

## ORDINANCE No. 185106

\*Authorize the Bureau of Transportation to acquire certain temporary and permanent easements necessary for construction of the NE 102nd Ave Streetscape Improvement Project Phase II through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Phase II of the NE 102<sup>nd</sup> Avenue Streetscape Improvement project (NE 102nd Avenue from NE Glisan Street to E Burnside Street) will widen the existing sidewalks, add additional streetlights and street trees, include additional pedestrian crossings and provide for treatment of storm water runoff.
2. The Project requires acquisition of certain private property interests to implement the engineering and construction requirements of the project.
3. 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.
4. It is necessary to acquire possession of the temporary and permanent easements by January 14, 2013, so that construction can begin on schedule.
5. Funds are available in the Transportation Operating Fund, FY 2012-2013 Budget, SAP #T00134.L46

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 and permanent easements for the NE 102<sup>nd</sup> Avenue Streetscape Improvement Project Phase II 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.

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- c. The costs incurred in connection with the acquisition authorized herein shall be charged to the NE 102<sup>nd</sup> Avenue Streetscape Improvement Project Phase II.
  - 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 through 32 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,

JAN 18 2012

Mayor Sam Adams

Prepared by: Marty Maloney, slg

Date Prepared: December 30, 2011

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

*Gayla Jennings*

Deputy

Agenda No. **185106**  
**ORDINANCE NO.**  
 Title

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<b>INTRODUCED BY</b> Commissioner/Auditor: <b>MAYOR SAM ADAMS</b> <i>K. Griffin on behalf of Mayor's office</i> <b>COMMISSIONER APPROVAL</b>	CLERK USE: DATE FILED <u>JAN 12 2012</u>  LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Adams	By: <u><i>[Signature]</i></u> Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
<b>BUREAU APPROVAL</b> Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>[Signature]</i> Prepared by: Marty Maloney:slg Date Prepared: 12/30/2011	<b>ACTION TAKEN:</b>
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date <b>January 18, 2012</b>	
<b>City Attorney Approval</b> <i>64</i>	

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

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