




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 ^{DS}
COPY: City Council and City Clerk
SUBJECT: Ordinance – Condemnation Authorization – Water Flume Line Trail Phase III Project #PWK-00561-09-03 – August 9, 2022
DATE: July 22, 2022

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 Water Flume Line Trail Phase III project, as approved by Washington State Department of Transportation.

BACKGROUND:

This Department’s Recommendation is Based On: This project will construct Water Flume Line Trail Phase III between South M Street and South Pine Street along South Tacoma Way. Water Flume Line Trail is also referred to as the Water Ditch Trail. The multi-use trail will be 10' wide, have 2' shoulders, and be separated from the vehicular traffic with both vertical separation (curb) and a 5' planter strip area. Accessible pedestrian signal push buttons will be installed at the signalized South Wilkeson Street intersection. Roadway scale LED illumination and a permanent pedestrian/bike counter will be installed with the project. Areas with unrestricted vehicular or multiple driveway access will be reconstructed to reduce conflict points and provide ADA compliant driveways. The trail project also includes ADA improvements at intersections and new bus stop pad(s) and shelter(s). One eastbound vehicular travel lane on the adjacent South Tacoma Way will be eliminated to reallocate the use of the right of way to accommodate the introduction of the shared-use path on the north side of the roadway limits.

While 17 of 20 negotiations have completed successfully, there are currently three negotiations consisting of temporary property rights and minor property acquisitions pending with three property owners. The outstanding property negotiations are critical to allow the project to proceed and avoiding impacts to grant funding timelines.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

The community has collaborated with Public Works staff to achieve a number of 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 Water Flume Line Trail Phase III project represents an opportunity to improve safety in an area of the city where 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

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.

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:

| Alternative(s) | Positive Impact(s) | Negative Impact(s) |
|--|--------------------|---|
| 1. Council could deny or delay consideration of the use of eminent domain. | None. | 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 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 may lose the federal funding, thereby cancelling the project. 3. The City would need to forego the application of Federal Funds, and/or repay those already received for failure to assemble the necessary property rights. |



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 non-responsive 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.

Negotiations will continue with these owners after Council has authorized use of condemnation. However, if the City and property owners cannot come to an agreement, the City will begin condemnation proceedings. Negotiations will remain open with property owners up to final judgment.

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 under \$10,000.

| Fund Number & Name | COST OBJECT (CC/WBS/ORDER) | Cost Element | Total Amount |
|------------------------------------|-------------------------------|--------------|-----------------|
| 1060 - Transportation Capital Fund | PWK-00561-09-03 | 5611000 | \$10,000 |
| TOTAL | | | \$10,000 |

What Funding is being used to support the expense?

Funding will come from the project budget of PWK-00561-09-03 Water Flume Line Trail Phase III.

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; and, for this project, specifically, 5.6 million dollars 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:

- Exhibit A – Aerial Map – 1717 South Tacoma Way
- Exhibit B – Aerial Map – 1517 South Tacoma Way
- Exhibit C – Aerial Map – 2719 South Tacoma Way