



CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Mike McCarthy, City Engineer; Kevin McConnell, City Attorney
DATE: December 11, 2023

SUBJECT:

Consideration of **Resolution No. 5745-23** Authorizing the Manager to Execute a Settlement Agreement and Mutual Release (“Settlement Agreement”); Execute Documents Necessary to Purchase Right-of-Way for the Construction of the Boones Ferry Corridor Sidewalk and Bike Lane (Phase 3) Project.

RECOMMENDATION:

Staff recommends that the Council approve the attached resolution authorizing the Manager to execute the Lafky Settlement Agreement and Mutual Release and execute all legal documents necessary to purchase right-of-way for the Boones Ferry Corridor Sidewalk and Bike Lane (Phase 3) Project.

EXECUTIVE SUMMARY:

This resolution enables the City Manager to execute legal documents necessary to acquire the property needed to construct and maintain the Boones Ferry Corridor Sidewalk and Bike Lane (Phase 3) Project (“the Project”) and resolve all outstanding demands and claims between the Parties.

The Project requires the acquisition of a 1,233 sf right-of-way dedication. This is the final acquisition needed to complete the Boones Ferry Corridor Sidewalk and Bike Lane Project (consisting of Phases 1-3). The Project has been designed to minimize the impact to the property and the amount of right-of-way to be acquired.

This resolution authorizes the purchase of right-of-way from the following property:

9160 SW Avery Street:

- Property is located on the corner of SW Boones Ferry Road and SW Avery Street.
- Owners: Herbert and Sandra Lafky
- The City is purchasing Public Right-Of-Way (1,233 sf)
- **Settlement Agreement Payment is \$58,000**, which includes acquisition of 1,233 sf right-of-way, and mutual release of all demands and claims.

The Settlement Agreement payment is based on: i) the October 19, 2023 appraisal performed by Oregon Valuation Group, Inc. and recommendations from Universal Field Services, Inc.; ii) payment to Lafkys to replace fencing and install landscaping (instead of payment to City contractor to perform this work); and iii) release of all demands and claims, including two alleged City contractor trespasses on the Property. The Settlement Agreement fully resolves all outstanding issues between the Parties.

OUTCOMES OF DECISION:

Approval of the attached resolution would allow staff to purchase the right-of-way necessary to complete the Boones Ferry Corridor Sidewalk and Bike Lane Project.

ALTERNATIVES TO RECOMMENDATION:

Council could elect to not approve the attached resolution, which would lead to either renegotiating the purchase or stopping the project.

FINANCIAL IMPLICATIONS:

The total acquisition cost is \$58,000. This amount is budgeted, along with the cost of design and construction of this project, in the Transportation Development Tax (TDT) Fund.

ATTACHMENTS:

Resolution 5745-23

Lafky Settlement Agreement and Mutual Release and exhibits attached thereto.