

05/06/19  
05/13/19

ORDINANCE NO. M-4267

AN ORDINANCE relating to transportation and streets and sidewalks; declaring the public necessity for and providing for the acquisition by the City of Vancouver by eminent domain of certain property described herein located along S.E. Mill Plain Blvd. between SE 105<sup>th</sup> Ave and SE 107<sup>th</sup> Ave, to construct street improvements and related facilities within the City of Vancouver, Washington; authorizing the City Attorney to prosecute eminent domain proceedings and to stipulate in mitigation of damages; providing for payment for such property; and providing for an immediate effective date.

WHEREAS, the City of Vancouver Public Works Department has developed right-of way plans which indicate the portions of parcels which are necessary to be acquired for the S.E. Mill Plain Blvd. (104<sup>th</sup> Ave to Chkalov Drive) Transportation Improvement project; and

WHEREAS, the City has negotiated in good faith as to the amount of compensation due to the property owners and has based its offer price on a licensed appraiser; and

WHEREAS, notice has been provided to the property owners of the City's intent to commence eminent domain proceedings as required by law; and

WHEREAS, negotiations have not yet resulted in an agreement between the parties; and

WHEREAS, the City Council is exercising its independent discretion to proceed with an eminent domain case to establish the right to take such property for a public purpose and to settle the amount of compensation, if any, owing to the property owners; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. FINDINGS

A. As discussed and described in SR 060-19, the City Council finds that the public use, necessity and convenience now require the acquisition of right-of-way and easements of certain portions of parcels of real property located within and adjacent to the right-of-way of S.E. Mill Plain Blvd., between SE 105th Ave and SE 107th Ave, for the construction of transportation improvements and related facilities (“Project”).

B. The property (“Subject Property”) to be taken pursuant to this Ordinance includes the fee interest in portions of two parcels listed at Exhibit “A”, as well as certain temporary easement interest. The Subject Property to be taken for the Project is specifically described in the attached Exhibits “B-1,” “B-2,” “B-3,” and “B-4” and depicted on the maps attached at Exhibits “C-1,” “C-2” and “C-3.”

C. The City of Vancouver, by and through its Public Works Department, has actively worked in good faith to acquire the Subject Property by negotiated sale.

D. Honest differences of opinion exist between the City of Vancouver and the owners of the Subject Property.

E. The City of Vancouver’s Public Works Department has a Six Year Transportation Improvement Program, which indicates that the Subject Property is necessary in the public interest and convenience to be acquired for the improvement of S.E. Mill Plain Blvd., between SE 105th Ave and SE 107th Ave.

E. Due to the public need to widen the street to accommodate present growth, development and traffic needs, the public necessity and convenience requires the City to initiate

the acquisition of the Subject Property by exercise of the power of eminent domain

G. The Subject Property acquired by negotiated sale or by eminent domain proceedings authorized by this Ordinance are within the city limits of the City of Vancouver, Clark County, Washington and are necessary for the Project.

Section 2. The Subject Property to be acquired by eminent domain proceedings, shall be acquired only after just compensation has been made or paid into the Clark County Superior Court registry or special account for the benefit of the owner or owners in a manner provided by law.

Section 3. All just compensation, fees, and costs associated with the acquisition by eminent domain proceedings of the Subject Property, shall be paid from the S.E. Mill Plain Blvd. (104<sup>th</sup> Ave to Chkalov Drive) Road Project fund, and if this fund were insufficient, from the City's general fund or other funds then available for such purposes.

Section 4. The City Attorney is hereby authorized to begin and prosecute the actions and proceedings in the manner provided by law to condemn, take, damage and appropriate all lands and other properties as necessary to carry out the provisions of this Ordinance. The City Attorney is also authorized to enter into stipulations for the purpose of minimizing damages, including all stipulations authorized by Chapter 8.25 RCW.

Section 5. As discussed in Staff Report 060-19, and the findings of this Ordinance, there is an immediate need to initiate eminent domain proceedings to acquire the Subject Property to accommodate the Project; an emergency is hereby declared; and this Ordinance shall go into effect immediately upon final passage.

Read first time: May 6, 2019

Ayes: Paulsen, Lebowsky, Stober, Turlay, Hansen, Mayor McEnery-Ogle

Nays: None

Absent: Glover

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this 13<sup>th</sup> day of May, 2019.

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Anne McEnery-Ogle, Mayor

Attest:

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Natasha Ramras, City Clerk  
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

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E. Bronson Potter, City Attorney

SUMMARY

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The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via [www.cityofvancouver.us](http://www.cityofvancouver.us) (Go to City Government and Public Records).