

CITY COUNCIL AGENDA TOPIC

Ordinance authorizing and providing for acquisition of interests in real property for the purpose of constructing the 2 Enatai Drive Lakeline Access Project; providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiations of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.

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EXECUTIVE SUMMARY

ACTION	This Ordinance will authorize the acquisition of property rights necessary for the 2 Enatai Lakeline Access Project, including the use of eminent domain if mutual agreement cannot be reached through voluntary negotiations.
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RECOMMENDATION

Move to adopt Ordinance No. 6843

BACKGROUND/ANALYSIS

Pursuant to a recorded easement, the City has an existing sewer line that runs in a north/south direction within property located at 2 Enatai Drive, Bellevue WA 98004. This sewer line connects to the City's lake line located in Lake Washington:

The sewer line is presently experiencing periodic blockages, which is impacting sewer service in the area. At present, there is no bidirectional cleanout system on the line that would help the Utilities Department to effectively clear/remove obstructions in the lines. The need to clear/remove blockages in a timely manner is important to avoid spills into Lake Washington and/or backflows into residential properties.

The Utilities Department proposes to construct a bidirectional cleanout system on the sewer line located at 2 Enatai Drive, which will facilitate the department's ability to more efficiently clear the line of obstructions. In the short term, the project will resolve maintenance problems, improve sewer service efficiencies, improve levels of service, reduce the likelihood of system failures, and reduce the likelihood of any damage claims. In the long term, the project will help keep sewer customer rates as low as possible by managing the system at its lowest life-cycle costs. The proposed project is part of the Utilities Capital Improvement Program (CIP) S-32.

The proposed project requires mobilization of equipment via land and water, due north of the I-90 Bridge. The project will involve:

- Installation of a coffer dam inside the lake in the frontage of the two/three properties (20 Enatai, 17 Enatai, and 2 Enatai);
- Dewatering inside the coffer dam area to keep that area dry;
- Removal of a portion of the dock and two piles close to the bulkhead wall at the lake frontage of 2 Enatai;
- Trenching to replace the lake sewer line and to connect the bidirectional cleanout system;
- Installation of a vault, bidirectional cleanout (at the upland inside the sewer easement in 2 Enatai) and associated pipes to connect to the lake sewer main;
- Removal and replacement of the bulkhead wall along the lake frontage of 2 Enatai;
- Replacement of an existing manhole to allow the cleanout installation and connecting the new manhole to the lake sewer line;
- Restoration work (grass and fence restoration);
- Replacement of the entire dock surface with grated surface for the 2 Enatai property dock;
- Removal of the coffer dam upon completion of the work and demobilization of the equipment.

To complete the project, the City needs two (2) temporary construction easements over property located at 2 Enatai and 17 Enatai. The City has been negotiating for approximately 15 months with the property owners and have been unable to reach a mutual agreement.

Adoption of the proposed Ordinance would empower the City Attorney's Office to commence a condemnation action to compel the acquisition of property rights, if necessary.

While the proposed Ordinance would authorize future legal proceedings (if needed), it is staff's intention to continue negotiating with the affected property owners with the aim of arriving at a mutually agreeable agreement for all needed property rights, including just compensation. The parties are exploring a possible possession and use agreement, which may help avoid unnecessary legal proceedings. However, the City cannot execute such an agreement unless/until the City Council first adopts the proposed condemnation ordinance.

As required by condemnation statutes, the notice of the Council's meeting to consider adoption of this Ordinance has been mailed to the property owners of record of the listed properties and has also been published in *The Seattle Times*.

POLICY & FISCAL IMPACTS

Policy Impact

Under RCW 8.12.040 and BCC 4.30.010, major real property acquisitions must be approved by the City Council.

RCW Chapter 8.12 establishes the authority and procedure for cities to acquire property by condemnation for streets, street improvements, and other public purposes. The statutes provide that when a city seeks to condemn property for a public purpose, it must first provide notice in the local newspaper as well as by certified mail to the affected property owners. The statutes further provide that the City indicates that compensation for acquisitions be made from applicable city funds, or, if applicable, by special assessment upon the property benefitted by the project.

Under WAC 458-61A-206, transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain are not subject to real estate excise tax.

Under 26 U.S. Code § 1033, transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain may qualify for federal tax benefits, including tax-deferred exchanges.

Fiscal Impact

There is no fiscal impact as a result of this action.

OPTIONS

1. Adopt the Ordinance authorizing and providing for acquisition of interests in real property for the purpose of constructing the 2 Enatai Drive Lakeline Access Project; providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiations of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.
2. Do not adopt the Ordinance and provide alternative direction to staff.

ATTACHMENTS

- A. Property Rights Acquisition Depiction of Acquisition
- B. Legal Descriptions of Properties
- C. Vicinity/Project Map
- D. Copy of Publication Notice
Proposed Ordinance No. 6843

AVAILABLE IN COUNCIL LIBRARY

N/A