

## **ORDINANCE No.**

\*Authorize the Bureau of Transportation to reallocate property rights between the City and the Oregon Department of Transportation for jointly owned property along SW Naito Pkwy, immediately north of I-405, and waive the requirements of Disposition of City Real Property Policy (Ordinance; waive ADM-13.02)

The City of Portland ordains:

Section 1. The Council finds:

1. In 1941, the City of Portland (“City”) and the State Highway Commission, now known as the Oregon Department of Transportation (“ODOT”), jointly acquired title to multiple parcels of land for the widening of Front Avenue and the construction of the Harbor Drive Expressway in the vicinity of what is now present-day SW Naito Parkway.
2. Some of the parcels at the southwest end of the expressway were developed with a ramp carrying the southbound expressway traffic onto SW Front Avenue, later renamed to SW Naito Parkway.
3. In the 1970’s, the decision was made to remove the expressway, with most of the land being converted to Waterfront Park. The parcels containing the aforementioned ramp, however, were left vacant and have remained undeveloped for more than 46 years.
4. Unlike most City-controlled streets, which would need to be vacated as laid out in ORS 271, these parcels are fee-owned right-of-way that were never dedicated to the public and thus can be declared as surplus property and sold.
5. The City owns a 6/10ths undivided interest in the property and ODOT has a 4/10ths undivided interest. Past attempts to sell the property by the City and ODOT have not proved fruitful for a variety of reasons.
6. In early 2021, PBOT, in conjunction with the Homelessness Urban Camp Impact Reduction Program and various Council staff, had identified these parcels as a good location either for creating a new sanctioned camp or for relocating an existing sanctioned camp.
7. ODOT is agreeable to the sanctioned camp use, provided that the camp would be located on parcels owned 100% by the City. Given the time constraints, the only feasible option is a trade of property interests that would essentially result in the City obtaining 100% ownership in 60% of the property and ODOT obtaining 100% interest in 40% of property.

8. To accomplish this reallocation of property rights for the fee-owned right-of-way, City and ODOT need to execute and record the deeds transferring the property interests described in Exhibits 1 and 2, attached to this Ordinance, and by this reference incorporated herein.
9. ADM-13.02 – Disposition of City Real Property requires a consistent process for the identification, notification, and disposition of excess and surplus real property. While the City is not divesting its interest in the 31,110 sf of property that would become wholly owned by the City, the City would be transferring its undivided 60% in 21,300 sf of fee-owned right-of-way to ODOT.
10. While PBOT is requesting that the conditions of ADM-13.02 be waived, limited outreach was performed with key staff from PBOT, the Bureau of Environmental Services, the Water Bureau, and the Bureau of Development Services with regards to infrastructure in the area and issues surrounding land division. The outreach did not find any objections or impediments to the planned transfer.

NOW, THEREFORE, the Council directs:

- a. That the requirements of ADM-13.02 be waived and that the City's interest in the parcels described in Exhibit 1 be declared as surplus so that the City may directly transfer its undivided interest in the parcels.
- b. That it is hereby declared that it is necessary to dispose of the property interests described in Exhibit 1 and to acquire the property interests described in Exhibit 2.
- c. That the Director of the Bureau of Transportation or designee is authorized to execute the deeds identified as Exhibits 1 and 2 and to cooperate with ODOT to arrange for the recording of the deeds with Multnomah County to complete the reallocation of ownership.

Section 2. The Council declares that an emergency exists because delay in the delivery and recording of the deeds may result in a delay for use of the property as a sanction camp site; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

Commissioner Jo Ann Hardesty  
Prepared by: David McEldowney:CDB  
Date Prepared:6/1/2021

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

Deputy

**522**  
Agenda No.  
**ORDINANCE NO.**  
Title

\*Authorize the Bureau of Transportation to reallocate property rights between the City and the Oregon Department of Transportation for jointly owned property along SW Naito Pkwy, immediately north of I-405, and waive the requirements of Disposition of City Real Property Policy (Ordinance; waive ADM-13.02)

<p style="text-align: center;"><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Jo Ann Hardesty</b></p>	<p>CLERK USE: DATE FILED <u>June 22, 2021</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p><b>ACTION TAKEN:</b></p>
<p>Mayor—Finance &amp; Administration - Wheeler</p>	
<p>Position 1/Utilities - Rubio</p>	
<p>Position 2/Works - Ryan</p>	
<p>Position 3/Affairs - Hardesty <i>JL Hardesty</i></p>	
<p>Position 4/Safety - Mapps</p>	
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p>	
<p>Bureau: PBOT Bureau Head: Christopher Warner <small>Digitally signed by Christopher Warner Date: 2021.06.10 13:53:31 -0700</small></p>	
<p>Prepared by: <b>David McEldowney</b> Date Prepared: 6/4/2021</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. 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> Ken McGair <small>Digitally signed by Ken McGair Date: 2021.06.08 15:00:46 -0700</small> required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date June 30, 2021</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p><b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p><b>Total amount of time needed:</b> _____ 10 minutes (for presentation, testimony and discussion)</p>

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

**EXHIBIT 1**

**Grantor:**  
City of Portland  
Bureau of Transportation  
1120 SW 5<sup>th</sup> Ave., Suite 1331  
Portland, OR 97204



**STATUTORY BARGAIN AND SALE DEED**

**City of Portland, a municipal corporation of the State of Oregon**, Grantor, conveys to the State of Oregon, by and through its Department of Transportation, Grantee, the following described real property:

As described on **Exhibit A** attached and incorporated by reference.  
Containing 21,300 square feet, more or less.

The true consideration for this conveyance is other property or value.  
*[Comply with the requirements of ORS 93.030.]*

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN

---

R/W # 9243	<u>After Recording Return to:</u>
	<u>Tax Statements shall be sent to:</u>
1S1E03CD TL 04100	<u>Eddie Burton, Oregon Department of Transportation</u>
	<u>4040 Fairview Industrial Drive SE MS #2</u>
	<u>Salem, OR 97302-1142</u>

ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the Grantor above named has caused this instrument to be executed by its Director or designee for the **Bureau of Transportation**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF PORTLAND, a municipal corporation,  
Grantor

By: \_\_\_\_\_  
Bureau Director or Designee Date

STATE OF OREGON )  
  )ss  
County of Multnomah )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_, who being duly sworn, did say that he/she is the Director or designee for the Bureau of Transportation of the City of Portland, a municipal corporation, and that said instrument was signed on behalf of said corporation by authority of its City Council and acknowledged said instrument to be its voluntary act and deed.

Before me \_\_\_\_\_  
Notary Public for OREGON  
My Commission expires \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**Acknowledged and Agreed:**

State of Oregon, by and through its  
Department of Transportation

By: \_\_\_\_\_  
\_\_\_\_\_, State Right of Way Manager

STATE OF OREGON        )  
  )ss  
County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally  
appeared \_\_\_\_\_, who stated that he is the State Right of Way  
Manager for the State of Oregon, Department of Transportation, and acknowledged that  
this document was voluntarily accepted on behalf of the State of Oregon by authority  
delegated to him. Before me:

\_\_\_\_\_  
Notary Public for OREGON  
My Commission expires \_\_\_\_\_

## **Exhibit A**

All of Grantor's right, title and interest to the following described parcel, situated in the southwest one-quarter of section 3, T1S, R1E, W.M., City of Portland, County of Multnomah, State of Oregon:

Lots 1, 2, 3, and 4, Block 4, Caruthers Addition to the City of Portland recorded on May 8, 1872, Book 1, Page 35, Multnomah County Plat Records;

Excepting therefrom that portion of SW Sherman Street vacated by Ordinance 188941, approved May 16, 2018, recorded as Document No. 2018-086508, Multnomah County Deed Records;

Pursuant to Jurisdictional Transfer 710 ("JT710") recorded on October 8, 2010 in Document No. 2010-127188, Multnomah County Deed Records, Grantor reserves right-of-way jurisdiction, maintenance and control for those portions of Lots 1, 2, and 3 transferred from Grantee to Grantor in said JT710 and lying in SW Naito Parkway.

**EXHIBIT 2**

**Grantor:**

Oregon Department of Transportation  
4040 Fairview Industrial Drive SE MS #2  
Salem, OR 97302-1142



**STATUTORY BARGAIN AND SALE DEED**

The **State of Oregon, by and through its Department of Transportation**, Grantor, conveys to the City of Portland, a municipal corporation of the State of Oregon, Grantee, the following described real property:

As described on **Exhibit A** attached and incorporated by reference.  
Containing 31,110 square feet, more or less.

The true consideration for this conveyance is other property or value.  
*[Comply with the requirements of ORS 93.030.]*

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300,

---

R/W # 9243	<u>After Recording Return to:</u>
	<u>Tax Statements shall be sent to:</u>
1S1E03CD TL 04100	<u>Dee A. Walker, City of Portland</u>
	<u>1120 SW 5th Avenue, Suite 1331</u>
	<u>Portland, OR 97204</u>



195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED: \_\_\_\_\_, 20\_\_\_\_.

State of Oregon, by and through its  
Department of Transportation

By: \_\_\_\_\_  
\_\_\_\_\_, State Right of Way Manager

STATE OF OREGON        )  
  )ss  
County of \_\_\_\_\_  )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_, who stated that he is the State Right of Way Manager for the State of Oregon, Department of Transportation, and acknowledged that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:

\_\_\_\_\_  
Notary Public for OREGON  
My Commission expires \_\_\_\_\_

Title as hereinabove relinquished and as shown on accompanying legal description, Exhibit A, is hereby accepted by City.

Accepted on behalf of the City of Portland, by and through its Bureau of Transportation:

By: \_\_\_\_\_  
Title: Director or designee

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## **Exhibit A**

All of Grantor's right, title, and interest to the following described parcel, situated in the southwest one-quarter of section 3, T1S, R1E, W.M., City of Portland, County of Multnomah, State of Oregon:

Lots 1, 2, 3, and 4, Block 3, Caruthers Addition to the City of Portland, recorded on May 8, 1872, Book 1, Page 35, Multnomah County Plat Records; together with that portion of SW Grant Street vacated by Ordinance No. 115050, approved by City Council April 12, 1962, recorded in Book 2113, Page 216 and inuring to Lot 1 of said Block 3;

Together with all of Grantor's right, title, and interest in SW Sherman Street west of the east line of Tract I, as described in Jurisdictional Transfer 710, recorded on October 8, 2010 in Document No. 2010-127188, Multnomah County Deed Records; including the portion of SW Sherman Street vacated by Ordinance 188941, approved May 16, 2018, recorded as Document No. 2018-086508, Multnomah County Deed Records;

Together with that parcel of land described in Book 287, Page 190, recorded May 5, 1965, Multnomah County Deed Records.

## IMPACT STATEMENT

**Legislation title:** \*Authorize the Bureau of Transportation to reallocate property rights between the City and the Oregon Department of Transportation for jointly owned property along SW Naito Pkwy, immediately north of I-405, and waive the requirements of Disposition of City Real Property Policy (Ordinance; waive ADM-13.02)

**Contact name:** David McEldowney, PBOT Right of Way Acquisition

**Contact phone:** 503-865-6341

**Presenter name:** David McEldowney

### **Purpose of proposed legislation and background information:**

Since 1941, the City and State have jointly owned multiple parcels of land along what is now present-day SW Naito Parkway. These parcels were developed with the Harbor Drive expressway, which was removed in 1974, with most of the land being converted to Waterfront Park.

Unlike most City-controlled streets, which would need to be vacated as laid out in ORS 271, these parcels are fee-owned right-of-way that were never dedicated to the public and thus can be declared as surplus property and sold. The City owns a 6/10ths undivided interest in the property and ODOT has a 4/10ths undivided interest.

In early 2021, PBOT, in conjunction with the Homelessness Urban Camp Impact Reduction Program and various Council staff, had identified these parcels as a good location either for creating a new sanctioned camp or for relocating an existing sanctioned camp.

ODOT is agreeable to the sanctioned camp use, provided that the camp would be located on parcels owned 100% by the City. Given the time constraints, the only feasible option is a trade of property interests that would essentially result in the City obtaining 100% ownership in 60% of the property and ODOT obtaining 100% interest in 40% of property. To accomplish this reallocation of property rights for the fee-owned right-of-way, City and ODOT need to execute and record the deeds transferring the property interests.

ADM-13.02 – Disposition of City Real Property requires a consistent process for the identification, notification, and disposition of excess and surplus real property. While the City is not divesting its interest in the 31,110 sf of property that would become wholly owned by the City, the City would be transferring its undivided 60% in 21,300 sf of fee-owned right-of-way to ODOT. PBOT is requesting that the conditions of ADM-13.02 be waived to expedite the transfer process.

**Financial and budgetary impacts:**

- These property rights transfers will require minimal staff time and recording fees, and all expenses are included in the FY2020-21 and FY2021-22 budgets. No additional appropriations are required.
- This legislation does not affect staffing levels nor result in a new or modified financial obligation or benefit now or in the future.
- If City Council does not approve the ordinance, the City will not be able to locate or relocate a sanctioned camp at this location.

**Community impacts and community involvement:**

- No community impacts are expected from the transfer of property rights.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

- YES:** Please complete the information below.
- NO:** Skip this section

mjc 6-10-2021