

ORDINANCE No. 184065

*Authorize agreement with ZRZ Property et.al. for Abandonment of Outfall 6 and Release of Claims (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. A stormwater conveyance extends from SW Moody Ave. to Willamette River ("Outfall 6") across property owned by ZRZ Realty Company (ZRZ) and operated by Zidell Marine Corporation and Tube Forgings of America. Outfall 6 consists of an original brick line ("Brick Line") in the former Woods Street right-of-way and an extension constructed at a later date between the original brick line and the Willamette River ("Extension").
2. When the City vacated Woods Street (City Ordinance No. 48712, December 31, 1925) the City reserved the right to continue to maintain any sewer, water main or conduit of any kind within the vacated right of way, but Outfall 6 is the only such improvement existing within the former right of way.
3. The Extension is in disrepair, does not meet City engineering standards and would require replacement to be brought to conformance with current engineering standards. There are few connections to Outfall 6 other than the ZRZ Realty Company facility. The City desires to redirect the remaining connections to Outfall 6 and abandon Outfall 6 rather than pursue rehabilitation of the Extension.
4. ZRZ Realty Company desires to have the City fully release and remise any right or interest it may have in the vacated SW Woods Street right of way. ZRZ Realty Company will reroute its existing stormwater drainage from Outfall 6 to other private lines or facilities on its property. Pursuant to the Remedial Action Record of Decision Zidell Waterfront Property ECSI No. 689 dated June 2005, ZRZ plans to construct a sediment cap on a portion of the submerged and submersible lands of the Willamette River situated adjacent to the ZRZ Property and may conduct remedial activities in the adjacent upland areas. Abandonment of Outfall 6 will be coordinated with ZRZ's remedial work.
5. ZRZ Realty Company and the City have drafted an Agreement Regarding Abandonment of Outfall Facility and Release of Claims to cooperatively abandon Outfall 6 and provide mutual release of claims regarding past operations of Outfall 6 and its continued presence as described in Section 1 of the agreement. Pursuant to the terms of this agreement; 1) the City is obligated to redirect flows from Outfall 6 except for ZRZ's; 2) ZRZ is

obligated to abandon the Extension at its sole expense and; 3) ZRZ and the City will equally share the costs of abandonment of the Brick Line in accordance with a mutually agreed schedule.

6. The estimated cost of the City's share of costs for abandonment of the Brick Line obligated pursuant to the agreement is approximately \$150,000. Funds are available in the Sewer System Operating Fund, FY2010-2011 Budget, BES Project Number E09061.

NOW, THEREFORE, the Council directs:

- a. The Director of Environmental Services is authorized to execute an agreement with ZRZ Realty Company in a form substantially in accordance with Exhibit A.
- b. The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the Sewer System Operating Fund Budget when demand is presented and approved by the proper authority

Section 2. The Council declares that an emergency exists because the City and ZRZ are coordinating construction schedules; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: **AUG 18 2010**

Commissioner: Amanda Fritz
Prepared by: Nanci Klinger
Date Prepared: August 12, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By

Emily Matasen
Deputy

✓140

1170 --
Agenda No.
ORDINANCE NO. 184065
Title

*Authorize Agreement with ZRZ Property et al., for Abandonment of Outfall 6 and Release of Claims (Ordinance)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Commissioner Saltzman</p> <p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>DS/SC</i></p> <p>Position 4/Safety - Leonard</p> <p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Environmental Services Bureau Head: Dean Marriott <i>DeMar</i></p> <p>Prepared by: Nanci Klinger <i>NK</i> Date Prepared: August 12, 2010</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <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>Council Meeting Date</p> <p>✓ City Attorney Approval <i>NK</i></p>	<p>CLERK USE: DATE FILED <u>AUG 13 2010</u></p> <p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>LaVonne</i></u> Deputy</p> <p>ACTION TAKEN:</p>
---	--

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

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	