



TO: Elizabeth A. Pauli, City Manager
FROM: Ronda Van Allen, Senior Real Estate Specialist, Facilities Management Division
Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer *KDK*
COPY: City Council and City Clerk
SUBJECT: Ordinance – Condemnation Authorization – East Portland Avenue Safety Improvements Project
#PWK-G0022-03 / HSIP - 3133(007) – July 7, 2020
DATE: July 7, 2020

SUMMARY AND PURPOSE:

An ordinance authorizing the use of eminent domain as may be required for the acquisition of fee interests and/or easement interests for rights of way necessary to construct the pedestrian and signal safety improvements in connection with the East Portland Avenue Safety Improvement Project No. PWK-G0022-03 / HSIP - 3133(007) as approved by Washington State Department of Transportation (“WSDOT”).

BACKGROUND:

The Public Works Department used a data driven process to determine a need for safety improvements along the Portland Avenue corridor and completed a grant application for the safety improvements in early 2016. Later that year the City was awarded a \$1.4 million Federal/Highway Safety Improvement (HSIP) grant to complete the desired improvements. As a recipient of a HSIP grant, municipalities are obligated to meet the requirements of the local agency having jurisdiction over the administration of the grant, which in this case is WSDOT through the Washington State Local Agency Agreement (LAG) to complete the project. As part of that agreement, municipalities agree to assemble the property rights necessary to construct the project up to and including the use of eminent domain. Failure to assemble the property rights is likely to cause the City to lose the grant funding and puts the award of future grant funding in jeopardy.

While most negotiations have completed successfully, there are currently three properties pending. Two of those owners have not countered or pushed back on the City’s offer, but instead have timing and location issues for signing the documents. Once these owners are able to sign the agreements, the City will remove them from the eminent domain proceedings. The third owner has submitted a counter offer which far exceeds the established market value. Negotiations will continue with this owner, but will likely result in condemnation proceedings.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

The Eastside community have been instrumental in collaborating with Public Works staff to achieve a number of safety improvement goals and accessibility options, which this project would accomplish.

2025 STRATEGIC PRIORITIES:

Equity and Accessibility:

The East Portland Avenue project represents an opportunity to improve safety in an area of the city where roughly 62 percent of the population is a mix of ethnicities that historically have been underrepresented.

Economy/Workforce: High Opportunity.

Increase the number of infrastructure projects and improvements that support existing and new business developments.

Increase positive public perception related to the Tacoma economy.



Livability: High Opportunity

Improve access and proximity by residents to diverse income levels and race/ethnicity to community facilities, services, infrastructure, and employment.

Increase positive public perception of safety and overall quality of life.

In addition, staff has partnered with Tacoma Housing Authority to utilize THA funding to incorporate off-site improvements needed for their Arlington project into this safety improvement project.

Explain how your legislation will affect the selected indicator(s).

Authorization to use eminent domain will allow the project to proceed with construction so that the community has access to new safety infrastructure and improvements and accessibility options. Authorization for use of eminent domain will assure the public that the City is maintaining good stewardship of taxpayer dollars by using fair market value as the basis for compensation to individual property owners so that all property owners are treated consistently and equitably.

ALTERNATIVES:

Presumably, your recommendation is not the only potential course of action; please discuss other alternatives or actions that City Council or staff could take. Please use table below.

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Council could deny the use of eminent domain.	None.	1. The City would have to pay far in excess of fair market value in order to obtain necessary property rights, thereby creating inherent inequity for those property owners who have already accepted fair market value as compensation. 2. The City would stop the project and attempt to design a build-around option which would be costly in terms of both time and money, and may not be feasible. Funding deadlines would be missed and the City would lose the federal funding.. 3. The City would need to forego the application of Federal Funds, and/or repay those already received.



EVALUATION AND FOLLOW UP:

N/A

STAFF/SPONSOR RECOMMENDATION:

Staff recommends authorization for use of eminent domain limited to the following three cases: (1) property owners cannot be identified or located, (2) property owners are unresponsive to repeated requests for contact, and (3) no agreement concerning compensation can be reached within thirty (30) days of receipt of offer packages by property owner.

FISCAL IMPACT:

This action is requested for authorization to use the legislative powers of eminent domain. The specific fiscal impact associated with this action is unknown at this time. Funds related to this action are budgeted on the project PWK-G0022 E Portland Avenue Safety Improvements.

Fund Number & Name	COST OBJECT (CC/WBS/ORDER)	Cost Element	Total Amount
1060-CAPTL	PWK-G0022	5600000	Unknown at this time
TOTAL			

What Funding is being used to support the expense?

Funding will come from the project budget of PWK-G0022 E Portland Avenue Safety Improvements. This project's total budget is \$2,909,594.00.

Are the expenditures and revenues planned and budgeted in this biennium's current budget?

Yes

Are there financial costs or other impacts of not implementing the legislation?

Yes, inability to assemble the necessary property rights up to and including the use of eminent domain will likely result in the loss of funding. For this project specifically 1.4 million dollars, and will ultimately result in the cancellation of the project.

Will the legislation have an ongoing/recurring fiscal impact?

No.

Will the legislation change the City's FTE/personnel counts?

No.

ATTACHMENTS:

- 2018 and 2019-2024 Six Year Transportation Improvement Program
 - Adopted June 26, 2018 by Ordinance No. 28517
- Right of Way Plans