

ORDINANCE No. 184153

*Authorize the Bureau of Transportation to acquire certain permanent and temporary easements necessary for construction of the NE 97th Avenue Green Street LID Project through the exercise of the City's Eminent Domain Authority (Ordinance; C-10035)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland Bureau of Transportation has initiated a project with the general character and scope of removing the existing asphaltic concrete, dirt, and gravel; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities primarily consisting of stormwater curb extensions; construct sidewalks on both sides of the street as necessary to provide a complete pedestrian connection to current City standards; and plant street trees in most locations
2. The NE 97th Green Street LID 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 permanent and temporary easements by April 30, 2011, so that construction can begin on schedule.
5. Funds are available in the Transportation Operating Fund, FY 2010-2011 Budget, SAP #T00170.L46

NOW, THEREFORE, the Council directs:

- a. That the Commissioner-in-Charge and Auditor are authorized to acquire necessary permanent and temporary easements for the NE 97th Green Street LID 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.
- 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 NE 97th Green Street LID Project.
- d. The property affected by this ordinance are described as follows:

R/W 7179-01 (Temporary Construction Easement)

A portion of that parcel of land conveyed to Gordon C. Jones in document number 2004-210219, dated November 19, 2004, Multnomah County deed records, described as Lot 29, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point which bears South 87°56'15" East, 3.00 feet, from the Northwest corner of said Lot 29, said point being on the adjusted East right of way line of Northeast 97th Avenue as established in document number 2010-096716, Multnomah County deed records; Thence South 87°56'15" East, along the North line of said Lot 29, a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said adjusted East right of way line, a distance of 61.00 feet, to the South line of said Lot 29; Thence North 87°56'17" West, along said South line, a distance of 3.00 feet, to the adjusted East right of way line of Northeast 97th Avenue; Thence North 02°36'43" East, along said adjusted East right of way line, a distance of 61.00 feet to the TRUE POINT of BEGINNING;

Containing approximately 183 square feet.

R/W 7179-1 (Temporary Construction Easement)

A portion of that tract of land conveyed to Gordon C. Jones in document number 2005-092400, dated May 23, 2005 Multnomah County deed record described as Lot 30, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point which bears South 87°56'13" East, 3.00 feet, from the Northwest corner of said Lot 30, said point being on the adjusted East right of way line of Northeast 97th Avenue as established in document number 2010-096716, Multnomah County deed records; Thence South 87°56'13" East, along the North line of said Lot 30, a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said East right of way line, a distance of 61.00 feet, to the South line of said Lot 30; Thence North 87°56'15" West, along said South line, a distance of 3.00 feet to said East right of way line; Thence North 02°36'43" East, along said East right of way line of Northeast 97th Avenue, a distance of 61.00 feet to the TRUE POINT of BEGINNING;

Containing approximately 183 square feet.

7179-01 (Temporary Construction Easement)

A portion of that tract of land conveyed to Gordon C. Jones in document number 2005-098850 dated June 1, 2005, Multnomah County deed records, described as Lot 31 and the South 83.9 feet of Lot 32, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:

BEGINNING at a point which bears South 87°56'05" East, 3.00 feet, from the Northwest corner of the above described tract of land, said point being on the adjusted East right of way line of Northeast 97th Avenue, as established in document number 2010-096716, Multnomah County deed records; Thence South 87°56'05" East, along the North line of said tract of land, a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said adjusted East right of way line, a distance of 80.90 feet; Thence South 87°56'11" East, parallel with the South line of said Lot 32, a distance of 152.00 feet, to the East line of said Lot 32; Thence South 02°35'45" East, along said East line of said Lot 32, a distance of 3.00 feet to the Southeast corner thereof; Thence North 87°56'11" West, along the South line of said Lot 32, a distance of 155.00 feet, to the East right of way line of Northeast 97th Avenue, as established in said document number 2010-096716; Thence North 02°36'43" East, along said adjusted East right of way line, a distance of 83.90 feet, to the POINT of BEGINNING.

Containing approximately 708 square feet.

7179-01 (Temporary Construction Easement)

A portion of that tract of land conveyed to Gordon C. Jones in document number 2005-098850 dated June 1, 2005, Multnomah County deed records, described as Lot 31 and the South 83.9 feet of Lot 32, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:

BEGINNING at a point which bears South 87°56'13" East, 3.00 feet, from the Southwest corner of the above described tract of land, said point being on the adjusted East right of way line of Northeast 97th Avenue, as established in document number 2010-096716, Multnomah County deed records; Thence North 02°36'43" East, along said East right of way line, a distance of 31.00 feet; Thence South 87°56'11" East, parallel with the North line of said Lot 31, a distance of 148.37 feet, to the East line of said Lot 31; Thence South 02°44'45" West, along the East line of said Lot 31, a distance of 3.00 feet; Thence North 87°56'11" West, parallel with the North line of said Lot 31, a distance of 145.36 feet; Thence South 02°36'43" West, parallel with said East right of way line, a distance of 28.00 feet, to the South line of said Lot 31; Thence North 87°56'13" West, along the South line of said Lot 31 to the POINT of BEGINNING.

Containing approximately 529 square feet.

7179-01 (Deed for Right of Way Purposes)

A portion of that tract of land conveyed to Gordon C. Jones in document number 2005-098850 dated June 1, 2005, Multnomah County deed records, described as Lot 31 and the South 83.9 feet of Lot 32, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City

of Portland, Multnomah County, Oregon, more particularly described as follows:

Commencing at a point which bears South 87°56'13" East, 3.00 feet, from the Southwest corner of the above described tract of land, said point being on the adjusted East right of way line of Northeast 97th Avenue, as established in document number 2010-096716, Multnomah County deed records; Thence North 02°36'43" East, along said adjusted East right of way line, a distance of 31.00 feet, to the TRUE POINT of BEGINNING of the tract herein described; Thence continuing North 02°36'43" East along said adjusted East right of way line, a distance of 30.00 feet, to the North line of said Lot 31; Thence South 87°56'11" East, along said North line, a distance of 148.44 feet, to the Northeast corner of said Lot 31; Thence South 02°44'45" West, along the East line of said Lot 31, a distance of 30.00 feet; Thence North 87°56'11" West, parallel with the North line of said Lot 31, a distance of 148.37 feet to the TRUE POINT of BEGINNING;

Containing approximately 4,452 square feet.

7179-04 (Temporary Construction Easement)

A portion of that parcel of land conveyed to The Annex in Gateway, LLC, in document number 2006-119583, dated June 29, 2006, Multnomah County deed records, described as Lot 27, and 28, of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point which bears South 87°56'17" East, 3.00 feet, from the Northwest corner of the above referenced parcel of land, said point being on the adjusted East right of way line of Northeast 97th Avenue as established in document number 2010-096717, Multnomah County deed records; Thence South 87°56'17" East, along the North line of said parcel of land, a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said adjusted East right of way line, a distance of 122.00 feet, to the South line of the above referenced parcel of land; Thence North 87°56'21" West, along the South line of said parcel of land, a distance of 3.00 feet to said adjusted East right of way; Thence North 02°36'43" East, along said adjusted East right of way line, a distance of 122.00 feet to the TRUE POINT of BEGINNING;

Containing approximately 366 square feet.

7179-05 (Temporary Construction Easement)

A portion of that parcel of land conveyed to Gordon C. Jones in document number 2005-155482 dated August 17, 2005, Multnomah County deed records, described as Lot 7, of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: Commencing at a point on the West right of way line of Northeast 99th Avenue, said point being the Northeast corner of said Lot 7, Thence South 02°44'45" West, along the West right of way line of Northeast 99th Avenue, a distance of 30.00 feet to the POINT of BEGINNING of the tract of land herein described: Thence continuing South 02°44'45" West, along said West right of way line, a distance of 3.00

feet; Thence North $87^{\circ}56'11''$ West, parallel with the North line of said Lot 7, a distance of 150.00 feet to the West line of said Lot 7; Thence North $02^{\circ}44'45''$ East, along said West line, a distance of 3.00 feet; Thence South $87^{\circ}56'11''$ East, parallel with the North line of said Lot 7 a distance of 150.00 feet to the POINT of BEGINNING

Containing approximately 450 square feet.

7179-05 (Deed for Right of Way Purposes)

A portion of that parcel of land conveyed to Gordon C. Jones in document number 2005-155482 dated August 17, 2005, Multnomah County deed records, described as Lot 7, of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point on the West right of way line of Northeast 99th Avenue, said point being the Northeast corner of said Lot 7, Thence South $02^{\circ}44'45''$ West, along the West right of way line of Northeast 99th Avenue, a distance of 30.00 feet; Thence North $87^{\circ}56'11''$ West, parallel with the North line of said Lot 7, a distance of 150.00 feet to the West line of said Lot 7; Thence North $02^{\circ}44'45''$ East, along said West line, a distance of 30.00 feet to the Northwest corner of said Lot 7; Thence South $87^{\circ}56'11''$ East, along the North line of said Lot 7 a distance of 150.00 feet to the POINT of BEGINNING

Containing approximately 4500 square feet.

7179-08 (Temporary Construction Easement)

A portion of that parcel of land conveyed to Ted James Kukula and Kurt Chiapuzio in document number 97007438 dated January 14, 1997, Multnomah County deed records, described as Lot 26, except the South 5 feet thereof, of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point on the North line of said Lot 26, which bears South $87^{\circ}56'21''$ East, 3.00 feet, from the Northwest corner of said Lot 26; Thence South $87^{\circ}56'15''$ East, along the North line of said Lot, a distance of 3.00 feet; Thence South $02^{\circ}36'43''$ West, parallel with the East right of way line of Northeast 97th Avenue, a distance of 56.00 feet, to the South line of the above described parcel of land; Thence North $87^{\circ}56'23''$ West, along the South line of the above described parcel of land, a distance of 3.00 feet; Thence North $02^{\circ}36'43''$ East, parallel to said East right of way line, a distance of 56.00 feet to the TRUE POINT of BEGINNING;

Containing approximately 168 square feet.

7179-08 (Deed for Right of Way Purposes)

A portion of that parcel of land conveyed to Ted James Kukula and Kurt Chiapuzio in document number 97007438 dated January 14, 1997, Multnomah County deed records, described as Lot 26,

except the South 5 feet thereof, of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point on the East right of way line of Northeast 97th Avenue, said point being the Northwest corner of said Lot 26, Thence South 87°56'21" East, along the North line of said Lot 26, a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said East right of way line, a distance of 56.00 feet, to the South line of the above described parcel of land; Thence North 87°56'23" West, along said South line, a distance of 3.00 feet, to East right of way of Northeast 97th Avenue; Thence North 02°36'43" East, along said East right of way line, a distance of 56.00 feet to the TRUE POINT of BEGINNING;

Containing approximately 168 square feet.

7179-09 (Temporary Construction Easement)

A portion of that parcel of land conveyed to Kurt Chiapuzio and Ted James Kukula, as tenants in common, as described in Document number 2007-104896, being a portion of Lot 1, Block 3, of the Plat of "Russellville Addition To East Portland", an existing subdivision recorded in Book 114, Page 97, records of Multnomah County, situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point at the intersection of the West right of way line of Northeast 97th Avenue and the North right of way line of Northeast Davis Street, said point being also the Southeast corner of said Lot 1; Thence North 88°00'29" West, along said North right of way line and the South line of said Lot 1, a distance of 3.00 feet; Thence North 02°36'43" East, parallel with said West right of way line, a distance of 100.00 feet, to the North line of said Lot 1; Thence South 88°00'29" East, along said North line, a distance of 3.00 feet, to the said West right of way line; Thence South 02°36'43" West, along said West right of way line, a distance of 100.00 feet, to the POINT of BEGINNING;

Containing approximately 300 square feet.

7179-10 (Temporary Construction Easement)

A portion of Lot 22, Block 3, of the Plat of "Russellville Addition To East Portland", an existing subdivision recorded in Book 114, Page 97, records of Multnomah County, situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: Beginning at the point of intersection of the West right of way line of Northeast 97th Avenue and the South right of way line of Northeast Everett Street, said point also being the Northeast corner of said lot 22; Thence South 02°36'43" West, along said West right of way line, a distance of 100.00 feet, to the Southeast corner of said lot 22; Thence North 88°00'29" West, along the south line of said lot 22, a distance of 3.00 feet; Thence North 02°36'43" East, parallel with said West right of way line, a distance of 100.00 feet, to the South right of way line of Northeast Everett Street; Thence South 88°00'29" East, along said South right of way line, a

distance of 3.00 feet, to the POINT of BEGINNING;

Containing approximately 300 square feet.

7179-11 (Temporary Construction Easement)

A portion of that parcel of land described in Document number 2007-137986 being also a portion of Lot 32, Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:

BEGINNING at a point at the intersection of the South right of way line of Northeast Glisan Street and the East right of way line of Northeast 97th Avenue, said point being also the Northwest corner of said Lot 32; Thence South 87°56'05" East, along the South right of way line of Northeast Glisan Street, a distance of 25.00 feet; Thence South 02°36'43" West, parallel with the East right of way line, a distance of 3.00 feet; Thence North 87°56'05" West, parallel with said South right of way line, a distance of 22.00 feet; Thence South 02°36'43" West parallel with said East right of way line, a distance of 78.03 feet; Thence North 87°23'17" West, perpendicular to said East right of way line, a distance of 0.50 feet; Thence South 02°36'43" West parallel with said East right of way line, a distance of 29.70 feet; Thence South 87°23'17" East, perpendicular to said East right of way line, a distance of 0.50 feet; Thence South 02°36'43" West parallel with said East right of way line, a distance of 57.77 feet, to the South line of that parcel described in said document number 2007-137986; Thence North 87°56'05" West, along said South line, a distance of 3.00 feet, to said East right of way line; Thence North 02°36'43" East, along said East right of way line, a distance of 168.50 feet to the POINT of BEGINNING;

Containing approximately 557 square feet.

7179-12 (Temporary Construction Easement)

A portion of that tract of land described as "PARCEL I" in that document recorded in Book 1108, Page 61, Multnomah County deed records, being a portion of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point on the West line of Northeast 99th Avenue, said point being the Southeast corner of Lot 6 of said Block 1 and the most Southeasterly corner of that parcel of land described as said "PARCEL I"; Thence North 87°56'11" West, along the South line of said Lot 6, a distance of 143.44 feet to the Southwest corner thereof; Thence North 02°35'45" East, along the West line of said Lot 6, a distance of 3.00 feet; Thence South 87°56'11" East, parallel with said South line, a distance of 140.45 feet; Thence North 02°44'45" East, parallel with the West right of way line of Northeast 99th Avenue, a distance of 1.54 feet; Thence South 87°15'15" East, perpendicular to said West right of way line, a distance of 3.00 feet to said West right of way line; Thence South 02°44'45" West, along said West right of way line a distance of 4.50 feet to the POINT of BEGINNING

Containing approximately 435 square feet;

7179-12 (Temporary Construction Easement)

A portion of that tract of land described as "PARCEL I" in that document recorded in Book 1108, Page 61, Multnomah County deed records, being a portion of Block 1, of the duly recorded plat of "Lewis Park", situated in the Southeast one-quarter of Section 33, Township 1 North, Range 2 East, of the Willamette Meridian, in the City of Portland, Multnomah County, Oregon, more particularly described as follows: BEGINNING at a point on the East right of way line of Northeast 97th Avenue; said point being the most Westerly, Southwest corner said "PARCEL I"; Thence North 02°36'43" East, along said East right of way line, a distance of 64.94 feet to the most Westerly, Northwest corner said "PARCEL I"; Thence South 87°56'05" East, along the North line of the West 78.00 feet of said "PARCEL I" a distance of 3.00 feet; Thence South 02°36'43" West, parallel with said East right of way line, a distance of 64.94 feet to the South line of the West 78.00 feet of said "PARCEL I"; Thence North 87°56'05" West, along said South line, a distance of 3.00 feet to the POINT of BEGINNING;

Containing approximately 195 square feet;

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, **OCT 13 2010**

Mayor Sam Adams
Prepared by: Marty Maloney, slg
Date Prepared: September 23, 2010

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy

1329

Agenda No.
ORDINANCE NO. 184153
 Title

*Authorize the Bureau of Transportation to acquire certain permanent and temporary easements necessary for construction of the NE 97th Avenue Green Street LID Project through the exercise of the City's Eminent Domain Authority (Ordinance; C-10035)

INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard BUREAU APPROVAL Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>Greg Jones</i> Prepared by: Martin Maloney/slg Date Prepared: September 23, 2010 Financial Impact 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 October 13, 2010 City Attorney Approval <i>MEM</i>	CLERK USE: DATE FILED OCT 08 2010 <i>on behalf of Mayor Adams</i> LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy ACTION TAKEN:
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AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion) CONSENT <input checked="" type="checkbox"/> REGULAR <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	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Leonard	4. Leonard	<input checked="" type="checkbox"/>	
Adams	Adams	<input checked="" type="checkbox"/>	