

ORDINANCE NO. 22-016

An ORDINANCE condemning an easement and right of way for ingress and egress over and across certain land lying within Clark County for the purpose of accessing, maintaining, operating and replacing portions of the Camas Water System Facilities.

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

The City Council of the City of Camas hereby makes the following findings:

A. The City has, since the early 1900's, accessed, owned, operated and maintained the Jones and Boulder Creek Watershed including approximately 1,700 acres of forestland, and among other possessions, water intake facilities, pipelines and other appurtenances along NE Boulder Creek Road and in Boulder Creek located on Parcel No. 136645000 (the "Water System Facilities"- see Exhibit "C").

B. The Water System Facilities are part of the City's overall public water system providing safe drinking water for properties within the City's water service boundary.

C. The City has accessed, owned, operated and maintained the Water System Facilities dating back to at least 1931. Access has been via what is commonly referred to as NE Boulder Creek Road, that begins at the intersection with Lessard Road in Clark County and goes northerly through Parcel Nos. 137704000, 137712000, 986062093, 136647000, and 136643000 before ending within the City-owned Parcel No. 136645000 which contains the City's water intake facility, pipelines and other appurtenances of the Water System Facilities.

D. The City has regularly used NE Boulder Creek Road to access and maintain the Water System Facilities and has provided regular maintenance of NE Boulder Creek Road through the four privately-owned parcels since at least 1931 to ensure the conveyance of safe drinking water to the community.

E. Continued use of the Water System Facilities is consistent with the City of Camas 20-Year Growth Management Plans and the adopted Water System Plan Update.

F. The current property owner of Parcel No. 136643000, more particularly described in the attached Exhibit "B", installed a gate across NE Boulder Creek Road on or around July 12, 2022 preventing the City from accessing or maintaining its Water System Facilities.

G. The real property subject to this Ordinance, more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein ("the subject real property") includes portions of the Water System Facilities and portions of NE Boulder Creek Road which is the only reasonable access to the Water System Facilities.

H. The City obtained a separate easement in July 2013 from the then current property owner of Parcel No. 136643000 to provide access to the westerly side of City-owned Parcel No. 136645000 for the purposes of accessing and performing forest management practices within the Jones and Boulder Creek Watershed. However, this westerly easement cannot be used to reasonably access the Water System Facilities due to topographical and other features associated

with the heavily forested property.

I. The City has been unsuccessful in its attempts to obtain reasonable access or acquire the subject real property in a timely manner by negotiation.

J. The need to access, maintain, operate and replace the Water System Facilities constitutes a public use under the provisions of RCW 8.12.030.

K. Pursuant to RCW 8.25.290, the City published and mailed notice to the property owners of the subject real property this ordinance authorizes to be condemned, advising such owners that a final decision condemning the subject real property would be made at the November 7, 2022, Camas City Council meeting.

L. Any and all interested parties had the opportunity to address the Camas City Council on this subject at the November 7, 2022, meeting.

Section II

The City is authorized to condemn property and property interests for public improvements under RCW 8.12.030.

Section III

The City of Camas hereby condemns for ingress and egress purposes the property described in Exhibit "A", attached hereto and by this reference incorporated herein. Condemnation of the subject real property is subject to the making or paying of just compensation to the owners in the manner provided by law.

Section IV

Compensation for the subject real property shall be paid from the Water Utility Fund of the City, and not by special assessment upon properties benefitted by such acquisition.

Section V

The City Attorney is hereby authorized and directed to begin and prosecute the proceedings provided by law to condemn, take, and appropriate the interests necessary to carry out the provisions of this ordinance, and is further authorized in conducting said condemnation proceedings, and for the purpose of minimizing damages, to stipulate as to the use of the properties hereby authorized to be condemned and appropriated, and as to the reservation of any right of use of the owner or any person entitled to possession of the properties, provided that such reservation does not interfere with the use of said properties as provided in this ordinance.

Section VI

The City Council hereby finds and declares that an emergency exists, and this is a matter of

urgency which necessitates that this ordinance become effective immediately, in order to preserve the public health, safety, and welfare. This ordinance shall become effective immediately upon its passage.

PASSED by the Council and APPROVED by the Mayor this 7th day of November, 2022.

SIGNED: _____
Mayor

ATTEST: _____
Clerk

APPROVED as to form:

City Attorney

EXHIBIT "A"

County of Clark, State of Washington

A perpetual non-exclusive easement and right of way for ingress and egress 11 feet in width, plus or minus, over and across the existing NE Boulder Creek Road situate on a portion of the real property described in the attached Exhibit B. Said easement and right of way shall be for purpose of providing to the City of Camas, their employees, agents, contractors, and invitees, vehicular ingress and egress to and from the real property now or later owned by the City of Camas as more particularly described in the attached Exhibit C to allow the access, maintenance, operation and replacement of portions of the Camas Water System Facilities.