

ORDINANCE 1275

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AUTHORIZING THE MAYOR TO ACQUIRE CERTAIN REAL PROPERTY INTERESTS BY NEGOTIATED VOLUNTARY PURCHASE, UNDER THREAT OF CONDEMNATION, BY CONDEMNATION, BY SETTLING CONDEMNATION LITIGATION OR ENTERING ADMINISTRATIVE SETTLEMENTS, FOR THE PURPOSE OF EXTENDING DOWNING STREET IN NORTH BEND, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in order to maintain and improve existing public streets and public parking and to meet the current and future requirements and goals of the City of North Bend Comprehensive Plan related planning documents, it will be necessary for the City to acquire real property; and

WHEREAS, the City of North Bend will be reviewing and approving specific project plans, schedules and budgets for extending Downing Street between North Bend Way and Second Avenue, including a connection with Park Street (the “Project”); and

WHEREAS, in order to complete the Project, it has been determined that the City of North Bend must acquire the property and property rights described in Exhibit A for the public uses of public streets and public parking; and

WHEREAS, the City of North Bend has commissioned appraisals to determine the fair market value of the properties and will continue to negotiate in good faith with the owners of the properties authorized to be acquired with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation shall be paid from City of North Bend funds; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Mayor Authorized: The Mayor is hereby authorized to negotiate and prepare such agreements as are customary and necessary for the acquisition of the real property interests described in Exhibit A, said property to be used for the public use of

construction of the Project. Execution of such final agreements by the Mayor shall occur only after approval by the City Council at an open public meeting.

Section 2. Settlement: The Mayor is further authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit A. Such settlements shall be made only upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and shall be subject to final approval by the City Council at an open public meeting.

Section 3. Public Use and Necessity Declared: The City of North Bend City Council specifically finds construction of the Project to be a public use, specifically the construction of public streets and public parking. The City Council specifically finds construction of the Project to be necessary, and in the best interests of the citizens and motorists within the City of North Bend.

Section 4. Condemnation Proceedings Authorized: In addition to the authority granted to the Mayor in Section 1 above, the Mayor may further authorize the City Attorney to commence any such condemnation proceedings as may be useful or necessary to acquire the properties and property rights described in the attached Exhibit A. The Mayor is additionally authorized to make minor amendments to the legal descriptions of properties described in the Attached Exhibit "A", as may be necessary to correct scrivener's errors or to conform any legal description to the precise boundaries of the property actually acquired for construction of the Project.

Section 5. Funds: The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from the City of North Bend's Capital Improvement Program funds.

Section 6. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Effective Date: This ordinance shall be published in the official newspaper

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of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF JUNE, 2007.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: July 27, 2007

Effective: July 2, 2007

Cheryl Proffitt, City Clerk