

ORDINANCE No. 189397

*Authorize the Bureau of Environmental Services to acquire certain permanent property rights necessary for Columbia Slough water quality improvements through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland may exercise the power of eminent domain pursuant to Section 9-108 of the City Charter when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, provided that power is exercised in accordance with the eminent domain procedures established by 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.
2. The City of Portland is responsible for managing its urban watersheds. The Bureau of Environmental Services is the City's lead agency for complying with several state and federal regulatory requirements relating to water resources intended to protect public health, water quality and the environment.
3. Acquisition of the property will enable the City to control invasive vegetation and establish native trees, shrubs, and groundcovers. The result will be improved water quality, bank integrity, and enhanced fish and wildlife habitat in the Columbia Slough.
4. To accomplish the Project's goals set forth above, the City must acquire the property described and depicted in Exhibit A and B, attached to this Ordinance and by this reference incorporated herein.
5. Funds are available in the Sewer System Operating Fund, FY 2018-2019 Budget, Bureau of Environmental Services, WBS Element E10948.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described and depicted in Exhibit A and B to this Ordinance for the Project, for which the City is authorized by law to acquire property, and that restoration will be completed in a manner that will be most compatible with the greatest public good.
- b. That the Director of the Bureau of Environmental Services or designee and the City Attorney are each authorized to acquire the necessary property interests described herein for the 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.

- c. That the power of eminent domain is hereby exercised with respect to the interest in property described and depicted in Exhibit A and B, subject to payment of just compensation and subject to procedural requirements of Oregon law.
- d. That the Bureau of Environmental Services and the Office of the City Attorney are authorized to compensate property owners and other persons-in-interest for each acquisition. 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 Bureau of Environmental Services 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 any acquisition described in Exhibit A and B.
- f. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for each interest in the property which, if necessary, shall be deposited with the clerk of the court where an action is commenced.
- g. The costs incurred in connection with the acquisition authorized herein shall be charged to the Sewer System Operating Fund, FY 2018-2019 Budget, Bureau of Environmental Services, WBS Element E10948.
- h. The Commissioner-in-Charge and the Auditor are hereby authorized to pay for the property rights from 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 in order to avoid delay in the time-sensitive acquisition of the Property; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council, FEB 27 2019

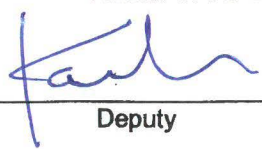
Commissioner Nick Fish
Prepared by: Nancy Hendrickson
Date Prepared: November 14, 2018

Mary Hull Caballero
Auditor of the City of Portland
By 
Deputy

151 181

Agenda No.
ORDINANCE NO. 189397
Title

*Authorize the Bureau of Environmental Services ("BES") to acquire certain permanent property rights necessary for Columbia Slough water quality improvements through the exercise of the City's Eminent Domain Authority (Ordinance)

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| <p>INTRODUCED BY Commissioner/Auditor: <u>FISH</u></p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - <u>Fish</u></p> <p>Position 3/Affairs - <u>Saltzman</u></p> <p>Position 4/Safety - Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: Environmental Services Bureau Head: Michael Jordan <u>Michael Jordan</u></p> <p>Prepared by: Nancy Hendrickson Date Prepared: November 14, 2018</p> <p>Financial Impact & Public Involvement 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: required for contract, code, easement, franchise, comp plan, charter <u>HP</u></p> <p>Council Meeting Date 2018 February 21</p> | <p>CLERK USE: DATE FILED <u>FEB 12 2019</u></p> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p> <p>ACTION TAKEN:</p> <p style="text-align: center;">FEB 20 2019 CONTINUED TO FEB 27 2019 9:30 AM</p> |
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| AGENDA |
| <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: <u>5 minutes</u> (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. <u>Hardesty</u> Saltzman | ✓ | |
| 4. Eudaly | 4. Eudaly | ✓ | |
| Wheeler | Wheeler | _____ | _____ |