



191103

Ordinance

Authorize the Bureau of Environmental Services to acquire certain permanent and temporary property rights necessary for construction of the Columbia Slough Outfall 58 Project through negotiation or the exercise of the City's eminent domain authority

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The City may exercise the power of eminent domain pursuant to Oregon Revised Statutes ("ORS") 223.005 through 223.020 (Appropriation and Condemnation of Property for City Purposes; Special Procedure), ORS 223.105 (Municipal Condemnation Proceedings), and Sections 1-101 and 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 ORS 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 Bureau of Environmental Services ("BES") has the responsibility to provide sewage and stormwater collection and treatment services to accommodate the City's current and future needs and to protect public health, water quality, and the environment.
3. The project known as the Columbia Slough Outfall 58 Project ("the Project") has been planned in accordance with appropriate engineering standards for the construction, maintenance, or improvement of the City's sewer infrastructure in a way that minimizes property damage, promotes healthy ecosystems, and safeguards the environment. The Project has been planned, designed, located, and will be constructed in a manner that will be most compatible with the greatest public good and the least private injury.
4. The Project will capture and treat stormwater entering the Columbia Slough at Outfall Basin 58. The result will be improved water and sediment quality in the Columbia Slough by treating stormwater

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Environmental Services](#)

Contact

Kerry Rubin
Manager II

✉ kerry.rubin@portlandoregon.gov

☎ [503-823-8749](tel:503-823-8749)

Lisa Moscinski

Capital Project Manager

✉ Lisa.Moscinski@portlandoregon.gov

☎ [503-865-6447](tel:503-865-6447)

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

December 14, 2022

runoff and reducing associated pollutant loading. The Project will help meet the requirements of the City of Portland's record of decision with the State of Oregon Department of Environmental Quality.

5. To accomplish the Project's goals set forth above and to construct the Project as designed, the City must acquire the property interests described and depicted in Exhibits A through F ("the Property Interests"), attached to this Ordinance and by this reference incorporated herein.
6. All affected property owners have been contacted and informed as to the City's need for the property interests required for completion of the Project. All affected property owners have been invited, by mail and phone call, to attend the reading of this agenda item.
7. Funds are available in the Sewer System Operating Fund, FY 2022-2023 Budget, Bureau of Environmental Services WBS E11279.

NOW, THEREFORE, the Council directs:

- A. That it is necessary for the preservation of economic well-being, public health, public safety, and public welfare to commence the acquisition process described herein and acquire the property interests for the Project.
- B. That the power of eminent domain is hereby exercised with respect to each of the property interests, as needed.
- C. That, subject to the payment of just compensation and the procedural requirements of Oregon law, the Director of BES and the City Attorney are authorized to acquire the Property Interests for the Project through negotiation or through the exercise of the City's eminent domain authority to the extent that negotiations fail, as discussed herein, and to offer relocation benefits, all within available Project budget funds.
- D. That the Director of BES, or designee, and the City Attorney are further authorized to enter into obligations agreements with property owners and/or tenants to address construction management concerns within available Project budget funds.
- E. That the Director of BES and the City Attorney are authorized to attempt to agree with the owners and other interest holders of the property interests as to the compensation to be paid for each acquisition. If 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.
- F. That the Director of BES 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 portion of the Property Interests.
- G. That, in accordance with ORS 35.265, BES is authorized to create a fund in the amount estimated to be the just compensation for the

Property Interests which, if necessary, shall be deposited with the clerk of the court where a condemnation action is commenced.

H. That the Mayor and City Auditor are authorized to pay for the property interests and relocation benefits from the Sewer System Operating Fund Budget when demand is presented and approved by the proper authority.

Documents and Exhibits

 [Exhibits A-F](#) (1.3 Mb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
December 14, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

The purpose of the proposed legislation is to authorize the Bureau of Environmental Services (BES) to acquire certain permanent and temporary property rights, as described and depicted in Exhibits A through F, necessary for the construction of the Columbia Slough Outfall 58 Project (the "Project") through the exercise of the City's eminent domain authority.

Permanent and temporary sewer easements are needed to construct and maintain a manufactured stormwater treatment technology (MSTTs), specifically a StormFilter Vault. The StormFilter Vault will treat stormwater runoff and meet the 2020 Stormwater Management Manual requirements. The easements provide enough room for both construction and future maintenance activities of the vault.

Stormwater carrying contaminated sediment from Columbia Boulevard and industrial land uses have historically harmed human and animal health, and polluted water and soil in the Columbia Slough. The Project is one of several Columbia Slough outfalls undertaken by the City of Portland to reduce pollution and to meet the requirements of its record of decision with the State of Oregon Department of Environmental Quality.

Financial and Budgetary Impacts

The cost of acquiring the needed property right will be determined by an independent appraisal during the easement acquisition process. Funds are available in the Sewer System Operating Fund, FY 2022-2023 Budget, Bureau of Environmental Services WBS E11279.

The proposed legislation will not create, eliminate, or re-classify any positions now or in the future. BES Construction Services Division, supported by BES Engineering Services and the design Engineer of Record (EOR), and the Construction Manager, will manage the construction contract.

Community Impacts and Community Involvement

Portions of two properties, said portions being described and depicted in Exhibits A through F will be affected, and the Project will require easements for access to, construction of, and permanent location of a StormFilter vault. The contract documents will require the Contractor to restore all affected areas that are disrupted on the properties.

BES staff has discussed the Project with the property owner over the course of the past year. The property owner is supportive of the proposed work. Continued outreach will be coordinated by BES Public Involvement and PBOT Right-of-Way to coordinate schedules, obtain access, and easements to the properties.

The City will require the construction contractor to install all traffic control measures where necessary, and, during evenings and other non-work hours the active construction zone will be fenced and secured if not completed within the standard working hours.

We do not anticipate that any individuals or groups will be testifying with regard to this proposed legislation. The specific location for this ordinance is not impacting the general public.

100% Renewable Goal

- This project will neither increase nor decrease the City's total energy use.
- This project neither contributes nor takes away for the City's goal of meeting 100 percent community-wide energy needs with renewable energy by 2050.

Agenda Items

1011 Consent Agenda in December 7, 2022 Council Agenda

Passed to second reading

Passed to second reading December 14, 2022 at 9:30 a.m.

1044 Consent Agenda in December 14-15, 2022 Council Agenda

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea