

ORDINANCE NO. 1596

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the acquisition by eminent domain of certain property in the City of Des Moines; describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directing the City Attorney to prosecute such action in King County Superior Court.

WHEREAS, there exists in the City of Des Moines certain properties legally described in section 1 of this Ordinance, and

WHEREAS, the City Council of the City of Des Moines intends to acquire by the payment of "fair market value" the following properties to continue construction of the Transportation Gateway Project located on 216th Street, Des Moines, Washington ("Property"), and

WHEREAS, the City Council finds that acquisition of the properties described in section 1 "Legal description" below is critical to construct the street widening for the S. 216th Street Improvement, Segment 1A, a third arterial segment in the City's capital improvement program, collectively referred to as the Transportation Gateway Project, and it is in the public interest to acquire such properties for public health, safety, welfare and transportation needs, and

WHEREAS, pursuant to chapter 8.12 RCW the City is empowered to condemn land and property for transportation purposes (RCW 8.12.030), and

WHEREAS, proper notice of shall be provided pursuant to RCW 8.25.290 prior to the final Council action, and

WHEREAS, based on the foregoing, the City Council finds that the only alternative available for acquisition of the following properties or portions thereof may be by eminent domain; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Legal description. The real properties that are the subject of this Ordinance are legally described in Exhibit A

- Right of Way Acquisition attached hereto. (See also Exhibit A
- Utility Easement.)

Sec. 2. Public use necessity. The public convenience, use, and necessity demand the acquisition of the real property described in section 1 herein for the widening of S. 216th Street as part of the Transportation Gateway Project Segment 1A and for use by the public for transportation purposes. Said improvements have been designed to implement the City of Des Moines Comprehensive Plan, adopted 2009, as amended.

Sec. 3. Condemnation of property. All lands, rights, privileges, and other property lying within the limits of the real property described in section 1 herein are hereby condemned, appropriated, taken and damaged for the purposes described in section 2 herein, only after just compensation has been made, or paid into the court for the owner thereof in a manner provided by law.

Sec. 4. Costs of acquisition. The costs of the acquisition provided for by this ordinance shall be paid by the City of Des Moines, or such other funds of the City of Des Moines as may be provided by law.

Sec. 5. Authority of City Attorney. The City Attorney is hereby authorized and directed to begin and prosecute the actions and proceedings in a manner provided by law to condemn, take, damage, and appropriate the real property necessary to carry out the provisions of this Ordinance. In conducting such condemnation proceedings, the City Attorney is hereby authorized to enter into stipulations for the purpose of minimizing damages.

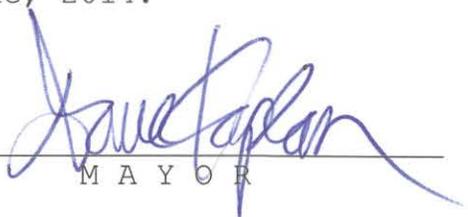
Sec. 6. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 7. Effective date. This Ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines, Washington this 5th day of June, 2014 and signed in authentication thereof this 5th day of June, 2014.



M A Y O R

APPROVED AS TO FORM:



Assistant City Attorney

ATTEST:



City Clerk

Published: June 10, 2014

EXHIBIT A
PARCEL NUMBER 092204-9232
RIGHT OF WAY ACQUISITION

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", LYING SOUTHERLY AND EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL "A", ALSO BEING ON THE NORTH MARGIN OF SOUTH 216TH STREET;

THENCE NORTH 06° 04' 58" EAST ALONG THE WEST LINE OF SAID PARCEL "A", 14.27 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 80° 25' 34" EAST, 16.87 FEET TO A LINE THAT IS 59.50 FEET NORTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE SOUTH 88° 15' 51" EAST ALONG SAID PARALLEL LINE, 42.18 FEET;

THENCE NORTH 01° 44' 09" EAST, 3.50 FEET TO A LINE THAT IS 63.00 FEET NORTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE SOUTH 88° 15' 51" EAST ALONG SAID PARALLEL LINE, 9.50 FEET;

THENCE NORTH 48° 18' 18" EAST, 39.27 FEET TO THE EAST LINE OF SAID PARCEL "A", ALSO BEING ON THE WESTERLY MARGIN OF STATE ROAD NO 1, AND THE TERMINUS OF SAID LINE DESCRIPTION;

CONTAINING 1,951 SQUARE FEET, MORE OR LESS.

PARCEL "A"

(PER STEWART TITLE COMPANY ORDER NO. 01148-12284, DATED NOV. 29, 2012)

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF 216TH SOUTH AND THE WESTERLY LINE OF STATE ROAD NO. 1;
THENCE NORTHERLY ALONG SAID WESTERLY LINE, 200 FEET;
THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SUBDIVISION, 100 FEET;
THENCE SOUTH PARALLEL TO SAID WESTERLY LINE, 200 FEET;
THENCE EAST 100 FEET TO THE POINT OF BEGINNING;

EXCEPT THE SOUTH 12 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 754947 FOR 216TH STREET;

ALSO EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NO. 8801250312;

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Page 1 of 2
KPG
TACOMA • SEATTLE

Exhibit A

ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF DES MOINES BY DEED RECORDED UNDER RECORDING NO. 9610080753;

ALSO EXCEPT THAT PORTION THEREOF CONDEMNED BY THE CITY OF SEATAC PURSUANT TO DECREE OF APPROPRIATION ENTERED IN KING COUNTY SUPERIOR COURT CAUSE NO. 04-2-17989-1 KNT AND RECORDED UNDER RECORDING NO. 20050719001576.

SURVEYOR'S NOTE:

THE CENTERLINE OF SOUTH 216TH STREET IS BASED ON THE RIGHT OF WAY PLANS FOR THE GATEWAY PROJECT, SOUTH 216TH STREET – SEGMENT 1A, ON FILE WITH THE CITY OF DES MOINES PUBLIC WORKS.

Michael N. Bowen
12/11/13

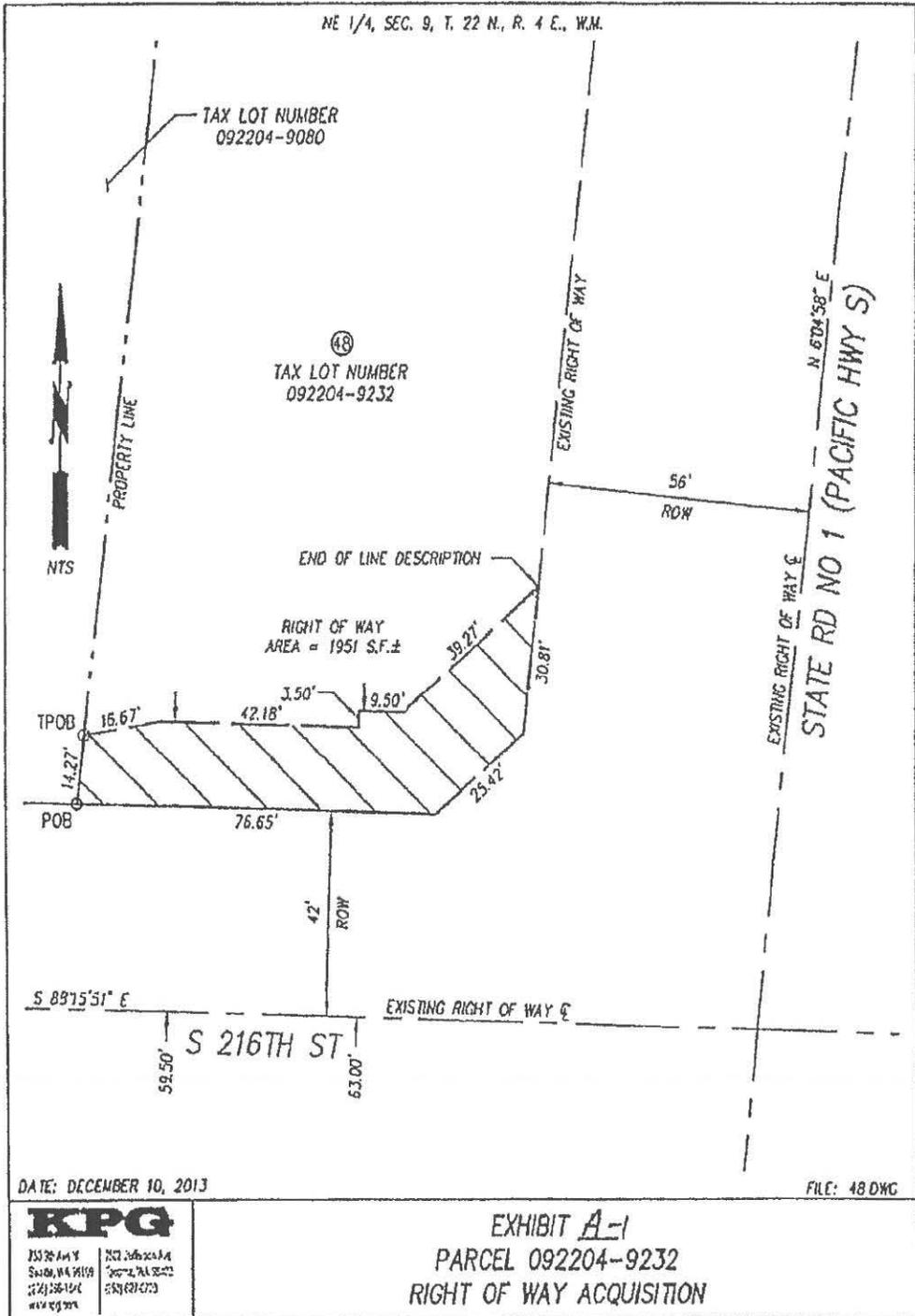


Exhibit A

EXHIBIT A
PARCEL NUMBER 092204-9232
UTILITY EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL "A", ALSO BEING ON THE NORTH MARGIN OF SOUTH 216TH STREET;

THENCE NORTH 06° 04' 58" EAST ALONG THE WEST LINE OF SAID PARCEL "A", 14.27 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 80° 25' 34" EAST, 16.67 FEET TO A LINE THAT IS 59.50 FEET NORTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE SOUTH 88° 15' 51" EAST ALONG SAID PARALLEL LINE, 3.96 FEET;

THENCE NORTH 06° 04' 58" EAST, 10.03 FEET TO A LINE THAT IS 69.50 FEET NORTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 88° 15' 51" WEST ALONG SAID PARALLEL LINE, 5.71 FEET;

THENCE SOUTH 80° 25' 34" WEST, 14.86 FEET TO SAID WEST LINE OF PARCEL "A";

THENCE SOUTH 06° 04' 58" WEST ALONG SAID WEST LINE, 10.39 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 206 SQUARE FEET, MORE OR LESS.

PARCEL "A"

(PER STEWART TITLE COMPANY ORDER NO. 01148-12284, DATED NOV. 29, 2012)

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF 216TH SOUTH AND THE WESTERLY LINE OF STATE ROAD NO. 1;
THENCE NORTHERLY ALONG SAID WESTERLY LINE, 200 FEET;
THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SUBDIVISION, 100 FEET;
THENCE SOUTH PARALLEL TO SAID WESTERLY LINE, 200 FEET;
THENCE EAST 100 FEET TO THE POINT OF BEGINNING;

EXCEPT THE SOUTH 12 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 754947 FOR 216TH STREET;

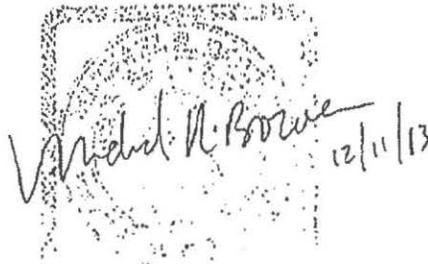
ALSO EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NO. 8801250312;

ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF DES MOINES BY DEED RECORDED UNDER RECORDING NO. 9610080763;

ALSO EXCEPT THAT PORTION THEREOF CONDEMNED BY THE CITY OF SEATAC PURSUANT TO DECREE OF APPROPRIATION ENTERED IN KING COUNTY SUPERIOR COURT CAUSE NO. 04-2-17989-1 KNT AND RECORDED UNDER RECORDING NO. 20050719001576.

SURVEYOR'S NOTE:

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Michael N. Bowie 12/11/13

NE 1/4, SEC. 9, T. 22 N., R. 4 E., W.M.

TAX LOT NUMBER
092204-9080

(48)
TAX LOT NUMBER
092204-9232



PROPERTY LINE

UTILITY EASEMENT
AREA = 206 S.F.±

ROW ACQUISITION AREA

10.39'
14.86'
16.67'
5.71'
10.03'
3.96'

TPOB

POB

42'
ROW

S 88°15'51" E

65.50'
59.50'

S 216TH ST

EXISTING RIGHT OF WAY

EXISTING RIGHT OF WAY

56'
ROW

EXISTING RIGHT OF WAY
STATE RD NO 1 (PACIFIC HWY S)
N 60°1'58" E

DATE: DECEMBER 10, 2013

FILE: 48.DWG

KPG
15121 Ave N
Seattle, WA 98149
(206) 255-1640
www.kpg.com

2502 Jefferson Ave
Tacoma, WA 98402
(253) 827-4220

EXHIBIT A-1
PARCEL 092204-9232
UTILITY EASEMENT

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1596, Adopted June 5, 2014.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the acquisition by eminent domain of certain property in the City of Des Moines; describes the public convenience, use and necessity of such property; provides for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directs the City Attorney to prosecute such action in King County Superior Court.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins
City Clerk

Published: June 10, 2014