

## **ORDINANCE NO. 2741**

**AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON,** relating to the acquisition by eminent domain of a certain portion of property in the City of Puyallup necessary for construction and maintenance of the *Riverwalk Trail Project*; directing staff to exhaust all reasonable negotiation efforts to purchase property necessary for the project, describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation and use of the property; providing the mode of payment of cost of acquisition of the property; and directing the City Attorney to prosecute such action in Pierce County Superior Court in the event direct purchase efforts are not successful.

**WHEREAS,** there exists in the City of Puyallup a certain portion of property legally described in Section 1 of this ordinance; and

**WHEREAS,** the Washington State Department of Transportation is willing to assist the City in accomplishing the *Riverwalk Trail Project*; and

**WHEREAS,** a condition of the WSDOT assistance is the City's commitment to exercise its power of eminent domain where necessary to acquire necessary properties; and

**WHEREAS,** while the City of Puyallup prefers to purchase said property through active negotiations with the owners of said property, time is of the essence and the City may not and it appears that the City of Puyallup will be unable to acquire said property by negotiation, and

**WHEREAS,** the City Council finds that said property is critical to the *Riverwalk Trail Project* and it is in the public interest to have such property for public health, safety, welfare and transportation needs, and

**WHEREAS,** based on the foregoing, the City Council finds that the only alternative available for acquisition of the following property may be by eminent domain; now therefore,

### **THE CITY COUNCIL OF THE CITY OF PUYALLUP ORDAINS AS FOLLOWS:**

**Section 1. Legal Description.** The real property that is the subject of this ordinance is legally described as follows:

See attached Exhibit A (map), which is incorporated herein by this reference.

**Section 2. Public use and necessity.** The public convenience, use, and necessity, demand the acquisition of the real property described in Section 1 herein for construction and maintenance of the *Riverwalk Trail Project* and for use by the public for public transportation needs.

**Section 3. Condemnation of property.** The real property described in Section 1 herein is hereby condemned and appropriated and taken for the purposes described in Section 2 herein, only after just compensation has been made, or paid into the court for the owner thereof in a manner provided by law.

**Section 4. Costs of acquisition.** The costs of the acquisition provided for by this ordinance shall be paid by the general fund of the City of Puyallup, or such other funds of the City of Puyallup as may be provided by law.

**Section 5. Direction to and Authority of City Attorney.** The City Attorney is hereby directed to exhaust reasonable efforts through direct negotiations to acquire authorized and directed to begin and prosecute the necessary property. In the event reasonable negotiation efforts are not successful with affected property owners, the City Attorney is hereby authorized and directed to begin and prosecute actions and proceedings in a manner provided by law to condemn, take, damage, and appropriate the real property necessary to carry out the provisions of this ordinance. In conducting such condemnation proceedings, the City Attorney is hereby authorized to enter into stipulations for the purpose of minimizing damages.

**Section 6. Severability - Construction**

(1) If a section, subsection paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Puyallup Municipal Code, this ordinance is deemed to control.

**Section 7. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication in accordance with law.

**PASSED BY** the City Council of the City of Puyallup, Washington this 3<sup>rd</sup> Day of March, 2003, and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2003.

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Kathy R. Turner, Mayor

APPROVED AS TO FORM:

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Gary N. McLean, City Attorney

ATTEST:

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Barbara J. Price, City Clerk

Published: March 6, 2003