ORDINANCE NO. 4126

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 City Storm drainage 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 Kent in King County, Washington.

RECITALS

A. The Lower/Lowest Russell Road Levee ("Project") is necessary to provide flood protection to the Green River Valley which includes the city of Kent, city of Tukwila and the city of Renton.

B. Property and property rights along the alignment of the Project must be acquired in order to complete the Project.
C. Efforts are now ongoing to acquire the property necessary for this public use by negotiation and settlement agreements.

D. 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.

E. 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 property located within the corporate limits of Kent 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 property to be acquired is approximately depicted in Exhibit “A,” and legally described in Exhibit “B,” both of which are attached hereto and incorporated herein by this reference (“Property”). 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 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 Property.

**SECTION 2.** The city council authorizes the acquisition by condemnation of all or a portion of the Property 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 established standards.

**SECTION 3.** The city shall condemn the Property 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 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 Property. 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.

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.

ATTEST:

Suzette Cooke, Mayor

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

4 Lower/Lowest Russell Road Levee Improvement Condemnation Ordinance
PASSED: 17th day of October, 2014.
APPROVED: 17th day of October, 2014.
PUBLISHED: 10th day of October, 2014.

I hereby certify that this is a true copy of Ordinance No. 4136 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
EXHIBIT A

David A. Neely DLC # 37
Legal Description:

BEGINNING AT THE NORTHWEST CORNER OF DAVID A. NEELY DONATION CLAIM IN SECTION 10, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; THEN EAST ALONG THE NORTH BOUNDARY LINE OF SAID DONATION CLAIM TO A POINT WHICH IS 2,412.387 FEET WESTERLY OF THE NORTHEAST CORNER OF SAID DONATION CLAIM; THEN SOUTH PARALLEL WITH THE EASTERN LINE OF SAID DONATION CLAIM A DISTANCE OF 279.00 FEET; THEN WEST PARALLEL WITH THE NORTHERLY LINE OF SAID DONATION CLAIM TO THE EASTERN BANK OF WHITE RIVER; THEN NORTH PARALLEL THE EAST BANK OF SAID WHITE RIVER TO POINT OF BEGINNING; EXCEPT ROADS.

Property Address:
22252 Russell Road
Kent, WA 98032

Tax Account Number:
000620-0011-07