

CITY COUNCIL AGENDA TOPIC

AN ORDINANCE authorizing and providing for the acquisition of interests in land for the purpose of constructing the Mountains to Sound Greenway Trail – 142nd Place SE to 150th Avenue SE Project (CIP Plan No. PW-W/B-86); providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiation of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.

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City Attorney's Office

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Finance & Asset Management Department

EXECUTIVE SUMMARY**ACTION**

This Ordinance will authorize the acquisition of property rights necessary for the Mountains to Sound Greenway Trail from 142nd Place SE to 150th Avenue SE Project including the use of eminent domain if mutual agreement cannot be reached through voluntary negotiations.

RECOMMENDATION

Move to adopt Ordinance No. 6841

BACKGROUND/ANALYSIS

The Mountains to Sound Greenway (MTSG) Trust was organized in 1991 to set aside from urbanization the forested corridor of Interstate 90 (I-90) from Seattle through the Cascade Mountains so that current and future generations could always enjoy the scenic, recreational, and historic qualities/amenities along the 100-mile corridor. The Trust's success in conserving more than 130,000 acres of scenic and recreational lands led to the designation of the MTSG as a National Scenic Byway in 1998. Since then, the City has advanced planning, design, right of way, and construction of the MTSG multimodal pathway accomplishing the following milestones and segments:

Design on the Mountains to Sound Greenway Trail Project between I-405 and 150th Avenue SE was broken into three phases to match available funding. The first phase is located between I-405 and 132nd Avenue SE. The second phase is from 132nd Avenue SE to 142nd Place SE. The first and second phases of the project are constructed, and the third phase from 142nd Place SE to 150th Avenue SE is finalized with design and targeted for construction in summer of 2025.

This project will complete design of the Mountains to Sound Greenway trail immediately east of the 142nd Place SE overcrossing of I-90 eastward to the nonmotorized overcrossing of I-90 approaching

150th Avenue SE.

Acquisition of easements is required for this completion, with two of three acquisitions completed. One property owner is still in negotiations with the City, and the subject of this ordinance.

POLICY & FISCAL IMPACTS

Policy Impact

Under Bellevue City Code 4.30.010 and RCW 8.12.040, Real Property acquisitions through eminent domain must be approved by the City Council. The City of Bellevue will use condemnation to acquire property when mutual agreement cannot be reached in a reasonable amount of time. In order to continue to move forward when property owners are in agreement with the project, but not with the compensation amount, we can initiate condemnation and enter into a Possession and Use Agreement with them while we continue to negotiate compensation.

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

This action obligates the City to acquire a wall anchor easement, a temporary construction easement, remove a tree, and instate a five year monitoring period from Time Warpp LLC for \$140,804, plus all applicable taxes, for the Mountains to Sound Greenway Trail – 142nd Place SE to 150th Avenue SE Project (CIP Plan No. PW-WB-86). Sufficient funding exists in the 2025-2030 General Capital Improvement Program (CIP Plan Nos. PW-WB-86 and PW-R-199) to fully fund this acquisition.

Action	Area (Square Feet)	Amount (\$)
Wall Anchor Easement	5,087 SF	\$51,000
Temporary Easement	4,644 SF	33,000
Tree Removal		10,000
Monitoring Period	4,644 SF	46,804
Total Amount	9,731 SF	\$140,804

Property owners have presented a counteroffer, requesting compensation in the amount of \$684,606 citing possible changes to the ability to develop the property in the future. Negotiations to continue after signing of a possession and use agreement.

OPTIONS

1. AN ORDINANCE authorizing and providing for the acquisition of interests in land for the purpose of constructing the Mountains to Sound Greenway Trail – 142nd Place SE to 150th Avenue SE Project (CIP Plan No. PW-W/B-86); providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiation 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 Table & Depiction of Acquisition
- B. Legal Descriptions of Properties
- C. Vicinity/Project Map
- D. Copy of Publication Notice
Proposed Ordinance No. 6841

AVAILABLE IN COUNCIL LIBRARY

N/A