

**ORDINANCE No. 188082**

\*Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the Foster Road – SE Powell Boulevard to SE 91<sup>st</sup> Avenue project, through the exercise of the City’s Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland may exercise the power of eminent domain pursuant to Section 9-108 of the City Charter and 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, when the exercise of such power is deemed necessary by the City Council to accomplish public purposes for which the City has responsibility.
2. The City of Portland has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.
3. The project known as Foster Road – SE Powell Boulevard to SE 91<sup>st</sup> Avenue (“the Project”) has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded.
4. The Project will implement the Foster Road Streetscape Plan adopted by City Council in 2014. The Project will design and construct improvements to SE Foster Road between SE 50<sup>th</sup> and 90<sup>th</sup> Avenues that address multi-modal safety issues and support the redevelopment goals of the Lents Town Center Urban Renewal District. Improvements generally include restriping of the roadway, upgrades to two existing traffic signals, upgrades to pedestrian crossings at six locations, and widening of the sidewalks east of 82<sup>nd</sup> Avenue.
5. To accomplish the Project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 92, attached to this Ordinance and, by this reference incorporated herein.
6. All affected property owners have been contacted and informed as to the City’s need for certain private property rights related to completion of the Project. All affected property owners have been invited, by mailing, to attend the reading of this agenda item.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described and depicted in Exhibits 1 through 92 of this Ordinance for the Project, for which the City is authorized by law to acquire property, and that the Project has been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.
- b. That the Director of the Bureau of Transportation or designee and/or City Attorney are authorized to acquire necessary permanent and temporary rights for the 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.
- c. That the power of eminent domain is hereby exercised with respect to each of the interests in property described and depicted in Exhibits 1 through 92. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
- d. That the Bureau of Transportation's staff and the Office of the City Attorney are authorized to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the City Council.
- e. That the Bureau of Transportation is authorized to determine the continuing necessity or propriety of the acquisitions authorized by this Ordinance, its quantity, quality, or locality, and to reduce or abandon any acquisition described in Exhibits 1 through 92.
- f. 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.
- g. The costs incurred in connection with the acquisitions authorized herein shall be charged to the Project.
- h. The Commissioner-in-Charge and the Auditor are hereby authorized to draw and deliver warrants chargeable to the Transportation Operating Fund Budget when demand is presented and approved by the proper authority.

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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, NOV 09 2016

Commissioner Steve Novick  
Prepared by: Marty Maloney Full Name: TK  
Date Prepared: 10/6/2016

**Mary Hull Caballero**

Auditor of the City of Portland

By

A handwritten signature in blue ink, appearing to read "Susan Parsons", is written over the printed name of the Deputy Auditor.

Deputy

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**ORDINANCE NO.**  
 Title

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<p style="text-align: center;"><b>INTRODUCED BY</b>                  Commissioner/Auditor:  <b>COMMISSIONER STEVE NOVICK</b></p>	<p>CLERK USE: DATE FILED <u>NOV 01 2016</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Novick <i>CW</i></p>	<p style="text-align: center;">Mary Hull Caballero                  Auditor of the City of Portland</p> <p>By: <u><i>Mary Hull Caballero</i></u>                  Deputy</p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p><b>Bureau: Transportation</b>                  Development, Permitting &amp; Transit Group  <b>Manager: Christine Leon</b> <i>CL</i>  <b>Division Mgr:</b>  <b>Assistant Director: Maurice Henderson</b> <i>MH 10/17/16</i></p> <p>Prepared by: Marty Maloney: TK                  Date Prepared: 8/23/2016                  Supervisor: David E. McEldowney <i>DM</i></p>	<p><b>ACTION TAKEN:</b></p>
<p>Impact Statement                  Completed <input checked="" type="checkbox"/> Amends Budget <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><b>City Auditor Office Approval:</b>                  required for Code Ordinances <i>✓</i></p>	
<p><b>City Attorney Approval:</b>                  required for contract, code, easement, franchise, comp plan, charter</p>	
<p><b>Council Meeting Date</b>                  November 9, 2016</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____                  (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <u>5 minutes</u>                  (for presentation, testimony and discussion)</p>

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	✓	