

## ORDINANCE No. 184765

\*Authorize the Bureau of Transportation to acquire certain temporary easements necessary for construction of the SE Division Streetscape Improvement Project through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

### Section 1. The Council finds:

1. The Division Street Reconstruction Project will repave Division Street and construct streetscape improvements from SE 11<sup>th</sup> to SE 39<sup>th</sup>. Streetscape improvements will include stormwater management facilities (bioswales, stormwater planters), curb extensions, pedestrian improvements, street trees, bike parking, public art, new signal, and additional street lighting (if needed). The project also includes BES Tabor to the River scope which includes storm water facilities, street trees, and replacing/repairing 4500 linear feet of pipe.
2. The 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 temporary easements by October 7, 2011, so that construction can begin on schedule.
5. Funds are available in the Transportation Operating Fund, FY 2011-2012 Budget, SAP #T00006.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 SE Division Streetscape Improvement 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.

- 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 SE Division Streetscape Improvement 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 properties affected by this ordinance are described in, and depicted on the attached exhibits 1 through 32 and their associated exhibits.

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, JUL 27 2011

Mayor Sam Adams  
Prepared by: Marty Maloney, slg  
Date Prepared: July 11, 2011

**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By

  
Deputy

Agenda No.  
**ORDINANCE NO. 184765**  
 Title

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<b>INTRODUCED BY</b> Commissioner/Auditor: <b>MAYOR SAM ADAMS</b>	CLERK USE: DATE FILED <u>JUL 22 2011</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	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: <u>[Signature]</u> Prepared by: Marty Maloney:slg Date Prepared: 7/11/2011	<b>ACTION TAKEN:</b>
<b>Financial Impact &amp; Public Involvement Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <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"/>	
Council Meeting Date <b>July 27, 2011</b>	
<b>City Attorney Approval</b> <u>D.H.</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 checked="" type="checkbox"/>
<b>REGULAR</b> <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

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