

ORDINANCE No. 184860

*Authorize the Bureau of Transportation to acquire certain temporary easements necessary for construction of the SW Broadway Drive Slide Project through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. That City Council passed Ordinance 184822 on August 17, 2011, which approved an emergency contract for landslide mitigation on SW Broadway Drive, as it was paramount that the landslide mitigation work occurs during dry weather to prevent failure and collapse during the wet season.
2. There are numerous utilities located in SW Broadway Drive at this location, to include sewer, water, gas, power and cable, which would also be in jeopardy of failure if SW Broadway Drive collapses. These utilities serve a large number of residents in the immediate area.
3. Design of the new retaining wall calls for its location to be at the southwesterly edge of the existing right-of-way. In addition to being the most prudent location to protect the transportation facilities of SW Broadway Drive, this location will also allow the sewer and natural gas lines to remain in place during the construction period.
4. Construction of the retaining wall at this location will require the acquisition of temporary construction easements over private property immediately abutting the mitigation work.
5. Acquisition efforts will be completed in accordance with Eminent Domain procedures provided for in ORS Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation and early possession if necessary.
6. ORS 35.348 provides a method for the City to acquire early possession of the temporary construction easements if Council determines that an emergency that poses a threat to persons or property exist and that immediate possession of the property is necessary.
7. If, after making an initial written offer to the property owners as required under ORS 35.346 (1), the City is unable to obtain signed temporary construction easements, the City Attorney's Office may file a condemnation action seeking immediate possession of the needed property rights.
8. Initial construction activities are currently underway and it is necessary to acquire possession of the temporary easements as soon as possible so as to not further delay the construction of the retaining wall.

9. Funds are available in the Transportation Operating Fund, FY 2011-2012 Budget, SAP #T00309.D46

NOW, THEREFORE, the Council directs:

- a. That the Director of the Bureau of Transportation or designee and/or City Attorney are authorized to acquire necessary temporary easements for the SW Broadway Drive Slide Project under the Eminent Domain Authority of the City, including filing an action to acquire the property interests described herein or negotiating just compensation with property owners within available project budget funds. The Director of the Bureau of Transportation or designee and/or the City Attorney are further authorized to enter into obligations agreements with property owners to address construction management concerns within available project budget funds.
- b. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for each interest in the property which, if necessary, shall be deposited with the clerk of the court where an action is commenced.
- c. The costs incurred in connection with the acquisition authorized herein shall be charged to the SW Broadway Drive Slide Project.
- d. The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the Transportation Fund Budget when demand is presented and approved by the proper authority.
- e. The properties affected by this ordinance are described in, and depicted on the attached exhibits 1 and 2 and their associated exhibits.

Section 2. The Council declares that an emergency exists because delay in property acquisition at this location may result in a delay in construction and impact the overall project completion; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, SEP 14 2011

Mayor Sam Adams
Prepared by: David McEldowney, slg
Date Prepared: September 2, 2011

LaVonne Griffin-Valade

Auditor of the City of Portland

By


Deputy

Agenda No.
ORDINANCE NO. 184860
 Title

*Authorize the Bureau of Transportation to acquire certain temporary easements necessary for construction of the SW Broadway Drive Slide Project through the exercise of the City's Eminent Domain Authority (Ordinance)

<p>INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS <i>K. Saltzman on behalf of Mayor Adams</i></p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>Greg Jones</i></p> <p>Prepared by: David McElDowney:slg Date Prepared: 9/2/2011 <i>slg</i></p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date September 14, 2011</p> <p>City Attorney Approval <i>Seppan Hatters</i></p>	<p style="text-align: right;">SEP 10 2011</p> <p>CLERK USE: DATE FILED _____</p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
---	--

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	✓	
Adams	✓	