

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Proposed Ordinance No. 385 Providing for the Use of Eminent Domain to Acquire An Additional Temporary Construction Easements and Authorizing Corrections to Legal Descriptions, Entering into Stipulations, and Taking Less Property
DEPARTMENT:	City Attorney, Public Works
PRESENTED BY:	Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

The City Council passed Ordinance 350 on April 26, 2004, authorizing acquisition of right-of-way and easements by condemnation for construction of the Aurora Avenue Corridor Project from 145th to 165th. Following passage of Ordinance 350, Public Works determined that the City needed to add a temporary construction easement to the Ordinance approving condemnation. Although case law indicates that the City does not need to list temporary easements of this nature since they are only an incidental use of property, Council is asked to amend Ordinance 350 in order to avoid any potential argument raised by respondents in the condemnation action. The attached proposed Ordinance 385 adds an additional temporary construction easement to the Ordinance approving condemnation.

Also included are general provisions authorizing corrections to legal descriptions, a delegation of authority to enter into stipulations to mitigate damages, and an authorization to take less property than is authorized by the condemnation ordinance. For example, the temporary construction easement added by Ordinance No. 385 may be used instead of a retaining wall easement currently authorized in the Ordinance, depending on negotiations with the property owner.

RECOMMENDATION

Pass proposed Ordinance No. 385 authorizing acquisition of an additional temporary construction easement needed for construction of the Aurora Avenue Corridor Project from 145th to 165th, and authorizing corrections to legal descriptions, delegation of authority to enter into stipulations, and authorizing the taking of less property than is authorized by the condemnation ordinance.

Approved By: City Manager  City Attorney 

ATTACHMENTS

Attachment A – Proposed Ordinance 385 82.1

ORDINANCE NO. 385

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING ORDINANCE 350 AUTHORIZING THE ACQUISITION AND CONDEMNATION OF CERTAIN REAL PROPERTIES AT 14507, 14515, 14525, 14701, 14703, 14705, 14709, 14711, 14713, 14715, 14721, 14725, 14729, 14717, 14727, 14729, 14731, 14817, 14825, 14901, 14915, 14927, 15011, 15005, 15007, 15009, 15011, 15031, 15015, 15017, 15023, 15027, 15029, 15019, 15033, 15201, 15332, 15555, 15565, 16005, 16017, 16037, 16053, 16301, 16357, 16340, 16330, 16300, 16200, 16032, 16048, 16004, 15736, 15740, 15744, 15730, 15526, 15210, 15208, 15216, 15222, 15226, 15230, 15206, 15214, 15214B, 15200A, 15200, 15200B, 15200C, 15202, 15236, 15238, 15240, 15252, 15036, 15030, 15010, 14926, 14910, 14720, 14710, 14700, 14540, 14510, 16503, 16510, AND 15510 AURORA AVENUE NORTH; 15915 WESTMINSTER WAY N; 914 N 145th ST; 826 AND 820 N 145th ST; 15002 MIDVALE AVENUE N; AND 1111 N 157th ST., SHORELINE, WASHINGTON TO ADD AN ADDITIONAL TEMPORARY CONSTRUCTION EASEMENT.

WHEREAS, in December 2002 the Shoreline City Council adopted the Aurora Corridor Project Modified Alternative A as a final design for the Aurora Corridor Project N 145th- N. 165th ("Project") identified in the 2004-2009 Capital Improvement Plan; and

WHEREAS, the purpose of the Project is to improve the safety and mobility of pedestrians, transit users, people with disabilities, and drivers along Aurora Avenue from North 145th Street to North 165th Street; and

WHEREAS, this Project will improve the economic development potential of the corridor, enhance the livability of adjacent communities, and support the City's Comprehensive Plan; and

WHEREAS, Shoreline City Council determined that the property described in Ordinance 350 was necessary to complete the Project including the construction of BAT lanes, medians, sidewalks and underground utilities; and;

WHEREAS, an additional temporary construction easement depicted in Exhibit B-1 will be needed to make adjustments to a certain property during construction of the improvements; and

WHEREAS, the City of Shoreline has the power to acquire lands through eminent domain for the establishment, construction, enlargement, improvement, and maintenance of public streets; and

WHEREAS, acquisition of property is categorically exempt from SEPA review under WAC 197-11-800(5)(a); NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO
ORDAIN AS FOLLOWS:**

Section 1. Amendment. Section 1 of Ordinance 350 is amended to read as follows:

The City of Shoreline shall acquire by negotiation or by condemnation, the real properties situated in the City of Shoreline, County of King, and State of Washington and legally described in Exhibits A, B, B-1 and C attached hereto and by this reference incorporated herein.

The City Manager or his designee, shall adhere to acquisition guidelines of the Aurora Corridor Real Property Acquisition and Relocation Policy, Procedures and Guidelines ("Guidelines"), and is hereby authorized and directed to execute all documents for the acquisition of said properties and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the lands and property interests described in this section pursuant to the powers granted to the City of Shoreline including RCW 35A.64.200 and Chapters. 8.12 and 8.25 RCW. Notwithstanding the general applicability of Guidelines 3.1 for temporary construction easements the easements listed in Exhibit B are necessary for the construction of the project and shall be compensated to the extent the value exceeds special benefit to the property owner. In conducting said condemnation proceedings, the City Attorney, and any Special Counsel designated by the City Attorney, is hereby authorized to enter into stipulations for the purpose of minimizing damages, including the reduction in area of land or modification of property interest to be acquired by the Project.

The City Attorney is also authorized to make minor amendments to the legal description or maps of properties described in the attached Exhibits A, B, B-1 and C as may become necessary to correct scrivener's errors or to conform the legal description to the precise boundaries of the property required for the project.

Section 2. Amendment. Section 2 of Ordinance 350 is amended to read as follows:

The Shoreline City Council finds that the acquisition of the property listed in Exhibits A, B, B-1 and C is for a public use and purpose, to-wit: to provide road and sidewalk improvement and underground utilities on Aurora Ave. N. from N. 145th to N. 165th. The Council further finds the properties listed in Exhibits A, B, B-1 and C are necessary for the proposed public use and for the benefit of the public.

Section 3. Amendment. Exhibit B depicting the temporary construction easements is amended to include Exhibit B-1 attached hereto and incorporated by reference herein.

Section 4. Effective Date and Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper and the Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON May 9, 2005.

Mayor Ronald B. Hansen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: May 12, 2005
Effective Date: May 17, 2005

