

RESOLUTION NO. 5341-21

A RESOLUTION DECLARING CERTAIN PRIVATE PROPERTY NECESSARY TO ACQUIRE IN ORDER TO CONSTRUCT THE MARTINAZZI AVENUE AND SAGERT STREET INTERSECTION IMPROVEMENT PROJECT.

WHEREAS, in May 2018, Tualatin voters approved a \$20 million bond measure to support high priority transportation projects.

WHEREAS, the City identified the need to improve the intersection performance and pedestrian safety at Martinazzi Avenue and Sagert Street to include a new traffic signal, high-visibility crosswalks, curb ramps, and sidewalks, and improve access to existing transit stops (hereafter "Project").

WHEREAS, there is certain property located adjacent to the Project more particularly described in Exhibits 1 and 2, and depicted in Exhibit 3, which are incorporated by reference (hereafter "Property").

WHEREAS, acquisition of the Property within the Project boundary is necessary to construct the Project and fulfill the purposes of the bond adopted by Tualatin voters;

WHEREAS, the City has Home Rule authority and power under Oregon law and its Charter to exercise eminent domain;

WHEREAS, the City has the authority and power to exercise eminent domain pursuant to ORS 223.005 through ORS 223.020, and ORS 223.105.

WHEREAS, under ORS 35.215(1), the City of Tualatin meets the definition of "Condemner," with the power of eminent domain;

WHEREAS, under ORS 35.235(1), the Condemner must first declare that the acquisition of property is necessary for the project and the purpose of the acquisition prior to attempting to agree with the owner of the property with respect to compensation and damages, if any; and

WHEREAS, under ORS 35.245(1), if the condemner is unable to agree with or locate the owner of the property under ORS 35.235, then an action to condemn property may be commenced in the circuit court of the county in which the property proposed to be condemned, or the greater portion thereof, is located.

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

Section 1. Under the City's home rule authority and Charter, ORS 223.005 through ORS 223.020, ORS 223.105, and consistent with the procedures outlined in ORS Chapter 35, it is necessary for the City to acquire permanent road right of way for the Project that is compatible with the greatest public good and the least private injury, for the property described in Exhibit 1 (Right-of-Way Legal Description), and as depicted in Exhibit 3 (Map), both of which are incorporated by reference.

Section 2. Under the City’s home rule authority and Charter, ORS 223.005 through ORS 223.020, ORS 223.105, and consistent with the procedures outlined in ORS Chapter 35, it is necessary for the City to acquire temporary construction easement for the Project that is compatible with the greatest public good and the least private injury, as described in Exhibit 2 (Temporary Construction Easement Legal Description), and as depicted in Exhibit 3 (Map), both of which are incorporated by reference.

Section 3. It is necessary to obtain possession of the Property, as described in Sections 2 and 3, as soon as possible to allow construction on the Project to proceed and be completed on schedule within budgetary limitations.

Section 4. If the City is unable to negotiate an agreement for the acquisition of the necessary real property rights, the City Attorney, or designee, is authorized to commence and prosecute in the Circuit Court of Washington County in the name of City of Tualatin, any necessary proceedings for the condemnation and immediate possession of necessary real property rights and for the assessment of damages for the taking of the Property.

Section 5. The City Attorney is fully authorized to make offers, negotiate final settlement, and pay funds to acquire the property through negotiation, settlement, or litigation without returning to Council for additional authority in any amount that does not exceed the City Manager’s Public Contracting authority.

Section 6. The City Manager, or designee, is authorized to draw a warrant on the Transportation Project Fund of the City for the acquisition of the property consistent with this resolution, in any amount that does not exceed the City Manager’s Public Contracting authority.

Section 6. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXBHIT 1

Resolution No. 5341-21

RIGHT-OF-WAY

A dedication to the public, by and through the City of Tualatin, its successors and assigns, a perpetual right-of way for street, road, public utility, and pedestrian purposes, on, over, across, under, along, and within all of the following real property situated in the County of Washington, State of Oregon, and which is bounded and described as follows, to wit:

A PARCEL OF LAND, BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO ROBERT G. KERN AND BARBARA L. KERN, AS TENANTS IN COMMON, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST, AS DOCUMENT NUMBER 2002-017651, WASHINGTON COUNTY DEED RECORDS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TUALATIN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEED TO CITY OF TUALATIN, A MUNICIPAL CORPORATION, AS DOCUMENT NUMBER 84048117, WASHINGTON COUNTY DEED RECORDS, SAID CORNER BEARS NORTH 89°27'15" EAST 1040.00 FEET AND SOUTH 00°04'46" WEST 33.86 FEET FROM THE NORTHWEST CORNER OF SECTION 25, AND THE BEGINNING OF A NON-TANGENT CURVE, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 53°09'58" WEST; THENCE ALONG THE SOUTHERLY LINE OF SAID CITY TRACT, ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 52°37'13" (THE LONG CHORD OF WHICH BEARS NORTH 63°08'39" EAST 17.73 FEET) AN ARC DISTANCE OF 18.37 FEET TO A POINT OF TANGENCY; THENCE NORTH 89°27'15" EAST 265.95 FEET TO THE WESTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, RECORDED DECEMBER 5, 1952 IN VOLUME 339, PAGE 375, WASHINGTON COUNTY DEED RECORDS; THENCE ALONG SAID WESTERLY LINE SOUTH 00°04'41" WEST 4.00 FEET TO THE SOUTHERLY LINE OF SAID HIGHWAY TRACT; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°27'15" EAST 0.47 FEET TO THE EASTERLY LINE OF SAID KERN TRACT; THENCE ALONG SAID EASTERLY LINE SOUTH 00°04'41" WEST 14.00 FEET TO A POINT BEING 18 FEET SOUTHERLY OF SAID SOUTHERLY LINE OF THE CITY TRACT, WHEN MEASURED PERPENDICULAR THERETO; THENCE PARALLEL WITH SAID SOUTHERLY LINE SOUTH 89°27'15" WEST 9.89 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 00°32'45" WEST 10.00 FEET TO A POINT BEING 8 FEET SOUTHERLY OF SAID SOUTHERLY LINE OF THE CITY TRACT, WHEN MEASURED PERPENDICULAR THERETO; THENCE PARALLEL WITH SAID SOUTHERLY LINE SOUTH 89°27'15" WEST 248.09 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 44°46'06" WEST 34.32 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SW MARTINAZZI AVENUE (CR 849) (60 FEET WIDE), ALSO BEING THE EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO THE CITY OF TUALATIN, AS

DOCUMENT NUMBER 8142239, WASHINGTON COUNTY DEED RECORDS;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 00°04'46" EAST
24.28 FEET TO THE POINT OF BEGINNING.

EXBHIT 2

Resolution No. 5341-21

TEMPORARY CONSTRUCTION EASEMENT

A TEMPORARY CONSTRUCTION EASEMENT and right-of-entry for the purpose of constructing the Martinazzi and Sagert Intersection Improvement Project, the term beginning April 1, 2021 and ending April 1, 2023, on real property located in Washington County, State of Oregon, that is more particularly described as follows, to wit:

A PARCEL OF LAND, BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO ROBERT G. KERN AND BARBARA L. KERN, AS TENANTS IN COMMON, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST, AS DOCUMENT NUMBER 2002-017651, WASHINGTON COUNTY DEED RECORDS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TUALATIN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 25; THENCE NORTH 89°27'15" EAST 1040.00 FEET; THENCE SOUTH 00°04'46" WEST 33.86 FEET TO THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEED TO CITY OF TUALATIN, A MUNICIPAL CORPORATION, AS DOCUMENT NUMBER 84048117, WASHINGTON COUNTY DEED RECORDS, AND THE BEGINNING OF A NON-TANGENT CURVE, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 53°09'58" WEST; THENCE ALONG THE SOUTHERLY LINE OF SAID CITY TRACT, ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 52°37'13" (THE LONG CHORD OF WHICH BEARS NORTH 63°08'39" EAST 17.73 FEET) AN ARC DISTANCE OF 18.37 FEET TO A POINT OF TANGENCY; THENCE NORTH 89°27'15" EAST 265.95 FEET TO THE WESTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, RECORDED DECEMBER 5, 1952 IN VOLUME 339, PAGE 375, WASHINGTON COUNTY DEED RECORDS; THENCE ALONG SAID WESTERLY LINE SOUTH 00°04'41" WEST 4.00 FEET TO THE SOUTHERLY LINE OF SAID HIGHWAY TRACT; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°27'15" EAST 0.47 FEET TO THE EASTERLY LINE OF SAID KERN TRACT; THENCE ALONG SAID EASTERLY LINE SOUTH 00°04'41" WEST 14.00 FEET TO A POINT BEING 18 FEET SOUTHERLY OF SAID SOUTHERLY LINE OF THE CITY TRACT, WHEN MEASURED PERPENDICULAR THERETO; THENCE PARALLEL WITH SAID SOUTHERLY LINE SOUTH 89°27'15" WEST 9.89 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID PARALLEL LINE NORTH 00°32'45" WEST 10.00 FEET TO A POINT BEING 8 FEET SOUTHERLY OF SAID SOUTHERLY LINE OF THE CITY TRACT, WHEN MEASURED PERPENDICULAR THERETO; THENCE PARALLEL WITH SAID SOUTHERLY LINE

SOUTH 89°27'15" WEST 248.09 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 44°46'06" WEST 14.22 FEET TO A POINT BEING 18 FEET SOUTHERLY OF SAID SOUTHERLY LINE OF THE CITY TRACT, WHEN MEASURED PERPENDICULAR THERETO; THENCE PARALLEL WITH SAID SOUTHERLY LINE NORTH 89°27'15" EAST 258.20 FEET TO THE TRUE POINT OF BEGINNING.

Exhibit 3 - Resolution No. 5341-21

