ORDINANCE NO. 4350

AN ORDINANCE of the City Council of the City of Kent, Washington, providing for the acquisition by eminent domain of real property generally located on the north side of the Green River, along S. 251st Street, west of Washington Ave. S., which property is needed for the construction of the Signature Pointe Levee Improvement Project. This ordinance provides for the condemnation, appropriation, taking, and damaging of real property necessary for that project and provides for the payment thereof out of the Signature Pointe Levee Improvement Project (Fund No. D20085). This ordinance also directs the City Attorney to prosecute the appropriate legal condemnation proceedings in King County Superior Court, to retain any legal counsel required, and to enter into settlements, stipulations, or other agreements as may be necessary.

RECITALS

A. The Signature Pointe Levee Improvement Project (the “Project”) consists of constructing a combination earthen levee and floodwall system that will reduce flood risk impacts from the Green River associated with major storm events and better protect businesses, residents, and roadway infrastructure in the Kent Valley. The current levee fails to meet federal standards established by FEMA (the Federal Emergency Management Agency) due to its insufficient height and steep riverbank side slope, which is susceptible to erosion and damage during major flood events. This condition jeopardizes the structural stability of the
levee and increases the risk of the levee’s failure, breach, and flooding of the Kent Valley. The Project will strengthen the levee and assist the City in obtaining FEMA certification of its levee system.

B. To complete the Project, the City must acquire several parcels of land. Two of these parcels are generally referred to as the Dejbod Property (King County Tax Parcel No. 543620-0841; 750 Washington Avenue North) and the Ostrovski Property (King County Tax Parcel No. 543620-0851; 6828 S. 251st Street), collectively referred to in this ordinance as the “Properties.” The City has been attempting to negotiate with the owners of these Properties, or their authorized representatives, in an effort to acquire the parcels through agreed settlements. These negotiation efforts continue, but have begun to stagnate without much movement toward reasonable resolutions, which prompted staff to seek Council approval through this ordinance to authorize formal condemnation proceedings, if such proceedings become necessary to allow the Project to proceed as planned.

C. Timing on the Project is critical due to the ongoing annual flood risk impacts from high-water events in the Green River, and Project construction costs that continue to rise due to an increase in property values and inflation. Given the lack of fruitful negotiations with the Properties’ owners, and the length of time associated with formal condemnation proceedings, the Project’s timing requires that staff obtain Council authorization to proceed with condemnation proceedings, if formal proceedings become necessary, in order to move the Project forward and preserve the public health, safety, and welfare of the Kent Valley. It is essential that, if negotiations fail to produce an agreed settlement, that the City timely initiate condemnation proceedings so that the real property required for the Project can be obtained to allow the Project to be timely constructed.
D. Prior to Council’s action on this ordinance, the City provided the requisite notice to the Properties’ owners in the manner provided for in RCW 8.12.005 and RCW 8.25.290.

E. The public health, safety, and welfare depend upon the completion of this Project, through the City’s exercise of its eminent domain rights, if such become necessary. Through this ordinance, Council authorizes staff to commence formal proceedings, if reasonably necessary, to condemn, appropriate, and take for public use and necessity, the Property and property rights identified herein, if such Property cannot be reasonably acquired by the City through agreed settlement.

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

ORDINANCE

SECTION 1. - Public Use and Necessity Declared. After receiving the report of City staff, and after reviewing the planned improvements for the Signature Pointe Levee Improvement Project ("Project"), the City Council finds and declares that the public convenience, use, health, safety, welfare, and necessity demand that the City of Kent condemn, appropriate, take, and damage certain real property located in King County, Washington, in order to acquire the necessary real property and/or property rights for the construction of the Project, including all necessary appurtenances. The properties affected by this grant of condemnation authority are both vacant and undeveloped, and they are commonly known as 750 Washington Avenue North ("Dejbod Property") and 6828 South 251st Street ("Ostrovski Property"), both located within the City of Kent and legally described in the attached and incorporated Exhibit A and depicted in the attached and incorporated Exhibit B (collectively, "the Properties"). The purposes for which this condemnation
is authorized shall include, without limitation, all acts necessary to complete the construction, improvement, alteration, maintenance, reconstruction, and restoration of the Project, and any other municipal purpose that may be necessary from time to time on the Properties.

**SECTION 2. - Condemnation Authorized.** In the event the Properties cannot be reasonably acquired through agreed settlements within the schedule established by staff to allow the Project to be timely constructed, the City Council authorizes the acquisition by condemnation of all or a portion of the Properties as may be necessary for the construction, improvement, alteration, maintenance, and reconstruction of the Project, together with all necessary appurtenances and related work to make a complete improvement according to City standards.

**SECTION 3. - Condemnation Procedures and Proceedings.** The City shall proceed to condemn the Properties only upon completion of all steps and procedures required by applicable federal or state law or 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. - Project Fund.** The City shall pay for the entire cost of the acquisition of the Properties by condemnation through the City’s “Signature Pointe Levee Improvement Project” fund (Fund No. D20085) or from any of the City’s storm and surface water utility funds, if necessary, as may be provided by law.

**SECTION 5. - City Attorney Authorized.** The City Attorney or designee is authorized and directed to commence condemnation proceedings as provided by law that may be necessary to acquire the Properties as the Project schedule requires. The City Attorney is specifically authorized to retain any legal counsel or other expert as may be needed, and to sign any retainer or other agreement that may be required. In
commencing these condemnation proceedings, the City Council authorizes the City Attorney to enter into settlements, stipulations, or agreements in order to minimize damages as the City Attorney determines is appropriate. These settlements, stipulations, or agreements may include, but are not limited to, the amount of just compensation to be paid, the size and dimensions of the Properties condemned, and the acquisition of temporary construction easements and other property interests as the City Attorney may determine are required.

SECTION 6. - Ratification. Any acts consistent with the authority of this ordinance and prior to its effective date are ratified and affirmed.

SECTION 7. - Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

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

November 19, 2019
Date Approved

November 19, 2019
Date Adopted

November 22, 2019
Date Published

Condemnation Ordinance - Signature Pointe Levee (Dejbod and Ostrovski Properties)
Exhibit A

Dejbod Property (Bahman and Naireh Dejbod)
750 Washington Avenue North, Kent, WA
King County Tax Parcel No. 543620-0841

All that portion of the following described Parcel A lying Westerly of a line drawn 30 feet Westerly of and parallel with the "A" line centerline of SSH 2-M (SR 181) Kent: Junction SSH5-A (SR 516) Vicinity.

Parcel A:

The Westerly 132 feet of the following described lands:

That portion of Tract 43, Supplemental Plat of Meeker's First Addition to the Town of Kent, according to the plat thereof recorded in Volume 5 of Plats, page 96, records of King County, Washington, described as follows:

Beginning at the intersection of the North line of said Tract 43 with the centerline of Secondary State Highway No. 5-M;
Thence Southerly along the centerline of said highway 1316 feet to the True Point of Beginning;
Thence Westerly parallel to the North line of said Tract 43, a distance of 383 feet;
Thence Southerly parallel to the centerline of said Secondary State Highway No. 5-M to the Northerly line of a county road;
Thence Southeasterly along said road line to the centerline of Secondary State Highway No.5-M;
Thence Northerly along said centerline to the True Point of Beginning;
Except the East 33 feet thereof.

Situate in the County of King, State of Washington.

Ostrovski Property (Yevgeni Ostrovski)
6828 S. 251st St., Kent, WA
King County Tax Parcel No. 543620-0851

The Westerly 132 feet of the following described lands:

That portion of Tract 43, Supplemental Plat of Meeker's First Addition to the Town of Kent, according to the plat thereof recorded in Volume 5 of Plats, page 96, records of King County, Washington, described as follows:

Beginning at the intersection of the North line of said Tract 43 with the centerline of Secondary State Highway No.5-M;
Thence Southerly along the centerline of said highway 1316 feet to the True Point of Beginning;
Thence Westerly parallel to the North line of said Tract 43, a distance of 383 feet;
Thence Southerly parallel to the centerline of said Secondary State Highway No. 5-M to the Northerly line of a county road;
Thence Southeasterly along said road line to the centerline of said Secondary State Highway No.5-M;
Thence Northerly along said centerline to the True Point of Beginning;
Except the East 33 feet thereof.

Situate in the County of King, State of Washington.

Condemnation Ordinance -
Signature Pointe Levee
(Dejbod and Ostrovski Properties)
Exhibit B

Condemnation Ordinance -
Signature Pointe Levee
(Dejbod and Ostrovski Properties)