

ORDINANCE No. 187004

*Authorize the Bureau of Transportation to acquire additional temporary and permanent rights and amend certain legal descriptions for temporary construction and sewer easements necessary for construction of the NE 112th Ave and Marx St Local Improvement District Project, through the exercise of the City's Eminent Domain Authority (Ordinance; amend Ordinance No. 186292; C-10043)

The City of Portland ordains:

Section 1. The Council finds:

1. Ordinance 186292 passed by City Council on October 16, 2013 and authorizes the Bureau of Transportation to acquire certain permanent and temporary easements for the NE 112th Avenue and Marx Street Local Improvement District (LID) Project.
2. Property rights were previously acquired under Ordinance 186292; however, the Bureau of Transportation has determined that additional Temporary easements and a sewer easement are required, together with street dedications for a fire access hammerhead at the north end of NE 112th Avenue. This fire access hammerhead is strongly supported by the Bureau of Fire and Rescue given a three alarm fire that occurred at this location on July 23, 2008.
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 June 1, 2015, 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 2014-2015 Budget, SAP #T00347.L46

NOW, THEREFORE, the Council directs:

- a. That the Commissioner-in-Charge is hereby authorized to acquire necessary permanent and temporary easements for the NE 112th Avenue and NE Marx 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. 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 112th Avenue and NE Marx Street 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 20.

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 and construction of a fire access hammerhead at the northern terminus of NE 112th Avenue; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, FEB 04 2015

Commissioner Steve Novick
Prepared by: Marty Maloney / slg
Date Prepared: January 13, 2015

Mary Hull Caballero
Auditor of the City of Portland

By


Deputy

142 =

140

Agenda No.
ORDINANCE NO.
 Title

187004

and

* Authorize the Bureau of Transportation to acquire additional temporary and permanent rights, as well as to amend certain legal descriptions for temporary construction and sewer easements necessary for construction of the NE 112th Ave and Marx St Local Improvement District Project, through the exercise of the City's Eminent Domain Authority (Ordinance; amend Ordinance No. 186292; C-10043)

INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK	CLERK USE: DATE FILED <u>JAN 30 2015</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick <i>AS</i>	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy ACTION TAKEN:
BUREAU APPROVAL Bureau: Bureau of Transportation <i>13</i> Interim Group Mgr.: Christine Leon Development Permitting & Transit Group Assistant Director: <i>DM</i> Prepared by: Marty Maloney: slg Date Prepared: 1/13/2015 <i>[Signature]</i>	
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"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>68</i>	
Council Meeting Date February 4, 2015	

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 5 Minutes (for presentation, testimony and discussion)

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	✓	