

RESOLUTION NO. 3167

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING ACQUISITION OF PROPERTY AND PROPERTY INTERESTS RELATED TO CONSTRUCTION OF THE BOECKMAN CREEK FLOW MITIGATION PROJECT (CIP #7068).

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Wilsonville is duly authorized and lawfully empowered to construct certain planned public improvement projects, and to acquire real property as may be deemed necessary and proper for such planned public improvements; and

WHEREAS, the Boeckman Creek Flow Mitigation Project (the “Project”) represents work on the final two elements of the Boeckman Road Corridor Project (BRCP). This work is programmed to occur after the Boeckman Creek Bridge completion:

1. Boeckman Creek stream restoration work to provide fish passage which includes removing the existing culvert and flow control structure and associated massive grading, and
2. Mitigation for the resulting Boeckman Creek flow differential after removing the flow control structure.

WHEREAS, the Project is identified in the Fiscal Year (FY) 2024/2025 Capital Improvement Project Budget as Project No. 7068; and

WHEREAS, the amended FY 2024/2025 budget for the Project is \$1,558,918; funded through the Stormwater Operating and Stormwater System Development Charge (SDC) funding sources, and

WHEREAS, in order to construct the Project, the City needs to acquire portions of five properties with approximately 134,978 SF of Stormwater Easement and 38,563 SF of Temporary Construction Easement; and

WHEREAS, the property interests to be acquired for the Project include, but may not be limited, to those legally described in **EXHIBIT A**, attached hereto and incorporated herein; and

WHEREAS, although the attached legal descriptions and estimated areas of taking are considered to be reasonably accurate at this time, modifications may need to occur depending on final design details and site conditions, to be approved and verified by the City Engineer; and

WHEREAS, the acquisition of the properties described in **EXHIBIT A** is necessary and will benefit the general public and will be used for public purposes; and

WHEREAS, the City acquires real property in accordance with guidelines set forth by law; and

WHEREAS, the City is authorized to acquire property by any legal means, including eminent domain, to achieve the objectives of the City's Capital Improvement Program and shall conform to all statutory requirements to ensure that property owners' rights are fully respected; and

WHEREAS, ORS Chapter 35 empowers cities and agencies to acquire by condemnation real property whenever in the judgment of the City there is a public necessity for the proposed use of the property, the property is necessary for such proposed use, and the proposed use planned is located in a manner which will be most compatible with the greatest public good and the least private injury; and

WHEREAS, the acquisitions presented herein are estimated to reflect the least amount of property interest to be acquired to ensure safe, efficient and adequate public improvements; and

WHEREAS, title to the property interest shall be acquired using City funds and title to the acquired land will vest in the name of the City of Wilsonville to provide for necessary care, maintenance and public safety authority.

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

Section 1. The Wilsonville City Council finds that:

- a) There is a public necessity for the construction of the aforementioned Project;
- b) The legal descriptions for the land set forth in **EXHIBIT A** are necessary for the construction of said public improvements but may be modified as set forth in Section 3 below, as design is refined; and
- c) The proposed street and utility improvements are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 2. The City’s project consultant, Brown & Caldwell, right-of-way consultant, City staff, and the City Attorney are authorized and directed to:

- a) Negotiate with the owners of the real property herein described as to the compensation to be paid for the acquisition of the property.
- b) In the event agreement cannot be reached, to commence and prosecute to final determination such proceedings as may be necessary, including condemnation of the property, to acquire the real property and interest therein, and that upon the filing of such proceeding may seek immediate possession of any of the real properties described in **EXHIBIT A** in order to meet the right-of-way certification deadline necessary to begin construction in late 2025 or after and complete Project construction in a timely and efficient manner.

Section 3. In the event that there are required modifications to the legal descriptions as the Project moves forward, the City Engineer is authorized to modify the attached legal descriptions, as necessary, to conform to final engineering design for the Project.

Section 4. Effective Date. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 6th day of January, 2025, and filed with the Wilsonville City Recorder this date.

Shawn O’ Neill, MAYOR

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor O'Neill

Councilor Berry

Councilor Cunningham

Councilor Dunwell

Councilor Shevlin

EXHIBIT:

- A. Boeckman Creek Flow Mitigation Project Property Acquisition Legal Descriptions