

ORDINANCE NO. 1407

AN ORDINANCE OF THE CITY OF KALAMA, WASHINGTON RELATING TO THE ACQUISITION BY EMINENT DOMIAN OF AN EASEMENT OVER A CERTAIN PORTION OF PROPERTY ADJACENT TO THE CITY OF KALAMA NECESSARY FOR THE TIDEWATER PROJECT, DIRECTING STAFF TO EXHAUST ALL REASONABLE NEGOTIATION EFFORTS TO PURCHASE PROPERTY NECESSARY FOR THE PROJECT, DESCRIBING THE PUBLIC CONVINIENCE, USE, AND NECESSITY OF SUCH PROPERTY; PROVIDING FOR THE CONDEMNATION, APPROPRIATION, AND USE OF THE PROPERTY, PROVIDING THE MODE OF PAYMENT OF COST ACQUISITION OF THE PROPERTY; AND DIRECTING THE CITY ATTORNEY TO PROSECUTE SUCH ACTION IN COWLITZ COUNTY SUPERIOR COURT IN THE EVENT DIRECT PURCHASE EFFORTS ARE NOT SUCCESSFUL.

WHEREAS, the acquisition of an easement on the real properties described in Section 1 below is necessary for the Tidewater Project; and

WHEREAS, the City of Kalama continues to negotiate the purchase of all the necessary property rights for the Tidewater Project from the property owners, but has yet to conclude the purchase of easements on the properties; and

WHEREAS, the Kalama City Council finds that easements over said property is critical to the Tidewater Project and is in the public interest to have such property for the public health, safety, welfare, and transportation needs.

NOW, THEREFORE, THE KALAMA CITY COUNCIL DO ORDAIN AS FOLLOWS:

Section 1: Need for Properties. The public health, safety, necessity and convenience demand that certain properties be condemned, appropriated, taken, and damaged as provided by this ordinance, including the real properties, easements, and improvements thereto situated adjacent to the corporate city limits of Kalama, Cowlitz County, State of Washington, owned by Brent Hunt and Adela Marie Ngipol at 173 Tidewater Drive, Kalama WA 98625; Mitchell and Staci Searls at 101 Tidewater Drive Kalama, WA 98625; JW Investments LLC at 149 Tidewater Drive Kalama, WA 98625; and John and Shanna Vanvessem at Parcel number WC2015010 and 635220102 and depicted on Exhibit A and legally described in Exhibit B to F.

Section 2: Declaration of Necessity. The Kalama City Council, after hearing the report of City Staff, and reviewing the planned improvements for the properties, hereby declares that easements on the properties owned by Brent Hunt and Adela Marie Ngipol (Exhibit B), Mitchell and Staci Searls (Exhibit C), JW Investments LLC (Exhibit D) and John and Shanna Vanvessem (Exhibit E and F), and also described in Exhibits B-F hereto are necessary for public use, together with all necessary appurtenances and related work.

Section 3: Property for Public Use – Just Compensation. All lands, rights, privileges and other property lying within the limits of the lots, blocks, and tracts of land described in Exhibit A to F or portions are hereby condemned, appropriated, taken, and damaged for the purpose of the Tidewater Project and other public use, and all lands, rights, privileges, and other properties are to be taken, damaged, and appropriated only by order of the court, or after just compensation has been made, or paid into court, for the owners 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 capital projects fund of the City of Kalama, or such other funds of the City of Kalama as may be provided by law.

Section 5: Reservation. Nothing in this ordinance limits the City of Kalama in its identification and acquisition of property and property rights necessary for these purposes. The City reserves the right to acquire other or different properties for improvement to the City of Kalama, including the Tidewater Project.

Section 6: Authority of Attorney. The City Attorney or special outside legal counsel retained for prosecution of this condemnation action, are hereby directed to exhaust reasonable efforts through direct negotiations to acquire the necessary easements or property. In the event reasonable negotiation efforts are not successful with affected property owners, the City Attorney or special outside legal counsel retained for prosecution of this condemnation action are hereby authorized and directed to begin and prosecute actions and proceedings in a manner provided by law to condemn, take, damage, and appropriate the easements or real properties necessary to carry out the provisions of this ordinance, described in Section 1 herein. In conducting such condemnation proceedings, the City Attorney or special outside legal counsel retained for prosecution of this condemnation action are hereby authorized to enter into stipulations for the purpose of minimizing damages.

Section 7: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 8: Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 9: Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

ORDAINED, this __5th__ day of __July__, 2018.

Attest:

Coni McMaster, Clerk/Treasurer

Approved as to form:

City Attorney

Mayor Mike Reuter

Passed: _____

Published: _____

Effective: _____

DRAFT