

CITY COUNCIL REGULAR SESSION

Ordinance authorizing and providing for acquisition of interests in land for the purpose of constructing the NE Spring Boulevard Zone 4 Project (130th Avenue NE to 132nd Avenue NE), 130th Ave NE Project, and 130th public park-and-ride facility implementing the City and Sound Transit Memorandum of Understanding related to the East Link light rail project; 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.

Monica Buck, Assistant City Attorney, 452-4082
City Attorney's Office

Toni Call, Director, 452-7863
Ira McDaniel, Real Property Manager, 452-4182
Mike Murray, Senior Real Property Agent, 452-6024
Finance & Asset Management Department

EXECUTIVE SUMMARY

This Ordinance will authorize the acquisition of property rights necessary for the NE Spring Boulevard Zone 4, 130th Ave NE and 130th public park-and-ride projects, including the use of eminent domain if mutual agreement cannot be reached through voluntary negotiations.

RECOMMENDATION

Move to adopt Ordinance No. 6481

If approved, effective date: 10/31/2019

BACKGROUND/ANALYSIS

The 2019-2025 CIP includes PW-R-174, NE Spring Boulevard Zone 4, which will construct transportation system improvements of a new arterial roadway connection between 130th Avenue NE and 132nd Avenue NE. The project includes modifications to traffic signals, and will integrate vehicular traffic, pedestrian, and bicycle movements with the Sound Transit East Link Light Rail project. The NE Spring Boulevard Zone 4 project is one of the projects in the City's Transportation Infrastructure Finance and Innovation Act (TIFIA) loan package, as it was identified as a part of the broad BelRed Plan and transportation vision of supporting planned growth and economic vitality, improving access and circulation, and capturing synergistic opportunities with Sound Transit's East Link Project.

In order to complete the project, the acquisition of property rights from two parcels, Kellco (a/k/a Kelly) and Curran, are required. See Attachment 1, 2, and 3 for property descriptions and maps.

In addition to the property needed for NE Spring Boulevard, the Kelly property will play a critical role in facilitating the construction of a 300-stall public park and ride for the East Link light rail project integrated with a mixed-use urban transit-oriented development (TOD), including a mix of market and affordable housing consistent with the City's vision for the Bel-Red corridor. In 2015 Council adopted

Resolution 8903, approving execution of an Amended and Restated Umbrella Memorandum of Understanding with Sound Transit, which included provisions related to the transfer of the 130th Avenue TOD property to the City of Bellevue. Based on existing market conditions, property values and the contractual timeframe in which the City has committed to delivering the 300-stall park-and-ride in the conveyance agreement for the TOD property, possession and use of the Kellco property will provide flexibility, interim parking capacity and staging space for current and future projects.

A portion of the Kelly property will also be used for constructing sidewalks as part of the 130th Avenue NE project, PW-R-170. The property acquisition for the remainder of the parcels for the 130th Avenue NE project, which extends from NE Bellevue-Redmond Road to NE 20th Street, is expected to commence later this year.

Adoption of the proposed Ordinance would empower the City Attorney's Office to commence a condemnation action to keep the projects on schedule, and further enables property owners to sell their property to the City, by agreement, in lieu of condemnation, thus benefitting property owners by exempting their transactions from real estate excise tax.

While the proposed Ordinance would provide condemnation authority to ensure that all the required property rights can be obtained in a timely manner, it is staff's intention to continue to negotiate with the affected property owners with the aim of arriving at mutually agreeable purchases for all needed property rights.

As required by condemnation statutes, notice of 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 Bellevue City Code 4.30.010 and RCW 8.12.040, 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 indicate 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 the acquisition of interests in land for the purpose of constructing the NE Spring Boulevard Zone 4 Project (130th Avenue NE to 132nd Avenue NE), 130th Avenue NE Project, and 130th public park-and-ride facility implementing the City and Sound Transit Amended and Restated Memorandum of Understanding related to the East Link light rail project; 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 & AVAILABLE DOCUMENTS

- 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. 6481

AVAILABLE IN COUNCIL LIBRARY

N/A