

ORDINANCE NO. 189119

Authorize the Water Bureau to acquire certain permanent and temporary property rights necessary for construction of the Penridge Mains Replacement Project through negotiation or through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Water Bureau has the responsibility to provide high quality water and stewardship of the City's water infrastructure, including implementation of safety improvements that benefit City employees and the general public.
2. Through the Penridge Mains Replacement Project (Project), the Water Bureau will replace undersized mains with adequately sized mains in the Penridge service area in Northwest Portland. The benefits of the Project include improved fire flow and service pressures within the Penridge service area.
3. Ordinance 188656 was passed by City Council on October 25, 2017, authorizing the acquisition of easements for the Project, through use of the City's eminent domain authority. Additional easements are needed to complete the Project.
4. The Project has been planned and located in accordance with appropriate engineering standards for the construction, maintenance, and improvement of the City's water infrastructure in a way that will be most compatible with the greatest public good and the least private injury.
5. To accomplish the Project's goals set forth above and to construct the Project as designed, it is necessary for the City to acquire the property interests described and depicted in Exhibits A through D attached to this Ordinance and by this reference incorporated herein.
6. Pursuant to City Charter, Section 9-108, the City may exercise the power of eminent domain when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, as long as the power is exercised in accordance with the Oregon Revised Statutes Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation, and early possession, if necessary.
7. Pursuant to ORS 35.235, the City must attempt to agree with the owner or owners of the property with respect to the compensation to be paid therefore.
8. The cost to acquire the Project property rights will be determined by an appraisal that will comply with the requirements of ORS Chapter 35, Eminent Domain; Public Acquisition of Property. Funding for is available in the Water Fund in the FY 2018-19 Budget. The total Project estimate is \$2,484,000.

NOW, THEREFORE, the Council directs:

- a. That the Water Bureau Administrator and the City Attorney are authorized to acquire the necessary property interests described herein for the Penridge Mains Replacement Project under the eminent domain authority of the City, including filing an action to acquire said property interests or negotiating just compensation with property owners within available project budget funds.
- b. That the power of eminent domain is hereby authorized with respect to each of the interests in property described and depicted in Exhibits A through D. Each of the properties acquired is subject to payment of just compensation and subject to procedural requirements of Oregon law.
- c. That the Water Bureau Administrator and the City Attorney are authorized to execute on behalf of the City agreements with property owners to address construction management concerns and are authorized to compensate property owners and other persons-in-interest for each acquisition.
- d. In the event that no satisfactory compensation agreement can be reached, the City may 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 or determinable by the City Council.
- e. That the Water Bureau 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 an acquisition described within Exhibits A through D attached to this Ordinance.
- f. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for the subject property which, if necessary, shall be deposited with the clerk of the court where a condemnation action is commenced.
- g. The Chief Engineer and Administrator are hereby authorized to pay for the resulting obligations or agreements on this Project from the Water Fund when demand is presented and approved by the proper authorities.

Passed by the Council, AUG 15 2018

Mayor Ted Wheeler
Prepared by: Mary Ellen Collentine
July 9, 2018

Mary Hull Caballero

Auditor of the City of Portland

By

Susan Parsons
Deputy

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Agenda No.
ORDINANCE NO. 189119
Title

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<p>INTRODUCED BY Commissioner/Auditor: Commissioner Nick Fish</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works <i>Nick Fish</i></p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: Water Bureau Head: Michael Stuhler, P.E. <i>[Signature]</i></p> <p>Prepared by: Mary Ellen Collentine, P.E. Date Prepared: July 9, 2018</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>City Auditor Office Approval: required for Code Ordinances</p> <p>✓ City Attorney Approval: <i>KLM</i> required for contract, code, easement, franchise, comp plan, charter</p> <p>Council Meeting Date August 8, 2018</p>	<p>CLERK USE: DATE FILED <u>JUL 31 2018</u></p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p> <p>AUG 08 2018 PASSED TO SECOND READING AUG 15 2018 9:30 A.M.</p>
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AGENDA	<i>1 of 3</i>
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>	
<p>CONSENT <input type="checkbox"/></p>	
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 mins <i>total per Todd Betsy</i> (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. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	