

IMPACT STATEMENT

Legislation title: Authorize the Commissioners in Charge of Bureau of Environmental Services, or designee, and Portland Parks & Recreation, or designee, to jointly execute agreements for the design and construction of watershed restoration projects in partnership with the U.S. Army Corps of Engineers.

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Purpose of proposed legislation and background information:

Discuss why the legislation is being proposed and any important background information.

- Describe the impact of this action on the overall program or project.
- If needed, provide information to more fully explain the purpose of the legislation.
- If there's been previous Council action directly related to this legislation, describe, e.g. "This is the 4th contract amendment."
- Indicate if the proposed legislation supports or changes specific City policies.

Bureau of Environmental Services (BES) developed and leads the implementation of the Portland Watershed Management Plan, a guide to improve Portland's watersheds, improve conditions within streams and rivers to better manage flows and stormwater, and improve conditions for fish, wildlife and the residents of Portland. Portland Parks & Recreation (PP&R) is responsible for programming, operating and maintaining the City's parks and natural areas. Since 2008, PP&R and BES have invested over \$26 million to acquire over 400 acres of natural area properties to protect and restore ecosystem functions.

From 2000-2004, the Endangered Species Act Program (now the Science Integration Division at BES) partnered with the Oregon Department of Fish and Wildlife (ODFW) to study the presence, habitats and behavior of salmon and steelhead in the Willamette River. The study concluded that shallow water habitat and off-channel habitat in the lower Willamette River was limited for young salmon and steelhead, reducing their ability to survive the migration to the ocean.

The U.S Army Corps of Engineers (USACE) led the Lower Willamette River Environmental Dredging and Ecosystem Restoration Feasibility study which evaluated 40 projects throughout the Lower Willamette River and determined that five projects within Portland met the strict feasibility assessment and cost benefit analysis. This study was authorized by Congress and the President on Dec. 16, 2016 in the Water Infrastructure Investments for the Nation (WIIN) Act, and is currently awaiting federal appropriations.

This ordinance will ensure that BES and PP&R can continue to collaborate with USACE, other government entities, and partners so that the projects identified in the Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study can proceed to design and construction. The ordinance provides BES and PP&R with the authority to execute agreements with the USACE, other government entities, and partners to jointly design and/or construct watershed restoration projects in a timely and cost-effective manner.

Financial and budgetary impacts:

Discuss the impacts of the legislation relating to all of the following if relevant:

- Long-term financial impacts for the City (e.g. ongoing debt payments, purchase of property requiring operations and maintenance, ratification of labor contract, etc.)
- Budget impacts – does the action amend the budget; describe any changes to appropriations.
- Change in expenses – does the legislation authorize additional spending on a new or existing project or program include if funds have been budgeted for the intended use.
- If the expense is a “project estimate,” identify the level of confidence.
- Change in current and future revenues, including dollar amounts and funding sources
- Current and future staffing levels – does the legislation create, eliminate or re-classify positions now or in the future? How much staff time will this legislation require (even if covered by an existing position)? What are the demographic impacts of changes in staffing?
- Financial agreements – does the legislation result in a new or modified financial obligation or benefit, including IAs, IGAs, MOUs, grants, contracts or contract amendments.

This legislation authorizes BES and PP&R to enter into agreements such as the attached Model Agreement for Design and any ancillary agreements, including feasibility studies, cost share agreements, real property documents and other necessary agreements, once approved as to form by the City Attorney. Like previous collaborations with the USACE along Crystal Springs Creek, the Columbia Slough, and Oaks Bottom Wildlife Refuge, the partnership will require expenditures of approximately 35% of the total project cost, currently estimated at \$29.7 million for the series of projects identified in the Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study. The city's contribution may include the value of lands, easements, rights of ways and other real property interests, work-in-kind, and cash.

The authorization is conditioned on Congressional appropriations and city funds being identified and available. The Projects have been approved in the Bureau of Environmental Services, 2020-2025 Capital Improvement Program. Funds are anticipated to be available in the Sewer System Operating Fund, FY 20-30 Budgets, Bureau of Environmental Services, and funding for the highest priority project, Tryon Creek Highway 43 culvert replacement, is currently funded in E10502, with future projects to be included in future budget requests . Funding sources will also be pursued through other grant and partner sources.

Community impacts and community involvement:

Discuss the impacts of the legislation relating to all of the following if relevant. Describe who is impacted, how they are impacted, how any negative impacts have been addressed, and how the benefits are distributed. Describe how public involvement and input shaped the bureau's recommended action.

- Different communities of people (age-specific, cultural, physical ability, ethnic, racial, religious, language, low-income, under-served populations, etc.).
- Geographic area, neighborhoods.
- Businesses (small, large, specific types); institutions; interest-based organizations.
- City livability (contributes to a prosperous, educated, healthy, equitable Portland).
- Summarize significant objections/concerns and support/agreement.
- Describe how the bureau responded to or incorporated concerns into the proposed legislation.
- Indicate who/which groups will be testifying (if known).

Each project will warrant the development of a robust public involvement plan jointly by BES, PP&R and USACE, similar to previous projects at Crystal Springs and Oaks Bottom. The plan will identify

opportunities to engage stakeholders, understand and communicate project impacts, and increase awareness about this and other efforts to improve watershed health in Portland.

100% Renewable Goal:

If applicable, discuss how this action contributes to the City's goal of meeting 100 percent of community-wide energy needs with renewable energy by 2050.

- Does this action increase or decrease the City's total energy use?
- Does this action increase or decrease the City's renewable energy use?

Not applicable.

Budgetary Impact Worksheet

Does this action change appropriations?

☐ **YES:** Please complete the information below.

☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

ORDINANCE No.

Authorize the Commissioners in Charge of Bureau of Environmental Services, or designee, and Portland Parks & Recreation, or designee, to execute agreements for the planning, design, construction, and maintenance of watershed restoration projects in partnership with the U.S. Army Corps of Engineers and other partners (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. In 1998, the first steelhead population in Portland was federally listed as a threatened species under the Endangered Species Act (ESA). Today, thirteen populations of salmon and steelhead in Portland have been listed, and two additional fish species, Pacific Eulachon and Bull Trout, are also protected. In Resolutions 35715 (July 29, 1998) and 35894 (July 14, 2000) Council directed all city bureaus to contribute to the recovery of listed species in Portland.
2. On March 6, 2006, City Council passed Resolution #36384, adopting the Portland Watershed Management Plan which includes actions for protecting Portland's rivers and restoring the upland activities that shape the watersheds. Studies show that shallow water habitat and off-channel habitat in the Lower Willamette River is limited for young salmon and steelhead, reducing their ability to survive the migration to the ocean.
3. The Bureau of Environmental Services (BES) first successfully partnered with the U.S. Army Corps of Engineers (USACE) in 2001 to restore habitat and improve water quality in the Columbia Slough. This series of projects replaced five culverts, and restored wetlands and forests adjacent to the Slough. The City's cost-share was largely covered by in-kind staff costs and property acquisition.
4. From 2010-2013, BES, Portland Parks & Recreation (PP&R), and the USACE worked to return salmon and steelhead to Crystal Springs Creek by replacing numerous culverts and restoring stream habitat, most visibly in Westmoreland Park. In 2013, Parks redesigned the playground at Westmoreland Park into the city's first NaturePlay playground, connecting children and families directly to the stream restoration and nature in their backyards. In 2014, coho were spawning in Westmoreland Park during the opening ceremony of the city's renewed Salmon Celebration. This combined effort won the American Planning Association's Sustainability Award in 2015, and in 2017 City Council declared Crystal Springs Creek as the city's first Salmon Sanctuary.
5. In order to reach Crystal Springs, Johnson Creek, Tryon Creek, and other tributaries in Portland and in the Upper Willamette River, salmon and steelhead must migrate through the Willamette River at least twice in their lifetimes, making water quality and habitat restoration in the Willamette some of the most important investments in salmon recovery in the city and Willamette River Valley. These efforts are also connected to the availability of healthy and safe fish which are significant cultural resources for countless Tribal Nations that reside in the Pacific Northwest.

6. In 2018, BES, PP&R, and the USACE reconnected the Oaks Bottom Wildlife Refuge to the Willamette River making the largest off channel wetland area in the Lower Willamette River accessible to migrating salmon for the first time in decades, providing an important rest stop and feeding ground for both juvenile and adult salmon, as well as a safe haven during floods and droughts. Through Ordinance #184346, Portland City Council authorized the Directors of BES and PP&R to execute agreements with the USACE, which allowed BES and Parks to streamline agreements, shorten timelines and be nimble to federal funding availability that would otherwise be redirected to other-USACE projects in other states.
7. In 2015, the USACE approved and finalized the Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study. The federally approved projects identified in this study will enhance riparian, wetland, off-channel and floodplain habitat at five sites along the Lower Willamette River and immediate tributaries: Tyron Creek - Highway 43 Culvert Replacement, Oaks Crossing at-adjacent to Sellwood Riverfront Park, Kenton Cove and the BES Plant in the lower Columbia Slough, and Kelly Point Park. These projects will benefit native salmon and trout, lamprey, amphibians, migratory birds and mammals, provide outstanding educational and recreational opportunities along the Willamette River and in the Columbia Slough, and benefit the cultural values of Native Americans. BES and PP&R agree to prioritize the Highway 43 project and work with the USACE to mutually design salmon and recreational improvements at Kelly Point Park and Oaks Crossing adjacent to Sellwood Riverfront Park.-
8. On December 16, 2016, President Obama signed the Water Infrastructure for Improvements to the Nation (WIIN) Act in which Section 1401 (7) specifically authorizes the USACE to design and construct the Lower Willamette River Dredging and Ecosystem Restoration Projects.
9. The USACE will administer projects included in the WIIN as federal funds are appropriated in partnership with a local sponsor. The City of Portland is the approved non-federal sponsor for the Lower Willamette River Dredging and Ecosystem Restoration Projects.
10. This ordinance will authorize the BES and PP&R to negotiate, execute and amend agreements with USACE and other partners, including other municipalities, state agencies, non profits and other entities, to jointly design and/or construct restoration projects using a combination of local and federal funds.
11. Similar to previous projects, the City of Portland, as the non-federal sponsor, is responsible for approximately 35% of the total project cost, currently estimated at \$30.429.7 million, which may include cash, the value of lands, easements, rights of ways and other real property interests, and work-in-kind. The City of Portland's estimated cost is \$10,135,000 which will be satisfied largely by over \$9,300,000 in credit due to the value of lands, easements and rights of way. The City of Portland's total estimated cash and work in kind contribution is \$2.5 million. The Lower Willamette River Dredging and Ecosystem Restoration Projects have been approved in the Bureau of Environmental Services, 2020-2025 Capital Improvement Program. Funds are anticipated to be available in the Sewer System Operating Fund, FY 20-30 Budgets, Bureau of Environmental Services, and funding for the highest priority project, Tryon Creek Highway 43 culvert replacement, is currently funded in E10502, with future projects to be included in future budget requests. Funding sources will also be

pursued through other grant and partner sources. The Commissioners of the BES, or designee, and PP&R, or designee, will only execute or amend agreements upon mutual agreement and when adequate funds have been identified in BES and PP&R budgets.

12. Currently funds for implementation of Lower Willamette River Ecosystem Restoration Study includes five restoration projects (Tyron Creek Highway 43 Culvert Replacement, Oaks Crossing at Sellwood Park, Kenton Cove, BES Plant, and Kelly Point Park), but may include the additional projects evaluated in Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study.
13. Operation and maintenance funds are integral to the project to ensure the established ecological functions are maintained. PP&R will request funds during the annual budget process for completed projects.

NOW, THEREFORE, the Council directs:

- a. The Commissioners in Charge of Bureau of Environmental Services, and his/her designee, and Portland Parks and Recreation, and his/her designee, are authorized to negotiated, execute, and amend agreements in substantially similar form to the attached examples: Model Agreement for Design (Exhibit A), Project Partnership Agreement (Exhibit B), Operations and Maintenance Agreements (Exhibit C), and all ancillary documents including feasibility studies, cost share agreements, real property documents, permits, operations and maintenance agreements, and other necessary agreements including Memoranda of Agreement and Intergovernmental Agreements with partners, once approved as to form by the City Attorney. The Commissioners in Charge of Bureau of Environmental Services, or designee, and Portland Parks and Recreation, or designee, are authorized to release all funds necessary to execute such documents and agreements upon identification of adequate funds in appropriate budgets for these projects.
- b. The Mayor and Auditor are hereby authorized and directed to accept assets and improvements resulting from said projects for the City of Portland, Bureau of Environmental Services and/or Portland Parks & Recreation.

Passed by the Council,
Commissioner Nick Fish

[Kaitlin Lovell, BES – James Allison, PP&R]
[11/7/2018]

Mary Hull Caballero
Auditor of the City of Portland
By

Cost object - ord

Deputy