

RESOLUTION NO. 2246

A RESOLUTION APPROVING THE EXERCISE OF THE POWER OF EMINENT DOMAIN AND DECLARING PUBLIC NECESSITY TO ACQUIRE REAL PROPERTY INTERESTS FOR SEWER LINE IMPROVEMENTS.

WHEREAS, the City of Hermiston ("City") has the authority to exercise the power of eminent domain pursuant to ORS 223.005-ORS 223.020 and ORS 223.105, and in accordance with the procedures set forth in ORS Chapter 35, when deemed necessary by the City's governing body to accomplish public purposes; and

WHEREAS, the City has the responsibility to locate, acquire, construct, reconstruct, alter, enlarge, renew, replace, operate, and maintain a sewer system and facilities to adequately serve the public; and

WHEREAS, the existing sewer line running within North 1st Street between Elm Avenue and E. Cornel Place is failing and needs to be replaced (the "Project"), to complete the replacement of the line, the route of the sewer line shall be required to cross over certain property commonly referred to as 1390 N. 1st Street, Hermiston, OR 97838; and

WHEREAS, the City Council determines consistent with the powers and purposes of its Charter that it is necessary for the economic well-being, public health, safety and welfare of the City and members of the public served by the City to acquire easements over the necessary property discussed further herein, to implement the Project; and

WHEREAS, after investigation of various alternative options and layouts for the Project, and the consideration of the most effective and economic benefits to the public, the City Council has determined that certain property interests, further identified on Exhibits A and B, attached hereto and incorporated by reference ("the Property Interests"), are necessary for the Project, and that this use is planned and located in a manner which is most compatible with the greatest public good and the least private injury; and

WHEREAS, the City Council finds that declaration by resolution to acquire the Property Interests for the Project is necessary and being fully advised;

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

1. That the above recitals shall form an integral part of this resolution and shall have the same force and effect as if they were adopted as resolutions.
2. That the Council finds that the Property Interests being acquired are necessary for the construction of the Project and are in the public interest, including but not limited to, the preservation of economic well-being, public health, safety and welfare of the City and its members of the public served by the City. The Project 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;

3. That the power of eminent domain is exercised with respect to the Property Interests further described in Exhibits A and B. The Property Interests are acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
4. That City staff and the City's agents and attorneys are authorized and directed to attempt to negotiate in good faith a purchase of the Property Interests with the owner and other persons in interest, if any, as to the compensation to be paid for the acquisition. In the event that no satisfactory agreement can be reached, City staff, agents and attorneys are authorized to commence and prosecute condemnation proceedings necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the City Council.
5. That City staff and counsel are authorized to retain real estate appraisers, negotiators and other consultants as well as appraisals, as needed, under the auspices of City counsel, for the initiation of the proceedings described above.
6. That the City staff and counsel are authorized to retain any experts necessary to examine, survey, conduct tests upon and take samples from the Property pursuant to the requisite procedures for pre-condemnation entry on the Property (ORS 35.220).
7. That the City staff and counsel are authorized to retain outside counsel necessary to assist with pre-condemnation work, negotiations with the property owner and condemnation litigation, if necessary.
8. The Council recognizes that formal litigation may be necessary and the attorney(s) for the City and/or outside counsel are directed and authorized to commence and prosecute to final determination such legal proceedings as may be necessary to acquire the Property Interests.
9. That upon the trial of any such suit or action instituted to acquire the Property Interests therein, the attorneys acting for and on behalf of the City are authorized to make such stipulation, agreement or admission as in their judgment may be in the best interest of the City and take possession of the Property Interests as appropriate in their judgment without necessity of further Council approval.

10. That the City expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality or locality, and to change or abandon any acquisition.

11. That this resolution is effective immediately upon its passage.

PASSED by the Common Council this 28th day of November, 2022.

SIGNED by the Mayor this 28th day of November, 2022.

Dr. David Drotzmann, MAYOR

ATTEST:

Lilly Alarcon-Strong, CMC, CITY RECORDER