

ORDINANCE NO. _____

ORDINANCE DECLARING PUBLIC NECESSITY FOR AND THE AUTHORIZATION TO ACQUIRE CERTAIN PROPERTY RIGHTS BY EMINENT DOMAIN FOR THE E. SMITH ROAD AND HANNEGAN ROAD INTERSECTION IMPROVEMENTS PROJECT

WHEREAS, Whatcom County is a charter county, under the laws of the State of Washington, and is authorized to acquire title to real property for public purposes pursuant to Revised Code of Washington 8.08; and

WHEREAS, in the interest of providing the public safe and sufficient roadways within Whatcom County, Whatcom County identified a road project known as "E Smith and Hannegan Intersection Improvements" (the "Project") in compliance with the 2022 Annual Construction Program and the 2022-2027 Six Year Transportation Improvement Program; and

WHEREAS, the Project will reconstruct the signalized intersection at E. Smith Road and Hannegan Road with a multi-lane roundabout; and

WHEREAS, the Project is also on the Washington State STIP, as the County has \$2,000,000 in federal STP and HSIP funds granted to the Project that are administered through Washington State Department of Transportation Local Programs; and

WHEREAS, for this Project, the County determined that the acquisition of certain rights and interests from real property identified as portions of Whatcom County Tax Parcel No. 3903330364870000 ("Parcel"), as legally described and depicted in Exhibit A hereto (collectively, the "Property Rights"), is necessary to accomplish and construct the Project; and

WHEREAS, the County appraised the fair market value of said Property Rights; and

WHEREAS, the County has attempted to negotiate in good faith with the owners of the Parcel for the voluntary acquisition of the Property Rights but has been unable to get all of the owners to respond and negotiate with the County; and

WHEREAS, the County has complied with the notice requirements set forth in RCW 8.25.290 by providing notice to the owners of the Parcel of the planned final action adopting this Ordinance, and through publication once per week for two weeks, prior to the passage of this Ordinance; and

WHEREAS, the County Council is exercising its independent discretion to authorize eminent domain proceedings in order to secure such property for a public purpose and to settle the amount of compensation, if any, owing the property owners; and

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council adopts the following:

Section 1. Incorporation of Recitals. The recitals set forth above are hereby adopted and incorporated herein as if set forth in full.

Section 2. Public Use and Necessity Declared. The Whatcom County Council finds and declares that: i) the Project is for public use ii) the acquisition of the Property Rights is

1 necessary for the construction of the Project; and iii) the acquisition of the Property Rights
2 and the construction of the Project are in the best interests of the residents of Whatcom
3 County.
4

5 Section 3. Acquisition. The Whatcom County Council authorizes the acquisition,
6 condemnation and taking of the Property Rights. The County Council authorizes the
7 acquisition of the Property Rights under threat of condemnation or by initiation of legal action
8 for condemnation to acquire the Property Rights as necessary for the commencement and
9 completion of the Project, subject to making or paying of just compensation to the owners
10 thereof in the manner provided by law.
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12 Section 4. Reservation of Rights. Nothing in this ordinance limits the County in its
13 identification and acquisition of property and property rights necessary for this public purpose.
14 The County reserves the right to acquire additional or different properties as needed for the
15 Project.
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17 Section 5. Authority of County Executive. The County Executive, by and through
18 his designees, is authorized and directed to continue negotiations for the acquisition of
19 property rights and prosecute actions and proceedings in the manner provided by law to
20 condemn, take, damage and appropriate the Property Rights necessary to carry out the
21 provisions of this Ordinance. In conducting said negotiations and condemnation proceedings,
22 the Whatcom County Prosecuting Attorney, by and through their designee, is hereby
23 authorized to enter into stipulations for the Property Rights. Settlement of any actions by the
24 County Executive shall be made only upon the recommendation of legal counsel.
25

26 Section 6. Compensation. The compensation to be paid to the owners of the
27 Property Rights acquired through this condemnation action shall be paid from the County's
28 Road Fund or from such other monies that the County may have available or attain for the
29 acquisition.
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31 Section 7. Severability. If any provision of this Ordinance or its application to any
32 person or circumstance is held invalid, the remainder of this Ordinance or the application of
33 the provision to other persons or circumstances shall not be affected.
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35 Section 8. Effective Date. This Ordinance shall be in full force and effect fifteen
36 days after its final passage, except as otherwise provided in the Whatcom County Charter.
37

38
39 **ADOPTED** this ____ day of _____, 2023.

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41
42 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

43
44 _____
45 Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

46
47
48 APPROVED AS TO FORM:

49
50 Christopher Quinn
51 Senior Civil Deputy Prosecuting Attorney
52 (authorized via email 02/22/2023)