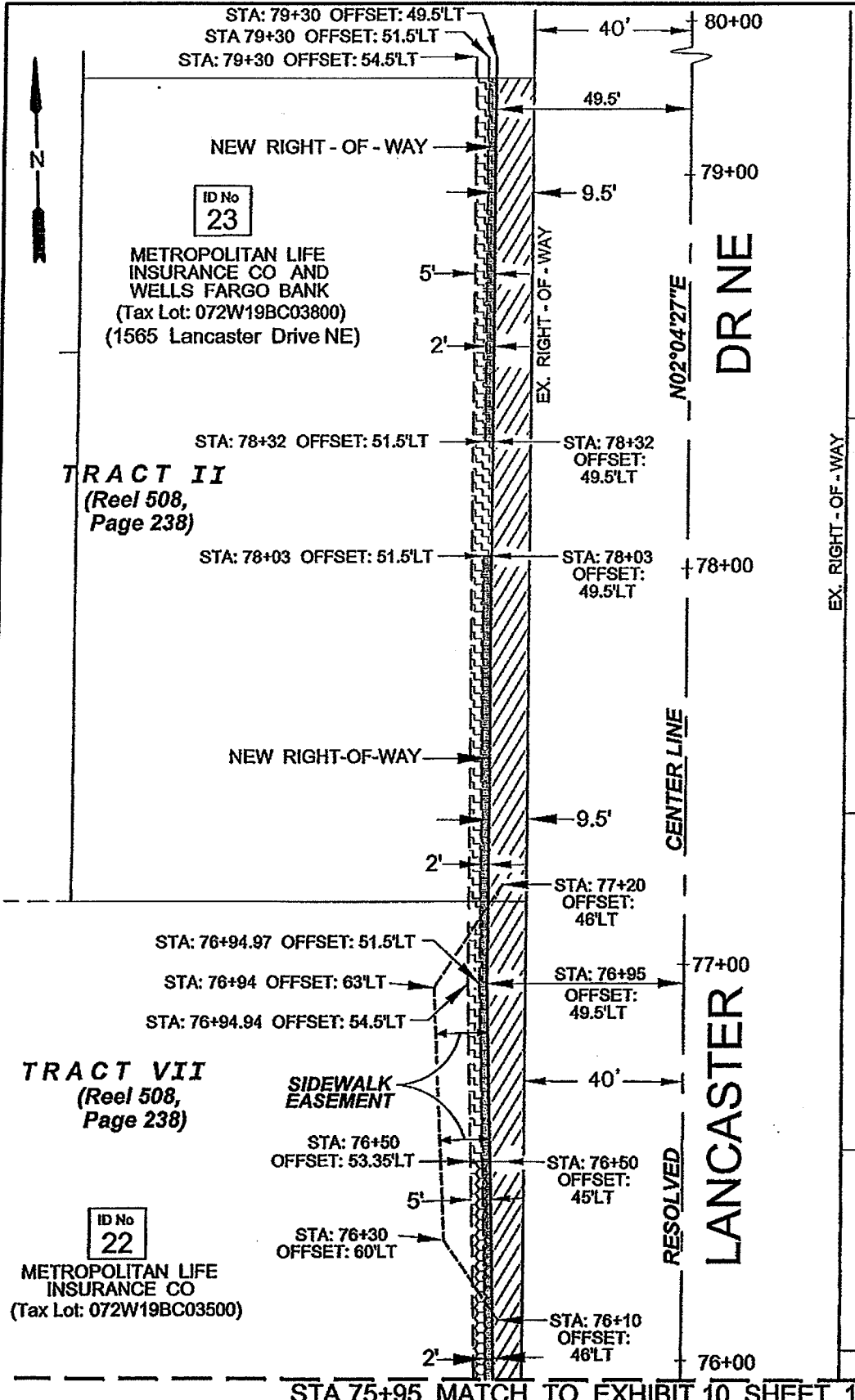
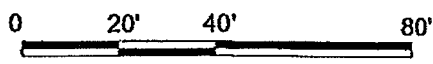
**PROPERTY ID#** 20 21 22 23  
1501 & 1565 Lancaster Dr NE  
3740 Market St NE

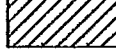

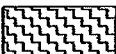


**CITY OF SALEM  
DEPARTMENT OF  
PUBLIC WORKS**

**METROPOLITAN LIFE  
INSURANCE CO.**  
C/O GREG HILL  
DIRECTOR REAL ESTATE INVESTMENTS  
425 MARKET ST. SUITE 1050  
SAN FRANCISCO, CA 94105

TAX MAP: 072W19BC  
TAX LOTS: 03500, 3600, 3900 & 3901  
SECTION 19, TOWNSHIP 7 SOUTH  
RANGE 2 WEST, WILL. MERIDIAN  
MARION COUNTY, OREGON  
REEL 508 PAGE 238

**ACQUISITION  
MAP**  
P.N. 709502  
BY: GSC | DATE: 11-03-11



-  RIGHT - OF - WAY
-  PUBLIC UTILITY EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT
-  RETAINING WALL EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT
-  SIDEWALK EASEMENT

**LANCASTER DR NE  
AT MARKET ST NE  
INTERSECTION WIDENING**

SITE	PROPERTY ID#	20	21
	1501 & 1565 Lancaster Dr NE 3740 Market St NE	22	23

CITY OF SALEM  
DEPARTMENT OF  
PUBLIC WORKS

**ACQUISITION  
MAP**

**OWNER NAME/  
ADDRESS**

**METROPOLITAN LIFE  
INSURANCE CO.**

C/O GREG HILL  
DIRECTOR REAL ESTATE INVESTMENTS  
425 MARKET ST. SUITE 1050  
SAN FRANCISCO, CA 94105

TAX MAP: 072W19BC  
TAX LOTS: 03500, 3600, 3900 & 3901  
SECTION 19, TOWNSHIP 7 SOUTH  
RANGE 2 WEST, WILL. MERIDIAN  
MARION COUNTY, OREGON  
REEL 508 PAGE 238

P.N. 709502  
BY: GSC | DATE: 11-03-11