

CITY COUNCIL REGULAR SESSION

Ordinance authorizing and providing for acquisition of interests in land for the purpose of constructing the 124th Avenue NE – NE 12th Street to NE Spring Boulevard Project (CIP Plan No. PW-R-169); 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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EXECUTIVE SUMMARY

This Ordinance authorizes the acquisition of property rights necessary for the 124th Avenue NE – NE 12th Street to NE Spring Boulevard project including the use of eminent domain if mutual agreement cannot be reached through voluntary negotiations.

RECOMMENDATION

Move to adopt Ordinance No. 6566.

BACKGROUND/ANALYSIS

The 2021-2027 General Capital Investment Program (CIP) includes PW-R-169, 124th Avenue NE – NE 12th Street to NE Spring Boulevard project. The 124th Avenue NE 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 Bel-Red 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.

The project provides multi-modal improvements along 124th Avenue NE between NE 12th Street and NE Spring Boulevard. The improvements include five travel lanes, two in each direction with turn pockets or a center turn lane, curb, gutter, and separated multi-use paths on both sides, retaining walls, illumination, landscaping, irrigation, storm drainage and water quality treatment, and underground utilities and signal modification at NE District Way.

In order to complete the project, the acquisition of property rights from two parcels is required. See attachments for descriptions of property rights needed, including depictions and legal descriptions.

These property rights will be used for constructing travel lanes, curbs, multi-use paths retaining walls, landscaping, irrigation, storm drainage and water quality treatment, underground utilities on 124th Avenue NE between NE 12th Street and NE Spring Boulevard, and are limited to what is reasonably necessary for project construction.

The attachments also include a vicinity map and a copy of the publication notice.

Adoption of the proposed Ordinance would empower the City Attorney's Office to commence a condemnation action to keep the project on schedule, and further enables property owners to sell their property rights to the City, by agreement, in lieu of condemnation.

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

The cost to acquire property rights, through negotiation or condemnation, is included in the 2021-2027 124th Avenue NE – NE 12th Street to NE Spring Boulevard project budget (CIP Plan No. PW-R-169).

OPTIONS

1. Adopt the Ordinance authorizing and providing for acquisition of interests in land for the purpose of constructing the 124th Avenue NE – NE 12th Street to NE Spring Boulevard Project (CIP Plan No. PW-R-169); 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. 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
- E. CIP project description (PW-R-169)
Proposed Ordinance No. 6566

AVAILABLE IN COUNCIL LIBRARY

N/A