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191727

Ordinance

Authorize Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the 82nd Ave Major Maintenance Project through exercise of the City's eminent domain authority

Passed

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 the 82nd Avenue Major Maintenance Project (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 Project will make major maintenance improvements to 82nd Avenue between SE Foster Road and SE Mill Street; between NE Schuyler to NE Siskiyou Streets; and at the NE Fremont intersection. The Project will pave 82nd Avenue and construct crossing and signal improvements, ADA corner ramps, transit improvements, safety improvements and tree planting.

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Transportation](#)

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

May 22, 2024


5. To accomplish the Project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 116, 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 116 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 116. 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 116.

- 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 Auditor are hereby authorized to pay for the property rights from the Transportation System Operating Fund Budget when demand is presented and approved by the proper authority.

Documents and Exhibits

 [Exhibits 1 - 58](#) 11.64 MB
(<https://www.portland.gov/sites/default/files/council-documents/2024/segment-a-exhibits-part-1.pdf>)

 [Exhibits 59 - 116](#) 11.86 MB
(<https://www.portland.gov/sites/default/files/council-documents/2024/segment-a-exhibits-part-2.pdf>)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
May 22, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

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.

The City of Portland has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

The 82nd Avenue Major Maintenance project (the "Project") will make major maintenance improvements to 82nd Avenue between SE Foster Road and SE Mill Street; between NE Schuyler to NE Siskiyou streets; and at the NE Fremont intersection. The Project will pave 82nd Avenue and construct

crossing and signal improvements, ADA corner ramps, transit improvements, safety improvements and tree planting.

To accomplish the Project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 116, attached to this Ordinance and, by this reference incorporated herein.

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.

Financial and Budgetary Impacts

Property values associated with the property acquisitions have not yet been quantified since negotiations are not completed; however, an estimate for the right of way phase has been included in the adopted FY 2023-24 Budget under project code #T01183. The budgeted set-aside for the ROW acquisitions is \$1.836M. The level of confidence for the estimate is low to moderate.

This legislation does not affect staffing levels or result in a new or modified financial obligation or benefit now or in the future.

If City Council does not approve the ordinance, construction of the Project will not be feasible as planned, due to lack of property rights needed to make the improvements.

Community Impacts and Community Involvement

- The project team has engaged broadly with stakeholders and communities along the 82nd Avenue corridor during project design, including community-based organizations, agency partners, school representatives, business managers and owners, property owners and community members.
- In January 2024, the project team released 60% plans and opened a public comment period. During this comment period, the team solicited feedback through 16 events, including presentations to neighborhood associations, tabling at community and cultural events, two in-person open house events, and an online survey. During this comment period, the public largely expressed support for the planned improvements and urged PBOT to complete more safety and maintenance improvements throughout the corridor.
- In total, the project team has engaged over 6,500 people in 2023 and 2024.
- Safety and maintenance projects are typically non-controversial and supported by neighbors and the broader community.

100% Renewable Goal

N/A

Budget Office Financial Impact Analysis

This action authorizes use of eminent domain to obtain property rights required for the 82nd Avenue Major Maintenance Project. The bureau has included \$1.8 million of budgeted set-aside in the FY 2023-24 Budget for right-of-way acquisition associated with the project.

Agenda Items

389 Regular Agenda in [May 15-16, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/5/15)
(<https://www.portland.gov/council/agenda/2024/5/15>)

Passed to second reading

Passed to second reading May 22, 2024 at 9:30 a.m.

417 Regular Agenda in [May 22, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/5/22)
(<https://www.portland.gov/council/agenda/2024/5/22>)

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea