

**ORDINANCE No. 187538**

Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE Glisan St and NE 90<sup>th</sup> Ave Bridge Replacement project, through the exercise of the City's Eminent Domain Authority (Ordinance)

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 Glisan Street and NE 90<sup>th</sup> Avenue Bridge Replacement 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 proposed NE Glisan Street and NE 90<sup>th</sup> Avenue Bridge Replacement project will demolish the existing bridge structure at NE Glisan Street and NE 90<sup>th</sup> Avenue and backfill the area in stages with the goal to maintain two-way traffic on NE Glisan St throughout construction. Pedestrian facilities will be improved at the existing bridge site with the possible addition of a pedestrian crosswalk. There is a considerable change in elevations along the north side of the existing bridge where a sloped embankment will be required to support the new street improvements.
5. To accomplish the project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 4, attached to this Ordinance and, by this reference incorporated herein.
6. It is necessary to acquire possession of the property rights by March 1<sup>st</sup>, 2016, so that construction can begin on schedule.
7. The Bureau's level of confidence in the cost estimates for this project is moderate. Funds are available in the Transportation Operating Fund, FY 2015-2016 Budget, SAP #T00507.L46

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 4 to this Ordinance for the NE Glisan Street and NE 90<sup>th</sup> Avenue Bridge Replacement 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 4. 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 4.
- 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 NE Glisan Street and NE 90<sup>th</sup> Avenue Bridge Replacement project.

187538

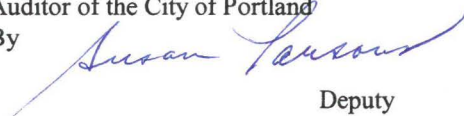
- h. The Mayor and the Auditor are hereby authorized to make payments for this project from the Transportation Operating Fund Budget when approved by the proper authority.

Passed by the Council,

JAN 06 2016

Commissioner Steve Novick  
Prepared by: Marty Maloney: CK  
Date Prepared: November 18, 2015

**Mary Hull Caballero**  
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>DEC 22 2015</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;">Mary Hull Caballero                  Auditor of the City of Portland</p> <p>By: <u><i>Susan Sausous</i></u>                  Deputy</p> <p><b>ACTION TAKEN:</b>                  DEC 30 2015 PASSED TO SECOND READING JAN 06 2016 9:30 A.M.</p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: <b>Transportation</b></p> <p>Interim Group Mgr: Christine Leon</p> <p>Assistant Director: <i>MACE 12/15/15</i></p> <p>Prepared by: Marty Maloney: CK</p> <p>Date Prepared: November 18, 2015</p>	
<p>Impact Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document</p> <p>If "Yes" requires City Policy paragraph stated in document.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b>                  required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b>                  required for contract, code, easement, franchise, comp plan, charter <i>6/</i></p>	
<p><b>Council Meeting Date</b>                  December 30, 2015</p>	

**AGENDA**

**TIME CERTAIN**   
 Start time: \_\_\_\_\_

**Total amount of time needed:**  
 (for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
**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	✓	