

**ORDINANCE No.** 188316

Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE 47<sup>th</sup> Avenue Phase I LID project, through the exercise of the City's Eminent Domain Authority (Ordinance; C-10052)

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 and 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, when the exercise of such power is deemed necessary by the City Council to accomplish public purposes for which the City has responsibility.
2. The City of Portland has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.
3. The project known as NE 47<sup>th</sup> Avenue Phase I LID (the "Project") has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded.
4. The general scope of the Project improvement is to remove the existing dirt, gravel and/or hard surface, grade the street to its proper subgrade; construct a Portland Cement concrete street with an aggregate base; construct stormwater drainage facilities including stormwater planters; construct curbs, sidewalk and bike lanes on both sides of the street; plant street trees on both sides of the street, extend stormwater sewer, and install dry line sanitary sewer.
5. To accomplish the Project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 18, attached to this Ordinance and, by this reference incorporated herein.
6. All affected property owners have been contacted and informed as to the City's need for certain private property rights related to completion of the Project. All affected property owners have been invited, by mailing, to attend the reading of this agenda item.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described and depicted in Exhibits 1 through 18 to this Ordinance for the Project, for which the City is authorized by law to acquire property, and that the Project has been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.
- b. That the Director of the Bureau of Transportation or designee and/or City Attorney are authorized to acquire necessary permanent and temporary rights for the 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.
- c. That the power of eminent domain is hereby exercised with respect to each of the interests in property described and depicted in Exhibits 1 through 18. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
- d. That the Bureau of Transportation's staff and the Office of the City Attorney are authorized to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to 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. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the City Council.
- e. That the Bureau of Transportation 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 any acquisition described in Exhibits 1 through 18.
- f. 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.
- g. The costs incurred in connection with the acquisitions authorized herein shall be charged to the Project.

- h. The Commissioner-in-Charge and the Auditor are hereby authorized to draw and deliver warrants chargeable to the Transportation Operating Fund Budget when demand is presented and approved by the proper authority.

Passed by the Council, APR 12 2017

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



Commissioner Dan Saltzman  
Prepared by: Marty Maloney: tlk/kk  
Date Prepared: 3/2/2017

By

Deputy

336 360

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Agenda No. **ORDINANCE NO. 188316**  
Title *permanent and*

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<b>INTRODUCED BY</b> Commissioner/Auditor: <b>COMMISSIONER DAN SALTZMAN</b>	CLERK USE: DATE FILED <u>MAR 28 2017</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>Dan Saltzman</i> Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland  By: <i>Mary Hull Caballero</i> Deputy
<b>BUREAU APPROVAL</b> Bureau: <b>Transportation</b> Development Permitting & Transit Group Manager: <b>Christine Leon</b> Director: Leah Treat <i>Christine Leon</i> Prepared by: Marty Maloney: tlk Date Prepared: 3/2/2017 Supervisor: David E. McEldowney <i>David E. McEldowney</i>	<b>ACTION TAKEN:</b>  APR 05 2017 PASSED TO SECOND READING APR 12 2017 9:30 A.M.
<b>Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <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"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>6/2</i>	
<b>Council Meeting Date</b> April 5 <sup>th</sup> , 2017	

<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 type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <b>5 Minutes</b> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<i>✓</i>	
2. Fish	<i>✓</i>	
3. Saltzman	<i>✓</i>	
4. Eudaly	<i>✓</i>	
Wheeler	<i>✓</i>	