

## RESOLUTION NO. 2986

### **A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING ACQUISITION OF PROPERTY AND PROPERTY INTERESTS RELATED TO CONSTRUCTION OF THE WILLAMETTE WATER SUPPLY PROGRAM RIGHT-OF-WAY ENHANCEMENT PROJECTS.**

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

WHEREAS, the Willamette Water Supply PLM\_1.3 Pipeline Project (the “Project”), to be constructed by the Willamette Water Supply Program (the “Program”), will construct sections of 66-inch diameter raw water pipeline through areas of City rights-of-way, including Kinsman Road from south of Wilsonville Road to Barber Street, Boeckman Road from Kinsman Road to 95<sup>th</sup> Avenue, 95<sup>th</sup> Avenue from Boeckman Road to Ridder Road, and Ridder Road from 95<sup>th</sup> Avenue to east of Garden Acres Road; and improve impacted and other agreed upon City infrastructure including curb ramps, sidewalk, vehicular and pedestrian signals and crossings, underground utilities, and roadway surfaces (the “Enhancement Projects”); and

WHEREAS, the Project is identified in the FY 2022/23 Capital Improvement Project Budget as Project No. 1127; and

WHEREAS, construction is anticipated to begin on or after October 1, 2022; and

WHEREAS, in order to construct the Project, the amount of property the City needs to acquire is approximately 6,389 square feet (SF) of right-of-way, 3,528 SF of permanent easements, and 6,550 SF of temporary easements; and

WHEREAS, the property interests to be acquired for the Project include, but may not be limited, to those legally described in **Exhibit A** and illustrated in **Exhibit B**, both 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 generally 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, 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 acquired property interest shall be acquired using Willamette Water Supply Program funds but 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 Enhancement Projects; and
- b. The legal descriptions for the land set forth in **Exhibit A** are necessary for the construction of the Enhancement Projects but may be modified as set forth in Section 3 below, as design is refined; and

- c. The proposed Enhancement Projects are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 2. The City, Program staff, and Project consultants 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; and
- b. In the event agreement cannot be reached, to commence and prosecute to final determination such proceeding as may be necessary, including condemnation of the property, to acquire 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 October 2022 or after and complete the construction of the Enhancement Projects in a timely and efficient manner.

Section 3. The descriptions provided in **Exhibit A** are to the best of the City's knowledge at this time, prior to completion of final design and commencement of construction. Modifications to the legal descriptions may be required for a variety of reasons including, but not limited to, design revisions or construction conditions later discovered. Therefore, in the event that legal descriptions must be reasonably modified, for any reason, as the Project moves forward, the City Engineer is hereby authorized, without further approval from Council, to modify the attached legal descriptions, as necessary, to conform to final engineering design for the Enhancement Projects and/or field conditions.

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

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 19<sup>th</sup> day of September, 2022, and filed with the Wilsonville City Recorder this date.

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JULIE FITZGERALD, MAYOR

ATTEST:

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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald

Council President Akervall

Councilor Lehan

Councilor West

Councilor Linville

EXHIBITS:

- A. Willamette Water Supply Program Right-of-Way Enhancement Projects Property Acquisition Legal Descriptions
- B. Willamette Water Supply Program Right-of-Way Enhancement Projects Property Acquisition Map