

## ORDINANCE NO. 189320

Authorize the Water Bureau to acquire certain permanent and temporary property rights necessary for construction of the Willamette River Crossing Project through the exercise of the City's eminent domain authority as a last resort (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 when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, provided that power is exercised in accordance with the eminent domain procedures established by 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.
2. The City of Portland Water Bureau has the responsibility to provide high quality water, and stewardship of the City's water infrastructure, including implementation of safety improvements which benefit City employees and the general public.
3. Ordinance No. 187520 was passed by City Council on December 16, 2015, authorizing an exemption to the competitive bidding requirements; authorizing a competitive solicitation for use of the Design-Build alternative contracting method; and authorizing payment for construction related to the Willamette River Crossing Project (Project).
4. The Project has been planned in accordance with appropriate engineering standards for the construction, maintenance, and improvement of the City's water infrastructure in a way that minimizes property damage and protects the health and safety of City employees and the public.
5. The Project will install a water main beneath the Willamette River in the central core of Portland that will be resilient after a seismic event. The new water main will be installed through geologically stable materials at depth beneath the river bottom. The project is a key component of the backbone water system that maintains water service after a major seismic event.
6. To accomplish the Project's goals set forth above and to construct the Project as designed, the City must acquire the permanent and temporary property rights described and depicted on Exhibits A through F (Subject Property) attached to this Ordinance and by this reference incorporated herein.

7. The cost to acquire the Project property rights will be determined by appraisals that will comply with the requirements of ORS Chapter 35, Eminent Domain; Public Acquisition of Property. Funding for the Project is available in the Water Fund in the FY 2018-19 Budget.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared necessary to acquire the Subject Property attached to this Ordinance for the Project, for which the City is authorized by law to acquire said property, and that the Project has been planned, designed, located, and will be constructed in a manner that will be most compatible with the greatest public good and the least private injury.
- b. That the Administrator of the Portland Water Bureau, or designee, and the City Attorney are each authorized to acquire the necessary property interests described herein for the 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. The Administrator of the Portland Water Bureau or designee, and the City Attorney are each further authorized to enter into obligations or agreements with property owners to address construction management concerns within available project budget funds.
- c. That the power of eminent domain is hereby authorized with respect to each of the interests in the Subject Property. Each of the properties acquired is subject to payment of just compensation and subject to procedural requirements of Oregon law.
- 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.
- e. That this authorization is not intended to expand the jurisdiction of any court to decide matters determined or determinable by the City Council.
- f. That the Portland 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 on Exhibits A through F.
- g. 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.

- h. 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, DEC 19 2018

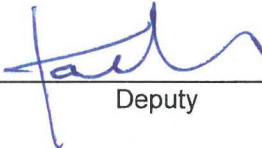
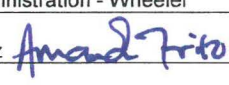

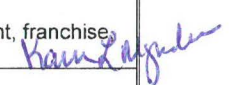
Commissioner Amanda Fritz  
Prepared by: Tim Collins  
November 14, 2018

**Mary Hull Caballero**  
Auditor of the City of Portland

By  Deputy

Agenda No. **ORDINANCE NO. 189320**  
Title

Authorize the Water Bureau to acquire certain permanent and temporary property rights necessary for construction of the Willamette River Crossing through the exercise of the City's Eminent Domain Authority as a last resort (Ordinance)

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Commissioner Amanda Fritz</b>	CLERK USE: DATE FILED <b>DEC 04 2018</b>
<b>COMMISSIONER APPROVAL</b>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p> <p><b>ACTION TAKEN:</b></p> <p><b>DEC 12 2018 PASSED TO SECOND READING DEC 19 2018 9:30 A.M.</b></p>
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Fritz 	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
<b>BUREAU APPROVAL</b>	
Bureau: Water Bureau Head: Michael P. Stuhr, P.E. 	
Prepared by: Tim Collins Date Prepared: November 14, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter 	
Council Meeting Date December 12, 2018	

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