

## ORDINANCE No. 186030

\*Authorize the Bureau of Transportation to acquire certain temporary rights necessary for construction of the SW Spring Garden St. Sidewalk Infill Project, through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The SW Spring Garden Street Sidewalk Infill Project will construct new sidewalks, provide a climbing bike lane on SW Spring Garden Road by widening paved roadway adjacent to the sidewalk, remove existing parking on shoulder on the south side of the street, build retaining walls as needed to retain front yards on private property or hold up sidewalk and provide stormwater management facilities as needed to meet Bureau of Environmental Services (BES) requirements.
2. The project requires acquisition of certain private property interests to construct 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 easement by June 1, 2013, so that construction can begin on schedule.
5. The Bureau's level of confidence in the cost estimates for this project is moderate, funds are available in the Transportation Operating Fund, FY 2012-2013 Budget, SAP #T00320.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 easements for the SW Spring Garden Street Sidewalk Infill 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.

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- 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 Spring Garden Street Sidewalk Infill 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 property affected by this ordinance is described in, and depicted on the attached Exhibits 1 through 2.

Section 2. The Council declares that an emergency exists because delay in property acquisition 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, MAY 15 2013

Mayor Charlie Hales  
Prepared by: Marty Maloney / slg  
Date Prepared: April 23, 2013  
R/W #7543

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By



Deputy

Agenda No. **186030**  
**ORDINANCE NO.**  
 Title

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<b>INTRODUCED BY</b> Commissioner/Auditor: <b>MAYOR CHARLIE HALES</b>	CLERK USE: DATE FILED <u>MAY 10 2013</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	LaVonne Griffin-Valade Auditor of the City of Portland By: <u>[Signature]</u> Deputy
<b>BUREAU APPROVAL</b> Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: Prepared by: Marty Maloney: slg Date Prepared: April 23, 2013	<b>ACTION TAKEN:</b>
<b>Financial Impact &amp; Public Involvement Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Council Meeting Date</b> May 15, 2013	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <u>[Signature]</u>	

<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 type="checkbox"/> <b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <u>5 min</u> (for presentation, testimony and discussion)
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FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	_____	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	