



COUNCIL RESOLUTION NO. 5170

A RESOLUTION AUTHORIZING THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF PROPERTY INTERESTS FOR THE COMMERCE STREET BICYCLE/PEDESTRIAN BRIDGE PROJECT.

PASSED: 5:1

REJECTED:

OPPOSED: Clark

ABSENT: Zelenka, Syrett

CONSIDERED: September 26, 2016



RESOLUTION NO. 5170

A RESOLUTION AUTHORIZING THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF PROPERTY INTERESTS FOR THE COMMERCE STREET BICYCLE/PEDESTRIAN BRIDGE PROJECT.

The City Council of the City of Eugene finds that:

A. The City Council has authority under provisions of the City Charter and applicable state law to institute proceedings in eminent domain for the acquisition by condemnation of private property for public purposes, including rights-of-way and easements for improvement projects.

B. The Commerce Street bicycle/pedestrian connector path and bridges project (“the Project”) is in the Central Lane Metropolitan Planning Organization (MPO) 2011 Regional Transportation Plan, has been included in the Central Lane MPO Metropolitan Transportation Improvement Program and is supported by transportation system plan policies. It was identified as a needed project to provide a connection between the Fern Ridge shared use path and the West 11th Avenue commercial area in the vicinity of Commerce Street and the new West Eugene EmX line.

C. The Project requires acquisition of property rights owned by Philip L. and Joan C. Marvin, and M3 Real Estate Development, LLC. Construction of the Project necessitates acquisition of combined permanent easement rights of approximately .17 of an acre (which includes the existing public utility easement and a private access easement that will be overlaid), and a temporary construction easement area of approximately .5 of an acre, more particularly depicted on Exhibit A attached to this Resolution.

D. City staff has contacted the property owners and delivered an Offer to Purchase, but an agreement has not yet been reached. Timely acquisition of the easement is necessary in order to complete the Project.

E. The public good realized from the project far outweighs any damage which the property owner might sustain, particularly in light of the City’s obligation to provide just compensation to the affected property owner.

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A Municipal Corporation of the State of Oregon, as follows:

Section 1. Based upon the above findings, the City Council of the City of Eugene declares it necessary to acquire combined permanent easement rights of approximately .17 of an acre (which includes the existing public utility easement and a private access easement that will be

overlaid), and a temporary construction easement area of approximately .5 of an acre, more particularly depicted on Exhibit A attached to this Resolution. The acquisition is necessary in order to construct the Commerce Street bicycle/pedestrian connector path and bridges project in accordance with the design prepared by the City Engineer and approved by the City Manager.

Section 2. The City Council directs that the City Manager or the Manager's designee shall continue negotiations with the affected property owner to acquire the needed property interests and, if necessary, institute proceedings in eminent domain for the condemnation of the real property interests described in Section 1. At least 40 days prior to the filing of any action for condemnation, the City Manager or the Manager's designee shall make a written offer to the owner or parties having an interest in the property of a stated amount as compensation therefore and for any compensable damages to the remaining property.

Section 3. The City Council further directs that the City Manager or the Manager's designee shall take steps to obtain for the City immediate possession of the real property interests described in Section 1 if negotiations will delay the construction of the described improvement.

Section 4. The City Council declares that the improvement described above is for a public purpose, is necessary for the public welfare, is located in a manner which will be most compatible with the greatest public good and the least private injury, and is authorized under the laws of the State of Oregon and Charter and ordinances of the City of Eugene.

Section 5. The City Council further declares that the real property interest described in Section 1 shall be used by the City of Eugene for public purposes at the earliest possible date and, in any event, no later than ten years from the date this Resolution is adopted by the Council.

Section 6. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the 26th day of September, 2016.



City Recorder

EXHIBIT "A"

M3 REAL ESTATE DEVELOPMENT,LLC
17-04-33-10-04500

M3 REAL ESTATE DEVELOPMENT,LLC
17-04-33-10-04400

PUBLIC ACCESS EASEMENT

PHILIP L. MARVIN
AND
JOAN C. MARVIN
17-04-34-00-04006

CONSTRUCTION EASEMENT

AMAZON CHANNEL

COMMERCE ST.

COMMERCE ST.

