

ORDINANCE NO. 189121

Authorize the Water Bureau to acquire certain permanent and temporary property rights necessary for the Conduit 2 Trestle Rehabilitation Project through negotiation or through the City's eminent domain authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

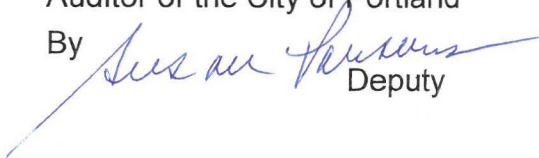
1. The Water Bureau has the responsibility to provide high quality water and stewardship of the City's water infrastructure, including implementation of safety improvements that benefit City employees and the general public.
2. Through the Conduit 2 Trestle Rehabilitation Project (Project), the Water Bureau will replace trestles at two locations and improve supply risks due to natural disasters.
3. The Project has been planned and located in accordance with appropriate engineering standards for the construction, maintenance, and improvement of the City's water infrastructure in a way that will be most compatible with the greatest public good and the least private injury.
4. To accomplish the Project's goals set forth above and to construct the Project as designed, it is necessary for the City to acquire the property interests described and depicted on Exhibits A through D attached to this Ordinance and by this reference incorporated herein.
5. Pursuant to City Charter, Section 9-108, the City may exercise the power of eminent domain when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, as long as the power is exercised in accordance with the Oregon Revised Statutes Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation, and early possession, if necessary.
6. Pursuant to ORS 35.235, the City must attempt to agree with the owner or owners of the property with respect to the compensation to be paid therefore.
7. The cost to acquire the Project property rights will be determined by an appraisal that will comply with the requirements of ORS Chapter 35, Eminent Domain; Public Acquisition of Property. Funding for the Project in the amount of \$2,530,000 is available in the Water Fund in the FY 2018-19 through FY 2019-20 Budgets.

NOW, THEREFORE, the Council directs:

- a. That the Water Bureau Administrator and the City Attorney are authorized to acquire the necessary property interests described herein for the Conduit 2 Trestle Rehabilitation Project under the eminent domain authority of the City, including filing an action to acquire said property interests or negotiating just compensation with property owners within available project budget funds.
- b. That the power of eminent domain is hereby authorized with respect to each of the interests in property described and depicted in Exhibits A through D. Each of the properties acquired is subject to payment of just compensation and subject to procedural requirements of Oregon law.
- c. That the Water Bureau Administrator and the City Attorney are authorized to execute on behalf of the City agreements with property owners to address construction management concerns and are authorized to compensate property owners and other persons-in-interest for each acquisition.
- d. In the event that no satisfactory compensation agreement can be reached, the City may 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 or determinable by the City Council.
- e. That the Water Bureau is authorized to determine the continuing necessity or propriety of the acquisition authorized by this Ordinance, its quantity, quality, or locality, and to reduce or abandon an acquisition described within Exhibits A through D attached to this Ordinance.
- f. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for the subject property which, if necessary, shall be deposited with the clerk of the court where a condemnation action is commenced.
- g. The Chief Engineer and Administrator are hereby authorized to pay for the resulting obligations or agreements on this Project from the Water Fund when demand is presented and approved by the proper authorities.

Passed by the Council, **AUG 15 2018**

Mayor Ted Wheeler
Prepared by: Mary Ellen Collentine, P.E.
July 9, 2018

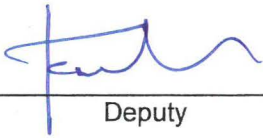
Mary Hull Caballero
Auditor of the City of Portland
By  Deputy

Agenda No.
ORDINANCE NO.

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Title

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<p>INTRODUCED BY Commissioner/Auditor: Commissioner Nick Fish</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: Water Bureau Head: Michael Stuhr, P.E.</p> <p>Prepared by: Mary Ellen Collentine, P.E. Date Prepared: July 9, 2018</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>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>KLM</i></p> <p>Council Meeting Date Aug 8, 2018</p>	<p>CLERK USE: DATE FILED JUL 31 2018</p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p> <p>ACTION TAKEN: AUG 08 2018 PASSED TO SECOND READING AUG 15 2018 9:30 A.M.</p>
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<p>AGENDA <i>3053</i></p> <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 type="checkbox"/></p> <p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 mins (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	Wheeler	<input checked="" type="checkbox"/>	