

ORDINANCE No. 190455

*Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE 97th Ave Phase II and NE Couch – Davis Local Improvement District Projects through the exercise of the City’s Eminent Domain Authority (Ordinance; C-10067; C-10068)

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 projects known as NE 97th Ave Phase II and NE Couch – Davis Local Improvement District Projects (the “Projects”) have 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 Projects will remove the existing asphaltic concrete, dirt and gravel; grade streets to their proper subgrade; construct an asphaltic concrete street with an aggregate base, construct stormwater drainage facilities; construct sidewalks and plant street trees on both sides of the newly formed sections of NE Couch Street and NE Davis Street as well as the existing identified section of NE 97th Avenue. In addition, the Projects will also replace the Interstate 205 multiuse path, following ODOT approval, and construct mast arm traffic signal improvements.
5. To accomplish the Projects set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 56, 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 Projects. 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 56 to this Ordinance for the Projects, for which the City is authorized by law to acquire property, and that the Projects have 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 56. 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 56.
- 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 Mayor and the Auditor are hereby authorized to pay for the property rights and relocation benefits from the Transportation System Operating Fund Budget when demand is presented and approved by the proper authority.

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, June 16, 2021

Commissioner Jo Ann Hardesty
Prepared by: Marty Maloney:CDB
Date Prepared:5/10/2021

Mary Hull Caballero
Auditor of the City of Portland

By *Christina Thomas*

Deputy

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 Agenda No.
ORDINANCE NO. 190455
 Title

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INTRODUCED BY Commissioner/Auditor: Jo Ann Hardesty	CLERK USE: DATE FILED <u>June 8, 2021</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration - Wheeler Position 1/Utilities - Rubio Position 2/Works - Ryan Position 3/Affairs - Hardesty <i>Jo Ann Hardesty</i> Position 4/Safety - Mapps	Mary Hull Caballero Auditor of the City of Portland By: <u><i>Keelan McClymont</i></u> Deputy
BUREAU APPROVAL Bureau: PBOT Bureau Head:	ACTION TAKEN:
Prepared by: Marty Maloney Date Prepared: 5/10/2021	
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: Ken McGair required for contract, code, easement, franchise, comp plan, charter <small>Digitally signed by Ken McGair Date: 2021.05.12 10:48:01 -0700</small>	
Council Meeting Date June 9, 2021	

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: _____ 10 minutes (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Rubio		
2. Ryan	✓	
3. Hardesty	✓	
4. Mapps	✓	
Wheeler	✓	