




TO: Elizabeth A. Pauli, City Manager
FROM: Troy Stevens, Senior Real Estate Specialist, Public Works
Josh Diekmann, P.E. PTOE, Interim Public Works Director/City Engineer 
COPY: City Council and City Clerk
SUBJECT: Ordinance – Condemnation Authorization – East 64th Street, Phase. 2 Improvement Project #PWK-G0042-03 – June 6, 2023
DATE: May 12, 2023

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, signal safety improvements, and road improvements in connection with the East 64th Street, Phase. 2 Improvement Project.

BACKGROUND:

This Department’s Recommendation is Based On: The City is planning to improve East 64th Street from Pacific Avenue to the eastern City limits approximately 1.86 miles. The project is divided into three phases. Phase I improved the roadway between Pacific Avenue (State Route 7) and McKinley Avenue and was completed in 2021. Phase II is expected to go to construction in 2023 and will continue this work between McKinley Avenue and Portland Avenue. The final phase, Phase III, will continue the improvements from Portland Avenue to the eastern City limits in the future. Phase II of the project will include grinding and replacing the road surface, adding bike lanes, adding and replacing sidewalks, curb ramps with ramps meeting ADA standards, upgrading the stormwater system, and installing new streetlights.

While 72 out of the total 79 parcel negotiations have been completed successfully, there are currently 9 parcel negotiations in which negotiations have been delayed, stalled, or have otherwise come to an impasse. Property right acquisitions on the remaining parcels are comprised of temporary construction easements, minor right of way fee acquisitions, or a combination thereof. The outstanding parcel negotiations are critical to allow the project to proceed and avoiding impacts to grant funding timelines and deadlines. Negotiations will continue with the property owners up until trial or final settlement. If the property owners settle, they will be removed from the potential condemnation action.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

The community has collaborated with Public Works staff to achieve several safety improvement goals and accessibility options, which this project will accomplish. This project helps to complete the City’s Active Transportation Network.

2025 STRATEGIC PRIORITIES:

Equity and Accessibility:

The East 64th Street, Phase. 2 Improvement Project represents an opportunity to improve safety in an area of the city that historically has been underrepresented.



Economy/Workforce: Low to Very Low Opportunity.

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

Increase positive public perception related to Tacoma.

Livability: Low to Very Low 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.

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 fairly.

ALTERNATIVES:

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Council could deny the use of eminent domain.	None.	<p>1. The City would have to pay, using City funds, far in excess of fair market value in order to obtain necessary property rights, thereby creating inherent unfairness for those property owners who have already accepted fair market value as compensation.</p> <p>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 may lose the state funding, thereby cancelling the project.</p> <p>3. The City would need to forego the application of state Funds (Transportation Improvement Board), and/or repay those already received for failure to assemble the necessary property rights.</p>



EVALUATION AND FOLLOW UP:

N/A

STAFF/SPONSOR RECOMMENDATION:

Staff recommends authorization for use of eminent domain when (1) property owners cannot be identified or located, (2) property owners are non-responsive to repeated requests for contact, or (3) no agreement concerning compensation can be reached within thirty (30) days of receipt of offer packages by property owners.

FISCAL IMPACT:

This action is requested for authorization to use the legislative powers of eminent domain. There is no fiscal impact directly associated with this request. If we move to eminent domain in the future, a court would then set the fair market value, setting the fiscal impact. Current fair market value is estimated at \$27,450.

Fund Number & Name	COST OBJECT (CC/WBS/ORDER)	Cost Element	Total Amount
1060 - Transportation Capital Fund	PWK-G0042-03-02	5417004 5611000	\$27,450
TOTAL			\$27,450

What Funding is being used to support the expense?

Funding will come from the project budget of PWK-G0042-03-02 East 64th Street, Phase. 2 Improvement Project. Revenue sources would be Real Estate Excise Tax or Streets Initiative revenues.

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

N/A

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

Yes. The inability to assemble the necessary property rights up to and including the use of eminent domain will likely result in the loss of funding; and, for this project, specifically, a total of 7.5 million dollars, of which 4.45 million are Transportation Improvement Board funds, would ultimately be lost if the project is cancelled.

Will the legislation have an ongoing/recurring fiscal impact?

No.

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

No.

ATTACHMENTS:

Final Maps