AN ORDINANCE of the city council of the city of Kent, Washington, providing for the acquisition of certain property and/or property rights in order to construct, extend, widen, improve, alter, maintain, and reconstruct portions of the Green River levee system; providing for the condemnation, appropriation, taking, and damaging of such property rights as are necessary for that purpose; providing for the payment thereof out of flood district funds; directing the city attorney to prosecute the appropriate legal proceedings, together with the authority to enter into settlements, stipulations, or other agreements; and acknowledging that all of the affected real property is located within the corporate limits of the city of Tukwila in King County, Washington.

RECITALS

A. The Desimone Levee Improvement Project ("Project") is necessary to provide flood protection to the Green River Valley which includes the city of Kent, city of Tukwila and King County Flood Control Zone District ("KCFCD").

B. Kent and Tukwila share a mutual boundary in an area along the Green River within the KCFCD that is protected by the Project. A
breach in the Project section in Tukwila would inundate properties within both Kent and Tukwila.

C. The KCFCD passed Resolution FCD2013-02.2 on February 26, 2013, providing for use of the state grant, providing additional KCFCD funding for the Briscoe-Deimone Levee project, supporting the use of setback levees that are retained by walls on the landward side, and assigning Kent responsibility for design and construction of these setback levee improvements.

D. Kent entered into an interlocal agreement ("ILA") with the KCFCD on June 6, 2013 relating to the use of state and KCFCD funds, assigning Kent as lead for design, permitting and construction of the Briscoe-Desimone Levee project.

E. Kent entered into an interlocal agreement with the City of Tukwila on March 6, 2014 relating to the authority of Kent to act as lead agency for design, permitting and construction of the Project including authority to condemn, or to acquire in lieu of condemnation, property within Tukwila.

F. Property and property rights along the alignment of the Project must be acquired in order to complete the Project.

G. Efforts are now ongoing to acquire the properties necessary for this public use by negotiation and settlement agreements.

H. In the event that negotiated acquisition is not fully successful it is essential that the city be prepared to initiate condemnation proceedings so that the Project can be timely constructed.

2 Green River Levee Improvement Condemnation Ordinance
I. The City has provided notice in the manner provided for in RCW 8.12.005 and 8.25.290.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. After receiving the report of city staff and after reviewing the planned improvements for the Project, the city council finds and declares that the public convenience, use, health, safety and necessity demand that the city of Kent condemn, appropriate, take, and damage portions of certain real properties located within the corporate limits of Tukwila in King County, Washington, in order to acquire the necessary property and/or property rights for the construction of the Project, including all necessary appurtenances. The properties to be acquired are approximately depicted in Exhibit “A,” and legally described in Exhibit “B,” both of which are attached hereto and incorporated herein by this reference (“Properties”). The purposes for which this condemnation is authorized shall include, without limitation, all acts necessary to complete the construction, extension, improvement, widening, alteration, maintenance, and reconstruction of the Project, including improvements for sheet piles, cap beam, concrete barrier, handrail levee fill, access ramps, drainage, trails, landscaping, illumination, utilities, utility adjustments, and relocations, and any other levee, street, or municipal purposes that may become necessary from time to time on the Properties.

SECTION 2. The city council authorizes the acquisition by condemnation of all or a portion of the Properties for the construction, extension, improvement, widening, alteration, maintenance, and
reconstruction of the Project, including acquisition of property and/or property rights, together with all necessary appurtenances and related work to make a complete improvement according to city standards.

SECTION 3. The city shall condemn the Properties only upon completion of all steps and procedures required by applicable federal, state, and/or local laws and regulations and only after just compensation has first been made or paid into court for the owner or owners in the manner prescribed by law.

SECTION 4. The city shall pay for the entire cost of the acquisition by condemnation provided for in this ordinance through the city’s ILA with KCFCD, city drainage fund or from any of the city’s general funds, if necessary, as may be provided by law.

SECTION 5. The city council authorizes and directs the city attorney to commence those proceedings provided by law that are necessary to condemn the Properties. In commencing this condemnation procedure, the city council authorizes the city attorney to enter into settlements, stipulations, or agreements in order to minimize damages, which settlements, stipulations, or agreements may include but not be limited to the amount of just compensation to be paid, the size and dimensions of the property condemned, and the acquisition of temporary construction easements and other property interests.

SECTION 6. – Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this ordinance and that remaining portion shall maintain its full force and effect.

4 Green River Levee Improvement Condemnation Ordinance
SECTION 7. – Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state or federal laws, codes, rules, or regulations.

SECTION 8. – Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication, as provided by law.

Suzette Cooke, Mayor

ATTEST:

Ronald Moore, MMC
RONALD MOORE, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

Green River
Levee Improvement
Condemnation Ordinance
PASSED: 2nd day of September, 2014.
APPROVED: 2nd day of September, 2014.
PUBLISHED: 5th day of September, 2014.

I hereby certify that this is a true copy of Ordinance No. 4123 passed by the city council of the city of Kent, Washington, and approved by the Mayor of the city of Kent as hereon indicated.

RONALD MOORE, CITY CLERK

Green River
Levee Improvement
Condemnation Ordinance
IMPORTANT: THIS IS NOT A SURVEY. IT IS FURNISHED AS A CONVENIENCE TO LOCATE THE LAND INDICATED HEREON WITH REFERENCE TO STREETS AND OTHER LAND. NO LIABILITY IS ASSUMED BY REASON OF RELIANCE HEREON.
RIVER PROTECTION EASEMENT - AREA=12,326 S.F.

IMPORTANT: THIS IS NOT A SURVEY. IT IS FURNISHED AS A CONVENIENCE TO LOCATE THE LAND INDICATED HEREON WITH REFERENCE TO STREETS AND OTHER LAND. NO LIABILITY IS ASSUMED BY REASON OF RELIANCE HEREON.

SCALE: 1"=80'

D=10'46'55" R=699.00' L=131.54' T=65.96'

D=3'04'20" R=603.14' L=32.34' T=16.17'

LOT 17, SOUTHCENTER INDUSTRIAL PARK
RIVERPOINT TWO LLC
18200 CASCADE AVE. S.
TAX LOT – 7888900170
IMPORTANT: THIS IS NOT A SURVEY. IT IS FURNISHED AS A CONVENIENCE TO LOCATE THE LAND INDICATED HEREON WITH REFERENCE TO STREETS AND OTHER LAND. NO LIABILITY IS ASSUMED BY REASON OF RELIANCE HEREON
Important: This is not a survey. It is furnished as a convenience to locate the land indicated hereon with reference to streets and other land. No liability is assumed by reason of reliance hereon.

River Protection Easement - Area = 5,512 S.F.
Cascade Tukwila LLC Tax ID Number 788890-0150 located at 18251 Cascade Avenue S.

Vested Owner: CASCADE TUKWILA, LLC, A WASHINGTON LIMITED LIABILITY COMPANY

Real property in the County of King, State of Washington, described as follows:

THAT PORTION OF LOTS 23 AND 24, CITY OF TUKWILA SHORT PLAT NUMBER 78-45-5P, RECORDED UNDER RECORDING NUMBER 7905011098, IN KING COUNTY, WASHINGTON, AS REVISED BY BOUNDARY LINE ADJUSTMENT NUMBER 81-23-BLA, ACCORDING TO THE SURVEY RECORDED UNDER RECORDING NUMBER 8111050860, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF RIVERSIDE DRIVE AS SHOWN ON SAID SHORT PLAT, DISTANT THEREON SOUTH 78°36'10" EAST 267.76 FEET FROM THE SOUTHWESTERLY CORNER OF SAID LOT 23;
THENCE FROM SAID POINT OF BEGINNING NORTH 11°23'50" EAST 430.27 FEET TO A POINT ON THE BOUNDARY OF SAID LOT 23;
THENCE ALONG THE BOUNDARY OF SAID LOTS 23 AND 24 THE FOLLOWING COURSES:
SOUTH 29°30'00" EAST 66.11 FEET;
THENCE SOUTH 23°20'00" EAST 100.00 FEET;
THENCE SOUTH 23°06'00" EAST 99.00 FEET;
THENCE SOUTH 24°51'00" EAST 100.00 FEET;
THENCE SOUTH 44°29'00" EAST 4.68 FEET;
THENCE SOUTH 11°23'50" WEST 147.37 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID RIVERSIDE DRIVE;
THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE FROM A TANGENT THAT BEARS NORTH 51°34'10" WEST ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET AND A CENTRAL ANGLE OF 27°02'00", AN ARC LENGTH OF 51.90 FEET;
THENCE TANGENT TO THE PRECEDING CURVE NORTH 78°36'10" WEST 172.24 FEET TO THE POINT OF BEGINNING;

(ALSO KNOWN AS LOT 21 OF CITY OF TUKWILA BOUNDARY LINE ADJUSTMENT 86-57-BLA, RECORDED UNDER RECORDING NUMBER 8612010233).

Tax Parcel Number: 788890-0150-01

Situs Address: 18251 Cascade Avenue South, Tukwila, WA 98188
EXHIBIT B
Page 2 of 3

Riverpoint Two LLC - Tax I.D. Number 788890-0170 and -0175 located at 18200-18300 Cascade Avenue S.

Vested Owner: RIVERPOINT TWO LLC, A WASHINGTON LIMITED LIABILITY COMPANY

Real property in the County of King, State of Washington, described as follows:

PARCEL A:

THAT PORTION OF LOT 17 OF THE PLAT OF SOUTH CENTER SOUTH INDUSTRIAL PARK AS RECORDED IN VOLUME 97 OF PLATS, PAGES 22 THROUGH 25, INCLUSIVE, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 17;
THENCE S 29°30'10" E ALONG THE SOUTH LINE OF SAID LOT 17 A DISTANCE OF 90.00 FEET;
THENCE ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS N 11°23'50" E HAVING A RADIUS OF 50.00 FEET, AN ARC DISTANCE OF 78.54 FEET THROUGH A CENTRAL ANGLE OF 90°00'00";
THENCE N 11°23'50" E ALONG SAID LINE 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 17 A DISTANCE OF 352.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING N 11°23'50" E ALONG SAID LINE A DISTANCE OF 291.25 FEET;
THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; AN ARC DISTANCE OF 83.21 FEET THROUGH A CENTRAL ANGLE OF 43°20'30" TO THE WEST LINE OF SAID LOT 17;
THENCE N 11°23'50" E ALONG SAID WEST LINE A DISTANCE OF 149.53 FEET TO THE NORTHWEST CORNER OF SAID LOT 17 AND THE TOP OF THE RIGHT BANK OF THE GREEN RIVER;
THENCE ALONG SAID TOP OF THE RIGHT BANK OF THE GREEN RIVER THE FOLLOWING COURSES AND DISTANCES;
S 44°29'00" E A DISTANCE OF 60.08 FEET;
S 59°43'10" E A DISTANCE OF 98.00 FEET;
S 72°17'00" E A DISTANCE OF 101.00 FEET;
S 82°08'00" E A DISTANCE OF 100.00 FEET;
N 78°54'00" E A DISTANCE OF 99.00 FEET;
N 68°34'00" E A DISTANCE OF 99.00 FEET;
N 73°00'33" E A DISTANCE OF 97.09 FEET, MORE OR LESS, TO THE WEST MARGIN OF SECONDARY STATE HIGHWAY 2M;
THENCE LEAVING SAID TOP OF THE RIGHT BANK OF THE GREEN RIVER ALONG SAID WEST MARGIN ON A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS N 47°33'20" W HAVING A RADIUS OF 943.14 FEET; AN ARC DISTANCE OF 87.08 FEET, THROUGH A CENTRAL ANGLE OF 09°11'10";
THENCE S 51°37'10" W ALONG SAID WEST MARGIN A DISTANCE OF 131.40 FEET;
THENCE ALONG A CURVE TO THE LEFT ON SAID WEST MARGIN, HAVING A RADIUS OF 603.14 FEET, AN ARC DISTANCE OF 423.53 FEET THROUGH A CENTRAL ANGLE OF 40°19'00";
THENCE S 11°23'50" W ALONG SAID WEST MARGIN A DISTANCE OF 23.32 FEET;
THENCE N 28°30'10" W A DISTANCE OF 793.00 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS PHASE II OF CORPORATE PROPERTY INVESTORS BINDING SITE IMPROVEMENT PLAN RECORDED UNDER RECORDING NO. 81-0210455 AND RE RECORDED UNDER RECORDING NO. 84-0306079, SAID PHASE II BEING A PORTION OF LOT 17 OF BOUNDARY LINE ADJUSTMENT NO. 81-0210455, WHICH IS A PORTION OF LOT 15 AND ALL OF LOT 17 OF SOUTH CENTER SOUTH INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 97 OF PLATS, PAGES 22 THROUGH 25, INCLUSIVE, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION THEREOF DEEDED TO THE CITY OF TUKWILA, WASHINGTON, A MUNICIPAL CORPORATION, BY DEED RECORDED UNDER RECORDING NO. 85-1150416.)
EXHIBIT B
Page 3 of 3

PARCEL B:

THAT PORTION OF LOT 17 OF THE PLAT OF SOUTHCENTER SOUTH INDUSTRIAL PARK AS RECORDED IN VOLUME 97 OF PLAT'S, PAGES 22 THROUGH 25, INCLUSIVE, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 17;
THENCE S 76°30'10" E ALONG THE SOUTH LINE OF SAID LOT 17 A DISTANCE OF 80.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE ALONG A CURVE TO THE RIGHT OF THE CENTER OF WHICH BEARS N 11°23'50" E HAVING A RADIUS OF 50.00 FEET, AN ARC DISTANCE OF 70.54 FEET THROUGH A CENTRAL ANGLE OF 90°00'00";
THENCE N 11°23'50" E ALONG A LINE 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 17 A DISTANCE OF 357.00 FEET;
THENCE S 76°30'10" E A DISTANCE OF 295.00 FEET TO THE WEST MARGIN OF SECONDARY STATE HIGHWAY 214;
THENCE S 11°23'50" W ALONG SAID MARGIN A DISTANCE OF 11.06 FEET;
THENCE N 76°30'50" W ALONG SAID MARGIN A DISTANCE OF 10.00 FEET;
THENCE S 11°23'50" W ALONG SAID MARGIN A DISTANCE OF 315.04 FEET;
THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, AN ARC DISTANCE OF 70.54 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" TO THE NORTH MARGIN OF TODD BOULEVARD;
THENCE NORTH 76°30'10" W ALONG SAID NORTH MARGIN A DISTANCE OF 185.00 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS PHASE I OF CORPORATE PROPERTY INVESTORS BINDING SITE IMPROVEMENT PLAN RECORDED UNDER RECORDING NO. 810121055 AND RE-RECORDED UNDER RECORDING NO. 840030028, SAID PHASE I BEING A PORTION OF LOT 17 OF BOUNDARY LINE ADJUSTMENT NO. 81-29-BIA RECORDED UNDER RECORDING NO. 811015058, WHICH IS A PORTION OF LOT 15 AND ALL OF LOT 17 OF SOUTHCENTER SOUTH INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 97 OF PLATS, PAGES 22 THROUGH 25, INCLUSIVE, IN KING COUNTY, WASHINGTON;)

EXCEPT THAT PORTION THEREOF DEVELED TO THE CITY OF TUKWILA, WASHINGTON, A MUNICIPAL CORPORATION, BY DEED RECORDED UNDER RECORDING NO. 8911150410.

Tax Parcel Number: 788890-0170-07 and 788890-0175-02

Situs Address: 18200 and 18300 Cascade Avenue South, Tukwila, WA 98188