

**FINANCIAL IMPACT STATEMENT**  
**For Council Action Items**  
**(Use this form for Ordinances and Resolutions)**  
(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Sara Gardner	2. Telephone Number 503-823-7025	3. Bureau/Office/Dept. BES
4a. To be filed (date) June 16, 2010	4b. Calendar (Check One) Regular Consent 4/5ths [ ] [x] [ ]	5. Date Submitted to FPD Budget Analyst:

**1) Legislation Title:**

\*Authorize the City to Provide Funds for Portland Harbor Natural Resource Trustees to pursue evaluation of Natural Resource Damage Assessment Restoration Projects. (Ordinance)

**2) Purpose of the Proposed Legislation:**

The purposes of the ordinance are to allow the City to conduct settlement negotiations with and provide funds to the Natural Resource Trustees for the evaluation of specific restoration opportunities in the Lower Willamette.

**3) Revenue:**

**Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated identify the source.**

This legislation is not anticipated to generate or reduce current or future revenue coming to the City.

**4) Expense:**

**What are the costs to the City as a result of this legislation? Include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract include the local contribution or match required.**

In conversations with the Trustees, we have estimated the costs of this effort at \$100,000.

Future costs beyond FY 10-11 will be determined by the nature of the restoration projects to be identified and scoped in this process.

**5) Staffing Requirements:**

**a) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?**

It is not anticipated that this legislation will create, eliminate or re-classify positions

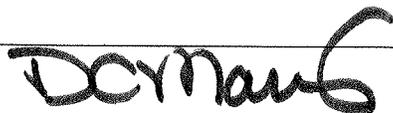
**b) Will positions be created or eliminated in future years as a result of this legislation?**

It is not anticipated that this legislation will create, eliminate or re-classify positions

**6) Change in Appropriations: Budget changes for the current year must go through the BMP Process. This section may only be use with prior permission of your OMF analyst for exceptions.**

*Reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts to be used by Central Accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.*

Fund	Center Code	Account	Amount	Project Fund	Project No.
<b>UNIT USE ONLY</b>					


  
 Dean Marriott, Director, Bureau of Environmental Services

APPROPRIATION UNIT HEAD (Typed name and signature)

City Council  
Agenda Item  
Staff Supplemental Report

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TO: Commissioner Amanda Fritz  
THROUGH: Patti Howard & Matt Grumm

FROM: Rick Applegate/Sara Gardner

DATE: May 25, 2010

RE: \*Authorize the City to Provide Funds for Portland Harbor Natural Resource Trustees to pursue evaluation of Natural Resource Damage Assessment Restoration Projects. (Ordinance)

Requested Council Hearing Date: June 16, 2010

#### I. RECOMMENDATION

Due to an aggressive schedule, Council has previously authorized the City to provide funding to support the Portland Harbor Natural Resource Damage Assessment, and this Ordinance requests authorization to provide funding for additional work focused on specific restoration projects.

#### II. BACKGROUND

On June 25, 2003, Council passed Ordinance No. 177627 authorizing the City to enter into the Funding and Participation Agreement with the Portland Harbor Natural Resource Trustees. The Ordinance indicated that costs for studies to assess the potential injury to resources and planning and implementing restoration opportunities will be developed over several years, and the City will fund a percentage of these costs. The Funding and Participation Agreement provided a process to establish future funding. Since June 2006, Council has authorized the City to enter into five Amendments to the Funding and Amendment Agreement.

The City and the Trustees are ready to discuss in more detail specific potential Natural Resource Damages Restoration Projects. This effort will lead to one or more specific projects that might be implemented in the near future to address Natural Resources Damages in the Lower Willamette.

#### III. FINANCIAL IMPACT

The City's contribution for the scope of work attached is up to \$100,000.  
These funds are available in the FY 2009-2010 Portland Harbor Budget, ESDR00004.

#### IV. LEGAL ISSUES

This amendment is entered into pursuant to the Natural Resource Trustee provisions of Section 107(f) of CERCLA, as amended, and other federal and state statutes. At Superfund sites PRPs are responsible for funding Natural Resource Damage Assessment work, including the deliberations of the Natural Resource Trustees. These assessments evaluate whether the contamination at the Portland Harbor Superfund site has injured a public natural resource, and develop options for compensation and/or restoration. As the CERCLA Remedial Investigation and Feasibility Study of Portland Harbor continues, additional parties responsible for the

contamination, and injury to natural resources, may be identified. These additional parties will be expected by the Trustees to contribute funding to this effort. The Natural Resource Damage Assessments will determine which contaminants have contributed to resource damage, and the CERCLA Remedial Investigation and Feasibility Study will determine the source and risk of those contaminants. These studies could determine that the City is partially responsible for some damage to natural resources and therefore liable for costs associated with the loss of the resources or habitat, or both. The City has a strong interest in achieving a negotiated settlement of any potential natural resource damage liabilities. At this time these potential costs are unknown.

## V. CONTROVERSIAL ISSUES

It is unlikely that there would be any opposition to this ordinance. A Natural Resource Damage Assessment is a key part of a Superfund cleanup. Attempting to keep the NRDA process on an expedited track while the Superfund investigation is underway is an efficient approach to implementation and could provide the opportunity for parties to resolve their cleanup and restoration obligations simultaneously. The City's commitment to this phase of work will expedite the development of specific restoration projects to the benefit of the health of the Lower Willamette. It is expected that the federal government (Environmental Protection Agency, NOAA Fisheries, US Fish and Wildlife,) Oregon state government (Department of Fish and Wildlife) and Tribal Governments (Nez Perce, Umatilla, Warm Springs, Siletz and Grand Ronde) and the community at large would be supportive of this effort to address restoration needs and liabilities in the Lower Willamette.

## VI. LINK TO CURRENT CITY POLICIES

The vision for the Portland Harbor Superfund site cleanup and restoration complements the mission of the Office of Healthy Working Rivers for a clean and healthy river in the context of an urbanized area with a prosperous working harbor and vibrant waterfront districts and neighborhoods. Working closely with the Office of Healthy Working Rivers, many City efforts to improve river health are underway, including the Superfund assessments and eventual cleanup and the Combined Sewer Overflow project. There are direct links between the Portland Harbor NRDA work and the restoration work being implemented as part of the Portland Watershed Management Plan.

## VII. CITIZEN PARTICIPATION

The City's previous NRDA Agreement regarding public participation provides: "The Parties recognize and agree that public participation during the injury assessment and restoration planning process is both desirable and necessary. The Parties will work together to design and implement a public participation plan, including the processes and responsibilities for working together to communicate to the public. At a minimum, the Trustees shall ensure that public participation in the process shall meet all legal requirements."

There is no specific citizen participation event or process planned to address these actions at this time. To the extent that the City is engaged in negotiations with the Trustees regarding settlement of potential City NRDA liabilities, those discussions are confidential in accordance with Rule 408 of the Oregon and Federal Rules of Evidence. The Trustees have held public meetings to discuss their process and schedule for the overall NRDA effort. Communication about the Funding and Participation Agreement will be included in ongoing Portland Harbor communication efforts. Community involvement is a critical component of any Superfund site. As part of the Environmental Protection Agency public process, a Community Advisory Group (CAG) was formed in 2001, and is tracking the progress of the Superfund cleanup. City staff

participate in these meetings to provide information to the CAG on any issue involved with the Superfund site, including natural resource damage issues.

#### VIII. OTHER GOVERNMENT PARTICIPATION

Many other governments are involved in the NRDA work for the Portland Harbor Superfund Site. They include the federal government (Environmental Protection Agency, NOAA Fisheries, US Fish and Wildlife,) Oregon state government (Department of Environmental Quality, Department of Fish and Wildlife) and Tribal Governments (Nez Perce, Umatilla, Warm Springs, Siletz and Grand Ronde). The City is meeting regularly with relevant federal, state, local and Tribal governments.

IX. IF THIS IS A CONTRACT, DOES CONTRACTOR HAVE A CURRENT BUSINESS LICENSE? No WHAT IS THEIR BUSINESS LICENSE NUMBER?        IS THEIR ACCOUNT WITH THE CITY CURRENT? Yes IF NOT, HOW MUCH IS OWING?