



**SUBSTITUTE
ORDINANCE NO. 28682**

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3 AN ORDINANCE relating to transportation and streets and sidewalks;
4 declaring the public necessity for and providing for the acquisition by
5 the City of Tacoma by eminent domain of certain property described
6 herein located along East Portland Avenue, to construct street
7 improvements and related facilities within the City of Tacoma,
8 Washington; authorizing the City Attorney to prosecute eminent domain
9 proceedings and to stipulate in mitigation of damages; providing for
10 payment for such property; and providing for an immediate effective
11 date.

12 WHEREAS the City of Tacoma Public Works Department has
13 developed right-of-way plans which indicate the portions of parcels which are
14 necessary to be acquired for the East Portland Avenue Safety Improvements
15 Project, and

16 WHEREAS the City has negotiated in good faith as to the amount of
17 compensation due to the property owners, and
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1 WHEREAS written notice has been provided to the property owners of
2 the City's intent to commence eminent domain proceedings as required by
3 law, and
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5 WHEREAS the City Council is exercising its independent discretion to
6 proceed with an eminent domain case to establish the right to take such
7 property for a public purpose and to settle the amount of compensation
8 owing to the property owners; Now, Therefore,
9

10 BE IT ORDAINED BY THE CITY OF TACOMA:

11 Section 1. Findings

12 A. The City Council finds that the public use, necessity and
13 convenience now require the acquisition of right-of-way and easements of
14 certain portions of parcels of real property located within and adjacent to the
15 right-of-way of East Portland Avenue, for the construction of transportation
16 improvements and related facilities ("Project").
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19 B. The property ("Subject Property") to be taken pursuant to this
20 Ordinance includes the fee interest in portions of two parcels depicted on the
21 maps attached at Exhibit "A," as well as certain temporary easement interest.
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1 C. The City of Tacoma, by and through its Public Works Department,
2 has actively worked in good faith to acquire the Subject Property by negotiated
3 sale.
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5 D. Honest differences of opinion exist between the City of Tacoma and
6 the owners of the Subject Property.
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8 E. The City of Tacoma's Public Works Department has a Six-Year
9 Transportation Improvement Program, which indicates that the Subject
10 Property is necessary in the public interest and convenience to be acquired for
11 the East Portland Avenue Safety Improvements Project.
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13 F. Due to the public need for safety improvements to accommodate
14 present growth, development and traffic needs, the public necessity and
15 convenience requires the City to initiate the acquisition of the Subject Property
16 by exercise of the power of eminent domain.
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18 G. The Subject Property acquired by negotiated sale or by eminent
19 domain proceedings authorized by this Ordinance are within the city limits of
20 the City of Tacoma, Pierce County, Washington and are necessary for the
21 Project.
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1 Section 2. The Subject Property to be acquired by eminent domain
2 proceedings, shall be acquired only after just compensation has been made or
3 paid into the Pierce County Superior Court registry or special account for the
4 benefit of the owner or owners in a manner provided by law.
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6 Section 3. All just compensation, fees, and costs associated with the
7 acquisition by eminent domain proceedings of the Subject Property, shall be
8 paid from the East Portland Avenue Safety Improvements Project fund,
9 and if this fund were insufficient, from the City's general fund or other funds
10 then available for such purposes.
11

12 Section 4. The City Attorney is hereby authorized to begin and prosecute
13 the actions and proceedings in the manner provided by law to condemn, take
14 and appropriate all lands and other properties as necessary to carry out the
15 provisions of this Ordinance. The City Attorney is also authorized to enter into
16 stipulations for the purpose of minimizing damages, including all stipulations
17 authorized by Washington State law.
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1 Section 5. There is an immediate need to initiate eminent domain
2 proceedings to acquire the Subject Property to accommodate the Project; an
3 emergency is hereby declared; and this Ordinance shall go into effect
4 immediately upon final passage.
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6 Passed _____
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8 _____
9 Mayor

10 Attest:
11 _____
12 City Clerk

13 Approved as to form:
14 _____
15 _____
16 City Attorney



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EXHIBIT "A"

SUBJECT PARCELS

Parcel No. 032015-500-7

Dimension Townhouses, LLC

Site Address: 1521 East 38th Street, Tacoma 98404

Parcel No. 296500-018-0

R&R Associates

Site Address: 5516 East Portland Avenue, Tacoma 98404