August 27, 2015

TO: ACHD Board of Commissioners
    Bruce S. Wong, Director

FROM: Dave Serdar, Right of Way Supervisor

Subject: Authorization and Order of Condemnation
          ACHD State Street Pedestrian Improvements Project

Property Owner/Address:
    Stacey R. Salvi
    2568 W. Timber Dr. Eagle, ID 83616

REGULAR AGENDA ITEM September 9, 2015 Commission Meeting

EXECUTIVE SUMMARY
This action is for the State Street Pedestrian Improvement project. This action is necessary to complete the project. This project will help improve area circulation and connectivity.

ACHD Project No: 712001 – State Street Pedestrian Improvements (“Project”)

ACHD Parcel No: 71

Ada County Assessor: S0630417450

Property Addresses: 5501 W. State St.
    Garden City, ID 83703

Property Owners: Stacey R. Salvi
    2568 W. Timber Dr.
    Eagle, ID 83616
FACTS & FINDINGS

The State Street Pedestrian Improvement project is a public necessity to improve pedestrian connectivity and safety in the vicinity of multiple commercial attractors. The State Street Pedestrian Improvement project was first identified as a need in ACHD's 2012-2016 Five-Year Work Plan.

1. **Property Locations:** The property is located along the south side of West State Street, between Collister Drive and Bloom Lane in Garden City, Idaho. The site contains 2.230 acres. The property is currently located within the Ada County and zoned C-2 and the highest and best use is commercial. *(See aerial maps (Attachments 2 & 3) and legal description attached hereto as Exhibit “A” to the Orders of Condemnation)*

2. **Property Acquisition:** The property necessary for the project is 0.084 acres of Fee Simple Right of Way and 0.041 acres of Temporary Easement. The taking of the Property is a public use authorized by law. *(See the Order of Condemnation (Attachment 1), Exhibits “A” and “B”) (“Property”).*

3. **Project Schedule:** Construction is scheduled to begin on the “Project” in 2016.

4. **Good Faith Negotiations:** ACHD has attempted to negotiate, in good faith, to purchase from the property owner, Stacey R. Salvi, the necessary and required Property without success. The property owner has been offered the appraised fair market value for lands, easements and just compensation for damages, if any.

   - February 11, 2015 – A formal offer was sent to the property owner, by certified mail, which included a Summary of Rights of the property owner in accordance with Section 7-711A of the Idaho Code.
   - February 20-August 10, 2015 – ACHD staff attempted negotiation with property owners by phone and mail.
   - August 10, 2015- ACHD staff recommended a Friendly Condemnation in order to satisfy both parties on the wording of documents. ACHD offers a negotiated price of $48,284.85.

In an effort to meet the project schedule for acquiring property necessary for the Project, staff is presenting for your review and consideration a proposed Order of Condemnation for Property.

**FISCAL IMPACTS**

The project is funded for construction in FY16; any delay will impact budget execution.

**POLICY IMPACTS**

The public necessity for this condemnation was generated by the State Street Pedestrian Improvements Project, approved in the FY 2012-2016 Five Year Work Plan adopted 23 February 2011.
ALTERNATIVES

1. Approve the Order of Condemnation and authorize its execution by the Board of all Commissioners.

2. Do not approve the Order of Condemnation.

RECOMMENDATION

1. Authorize staff to initiate an action in the Fourth Judicial District to condemn the Property necessary for the public right-of-way for the Project.

2. In accordance with the provisions of Section 7-701 et. seq. and Section 40-1310 of the Idaho Code, the Board of Commissioners declare that the lands sought to be condemned are necessary for a public highway, sign the “Order of Condemnation” for the above-listed parcel and enter into the minutes of the meeting that the property to be acquired is necessary for a public highway and public use.

3. The Board of Commissioners executes two (2) duplicate originals of the Order of Condemnation for the Property.

ATTACHMENTS:

1. Order of Condemnation and Exhibits
   - Exhibit “A” – Right of Way Requirement Legal Description
   - Exhibit “B” -- Temporary Easement Legal Description
   - Exhibit “C” – Plan Sheets Showing Access

2. Vicinity Map

3. Site Map
ORDER OF CONDEMNATION

WHEREAS, based on the facts and findings and other information presented in the Right of Way Staff Report dated August 27, 2015 which by this reference is hereby incorporated herein, as supplemented by the presentation of David Serdar, Right of Way Supervisor, presented at its regular meeting held on September 9, 2015 and upon the recommendation of the Director, and being fully advised, the Board of Commissioners of the Ada County Highway District hereby makes the following findings of fact, conclusions and order:

1. The acquisition of public right of way for its highways is a public use for which the Ada County Highway District has the power of eminent domain under section 7-701, Idaho Code.

2. The above-designated highway project (hereinafter referred to as the "Project") is for a public use authorized by law.

3. Property Rights to be acquired – Idaho Code 7-707:
   a. Fee Simple Right of Way: The fee requirement area consists of 3,702 square feet or .084 acres. The acquisition area is described on Exhibit “A”;
   b. Temporary Construction Easement: The requirement area consists of 1,787 square feet or .041 acres. The acquisition area is described on Exhibit “B”;
   c. Access: Physical access control is the same, both before and after the project as depicted on the right of way plans Exhibit “C”;
   d. Right of Entry: NONE

Exhibits are attached hereto, and incorporated herein by this reference as if set out in full (hereinafter referred to as the “Property”).

4. The Property is not already appropriated to a public use.

5. The location of the Property sought to be taken by the Ada County Highway District for the Project is most compatible with the greatest public good and the least private injury.

6. The names and addresses of the record title owner(s) of the Property, and any other owner(s) and tenants under long term leases known to the Highway District is set forth below:

   Name: Stacey R. Salvi
   Address: 2568 W. Timber Dr.
7. The Ada County Highway District commenced negotiations to purchase the Property and, by certified U.S. mail, postage prepaid, addressed to the owner(s) at the address shown in the official records of the Ada County Assessor, on the 11th day of February, 2015 provided the owner(s) with a summary of rights form required by Chapter 7, Title 7, Idaho Code, and on the 11th day of February, 2015 provided the owner(s) with a written offer to purchase the Property, and on the 11th day of February, 2015 provided the owner(s) with a copy of the appraisal. More than thirty (30) days has elapsed since the Ada County Highway District made its initial offer to purchase the Property.

8. The Ada County Highway District, by and through its employees, contractors and agents, has sought in good faith to purchase the Property and property interests described above and to settle with the owner(s), or reputed owner(s) and any other claimants for severance damages, if any, to their remaining property where the Property is a part of a larger parcel, and for damages to any business located thereon which might result from said taking, but the Highway District has been unable to make any reasonable bargain therefore, or reasonable settlement of such damages.

NOW, THEREFORE, IT IS HEREBY ORDERED, AND THIS DOES ORDER, that the Ada County Highway District acquires the Property and property interests herein above described through the exercise of its power of Eminent Domain, pursuant to Chapter 7, Title 7, Idaho Code.

Dated this ___ day of September, 2015.

ADA COUNTY HIGHWAY DISTRICT
BOARD OF COMMISSIONERS:

By: __________________________
    Jim Hansen, President

By: __________________________
    Sara M. Baker, Vice President

By: __________________________
    Rebecca W. Arnold, Commissioner

By: __________________________
    Kent Goldthorpe, Commissioner

By: __________________________
    Paul Woods, Commissioner
PARCEL DESCRIPTION

Project: State Street – Glenwood to Collister
Parcel No: 71 Right of Way Requirement

Date: May 20, 2015

A parcel of land being a portion of the Deed of Distribution by Personal Representative Parcel 7450 and 7922, Instrument No. 111020872, as filed in the Ada County Recorder’s Office, located in the N1/2 SE1/4 Section 30, Township 4 North, Range 2 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

COMMENCING at the E1/4 corner of Section 30, monumented by a 3.5” brass cap (Corner Record No. 111069904), from which the C1/4 corner of Section 30, monumented by a 1.0” pipe (Corner Record No. 110106109), bears North 89°03’03” West, a distance of 2661.96 feet;

Thence South 69°45’44” West, a distance of 977.52 feet to the northeast corner of said Parcel, the southwesterly right-of-way line of State Street and the POINT OF BEGINNING;

Thence South 41°11’02” West, coincident with the easterly line of said Parcel, a distance of 20.00 feet;

Thence North 48°48’58” West, parallel with and offset 20.00 feet southwesterly of said right-of-way line, a distance of 25.98 feet;

Thence North 33°43’03” West, a distance of 5.76 feet;

Thence North 48°48’58” West, parallel with and offset 18.50 feet southwesterly of said right-of-way line, a distance of 53.03 feet;

Thence North 19°25’17” West, a distance of 16.32 feet;

Thence North 49°19’04” West, a distance of 57.11 feet;

Thence North 79°19’04” West, a distance of 15.01 feet to the beginning of a non-tangent curve to the left;

Thence northwesterly, along the arc of said curve to the left, an arc distance of 56.53 feet, said curve having a radius of 5671.50 feet, a central angle of 00°34’15”, and a chord bearing of North 49°31’23” West a distance of 56.53 feet, to the westerly line of said Parcel;

Thence North 28°27’47” East, coincident with said westerly line a distance of 18.89 feet to the northwest corner of said Parcel and the beginning of a non-tangent curve to the right;
Exhibit A

Thence southeasterly, coincident with the said southwesterly right of way of State Street, along the arc of said curve to the right, an arc distance of 80.72 feet, said curve having a radius of 5690.00 feet, a central angle of 00°48’46”, and a chord bearing of South 49°26’29” East a distance of 80.72 feet;

Thence South 48°48’58” East, coincident with said southwesterly right-of-way line, a distance of 148.80 feet to the POINT OF BEGINNING.

The above described parcel contains 3,702 square feet or 0.085 acres, more or less

Together with and subject to covenants, easements, and restrictions of record.

The basis of bearings for this parcel is Grid North, ADA County GIS Coordinate System.

NOTE: This legal description is based upon record information. A boundary survey was not performed by the registrant whose signature and seal are affixed herewith to confirm said record boundary.

Andrew Kempe, P.L.S.  
End of Description  
05/20/15  
License No. 11778
Exhibit A

SKETCH FOR LEGAL EXHIBIT  
PARCEL 71  
RIGHT OF WAY REQUIREMENT  

A PARCEL OF LAND BEING A PORTION OF THE DEED OF DISTRIBUTION BY PERSONAL REPRESENTATIVE PARCEL 7450 AND 7922, INSTRUMENT No. 111020872, LOCATED IN THE N1/2 SE1/4 OF SECTION 30, T. 4 N., R. 2 E., BOISE MERIDIAN, ADA COUNTY, IDAHO  
2015

[Diagram of parcel with coordinates and dimensions]

POINT OF COMMENCEMENT  
E1/4 CORNER  
SECTION 30

STATE STREET

148.80'

POINTE OF  
BEGINNING

548'48"58'W  
20.00'

±0.085 Ac.  
3,702 s.f.

WHPacific
3130 S Owyhee St  
Boise, ID 83705  
208-342-5400  
www.whpacific.com

11778

NOT TO SCALE

Andrew Kempe 05/20/15
PARCEL DESCRIPTION

Project: State Street – Glenwood to Collister
Parcel No: 71 Temporary Easement

A parcel of land being a portion of the Deed of Distribution by Personal Representative Parcel 7450 and 7922, Instrument No. 111020872, as filed in the Ada County Recorder’s Office, located in the N1/2 SE1/4 Section 30, Township 4 North, Range 2 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

COMMENCING at the E1/4 corner of Section 30, monumented by a 3.5” brass cap (Corner Record No. 111069904), from which the C1/4 corner of Section 30, monumented by a 1.0” pipe (Corner Record No. 110106109), bears North 89°03’03” West, a distance of 2661.96 feet;

Thence South 69°45’44” West, a distance of 977.52 feet to the northeast corner of said Parcel and the southwesterly right-of-way line of State Street;

Thence South 41°11’02” West, coincident with the easterly line of said Parcel, a distance of 20.00 feet to the POINT OF BEGINNING;

Thence South 35°22’54” West, coincident with the easterly line of said Parcel, a distance of 10.05 feet;

Thence North 48°48’58” West, parallel with and offset 30.00 feet southwesterly of said southwesterly right-of-way line of State Street, a distance of 42.13 feet;

Thence North 41°11’02” East, a distance of 7.00 feet;

Thence North 48°48’58” West, a distance of 183.41 feet to the westerly line of said Parcel;

Thence North 28°27’47” East, coincident with said westerly line a distance of 3.78 feet the beginning of a non-tangent curve to the right;

Thence southeasterly, along the arc of said curve to the right, an arc distance of 56.53 feet, said curve having a radius of 5671.50 feet, a central angle of 00°34’16”, and a chord bearing of South 49°31’23” East a distance of 56.53 feet;

Thence South 79°19’04” East, a distance of 15.01 feet;

Thence South 49°19’04” East, a distance of 57.11 feet;

Thence South 19°25’17” East, a distance of 16.32 feet;
Thence South 48°48’58” East, parallel with and offset 18.50 feet southwesterly of said southwesterly right-of-way line of State Street, a distance of 53.03 feet;

Thence South 33°43’03” East, a distance of 5.76 feet;

Thence South 48°48’58” East, parallel with and offset 20.00 feet southwesterly of said southwesterly right-of-way line of State Street, a distance of 25.98 feet to the POINT OF BEGINNING.

The above described parcel contains 1,787 square feet or 0.041 acres, more or less

Together with and subject to covenants, easements, and restrictions of record.

The basis of bearings for this parcel is Grid North, ADA County GIS Coordinate System.

NOTE: This legal description is based upon record information. A boundary survey was not performed by the registrant whose signature and seal are affixed herewith to confirm said record boundary.

Andrew Kempe, P.L.S.  
End of Description  
08/24/15
SKETCH FOR LEGAL EXHIBIT
PARCEL 71
TEMPORARY EASEMENT

A PARCEL OF LAND BEING A PORTION OF THE DEED OF DISTRIBUTION BY PERSONAL REPRESENTATIVE PARCEL 7450 AND 7922, INSTRUMENT No. 111020872,
LOCATED IN THE N1/2 SE1/4 OF SECTION 30, T. 4 N., R. 2 E., BOISE MERIDIAN,
ADA COUNTY, IDAHO
2015

±0.041 Ac.
1,787 sq.ft.

N89°03'03"W 2661.96'

STATE STREET

S41°11'02"W 20.00'
L1
L2
L3
L4
L5

N89°45'44"W 977.52'
N89°03'03"W 2661.96'

LINE TABLE

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NOT TO SCALE