

## ORDINANCE No. 186292

\*Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE 112<sup>th</sup> Ave and NE Marx St LID Project, through the exercise of the City's Eminent Domain Authority (Ordinance; C-10043)

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Transportation has designed a street improvement project. The general project character and scope of the NE 112<sup>th</sup> Ave and NE Marx St LID Project is to remove the existing dirt, gravel and/or hard surface; grade streets to their proper sub-grade; construct an asphaltic concrete street with an aggregate base; construct storm water drainage facilities primarily consisting of storm water planters or swales and storm sewer to an outfall at the Whitaker Slough; extend the existing NE 112<sup>th</sup> Ave sanitary sewer north beyond the existing culvert; construct sidewalks on both sides of NE 112<sup>th</sup> Ave but only on the north side of NE Marx St except on both sides abutting 11040 NE Marx St; and plant street trees on both sides of NE 112<sup>th</sup> Ave but only on the north side of NE Marx St except on both sides abutting 11040 NE Marx St, with no improvements being made on the south side of NE Marx St between NE 109<sup>th</sup> Ave and NE 112<sup>th</sup> Ave except on both at 11040 NE Marx St.
2. The project requires acquisition of certain private property interests to construct 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 easements by April 1, 2014, so that construction can begin on schedule.
5. The Bureau's level of confidence in the cost estimates for this project is moderate. Funds are available in the Transportation Operating Fund, FY 2013-2014 Budget, SAP #T00347.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 permanent and temporary easements for the NE 112<sup>th</sup> Ave and NE Marx St 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. 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 NE 112<sup>th</sup> Ave and NE Marx St LID Project.
- d. The Commissioner-in-Charge and the 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 42.

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, **OCT 16 2013**

Mayor Charlie Hales  
Prepared by: Marty Maloney / SG  
Date Prepared: September 27, 2013  
R/W #7657

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

  
Deputy

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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>OCT 11 2013</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>ON</i></p>	<p style="text-align: center;">LaVonne Griffin-Valade                  Auditor of the City of Portland</p> <p>By: <u><i>Susan Parsons</i></u>                  Deputy</p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Transportation                  Group Manager: Greg Jones                  Development &amp; Capital Program</p> <p>Prepared by: Marty Maloney: SG                  Date Prepared: September 27, 2013</p>	<p><b>ACTION TAKEN:</b></p>
<p>Financial Impact &amp; Public Involvement 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>Council Meeting Date  <b>October 16, 2013</b></p>	
<p><b>City Auditor Office Approval:</b>                  required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> <i>MRM</i>                  required for contract, code, easement, franchise, comp plan, charter</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: <b>5 minutes</b>                  (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	✓	