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191471

Emergency Ordinance

*Authorize application to the National Oceanic and Atmospheric Administration for a Restoring Fish Passage through Barrier Removal Grant for the Tryon Creek Highway 43 Culvert Replacement Fish Passage Project for \$20 million

Passed

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 Resolution Nos. 35715 (July 29, 1998) and 35894 (July 14, 2000), the Council directed all City bureaus to contribute to the recovery of listed species in Portland.
2. On March 6, 2006, the Council passed Resolution No. 36384 adopting the Portland Watershed Management Plan, which includes actions for protecting Portland's rivers and restoring the upland areas that shape the watersheds. Studies show that shallow-water habitat and offchannel habitat in the Lower Willamette River are limited for young salmon and steelhead, reducing their ability to survive the migration to the ocean.
3. The City and many others have invested in restoring fish habitat in Tryon Creek and, consequently, the creek has some of the most pristine habitat in the Portland metro area. The Highway 43 culvert was constructed in the early 1900s and it blocks fish passage to high quality habitat in the upper reaches of Tryon Creek.
4. The City has an opportunity to apply for a grant from the National Oceanic and Atmospheric Administration (NOAA) to support the Tryon Creek Highway 43 Culvert Replacement Project and to restore fish passage to high-quality, cold-water habitat.
5. The principal objective of NOAA's Restoring Fish Passage through Barrier Removal Notice of Funding Opportunity is to provide federal financial

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Environmental Services](#)

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

October 11, 2023

and technical assistance to fish passage through the removal of dams and other in-stream barriers to native migratory or sea-run fish.

6. Funding from NOAA will support the replacement of the Tryon Creek Highway 43 Culvert and, if awarded, the grant will be used to construct a culvert that will allow Tryon Creek to flow as a natural stream and will enable fish to access pristine habitat in the upper reaches of the watershed.
7. Numerous groups support replacement of the culvert to allow fish passage including Metro, the Tryon Creek Watershed Council, the City of Lake Oswego, Friends of Tryon Creek, and others.
8. No grant match is required in this grant opportunity.

NOW, THEREFORE, the Council directs:

- A. The Mayor is authorized to apply to the National Oceanic and Atmospheric Administration (NOAA) for the Restoring Fish Passage through Barrier Removal Grant for an amount up to \$20,000,000.
- B. The Mayor is authorized to provide such information and assurances as are required for the grant period.
- C. The Office of Management and Finance, Grants Management Division, is authorized to perform all administrative matters in relation to the grant application, grant agreement or amendments, and requests for reimbursement from the grantor; and to submit required online grant documents on the Mayor's behalf.

Section 2. The Council declares that an emergency exists because the grant application must be submitted no later than October 16, 2023. Per the Office of Management and Finance, Grants Management Division, submittal of the application sooner than this deadline is preferred; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

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
October 11, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

This ordinance authorizes the City to apply for grant funds from the National Oceanic and Atmospheric Administration's (NOAA) Restoring Fish Passage through Barrier Removal Grant in an amount not to exceed \$20,000,000 for the Tryon Creek Highway 43 Culvert Replacement Fish Passage Project.

For many years, the Tryon Creek Hwy 43 culvert has been a high priority project for replacement because it blocks fish passage from the Willamette River to high quality habitat in the upper reaches of the Tryon Creek watershed. BES has teamed up with the US Army Corps of Engineers (USACE), and through the USACE General Investigations program, the partnership identified five projects to restore fish and wildlife habitat in the lower Willamette River. Of these five projects, the Tryon Creek Hwy 43 culvert replacement provides the greatest habitat benefits and it is the highest priority. Due to the volume of stream flow and the culvert's steep grade, the existing 8' by 8' box culvert blocks fish passage into the upper reaches of the Tryon Creek watershed.

The USACE General Investigations program provides substantial funding for the project. The cost will be shared 65 percent federal and 35 percent City of Portland. Currently, the USACE and BES have funds to complete design. Funds for construction have not been allocated at the federal level. Additional grant funds, from NOAA, will reduce the required funding from the USACE, making the project more competitive, and will reduce the amount of match BES must provide because this is no match requirement for NOAA grant funds.

The proposed culvert will be a 30 foot-wide, open bottom, arched culvert, that will enable the creek to flow naturally, allowing threatened and endangered salmonid species and lamprey to access the upper reaches of Tryon Creek. Accessing cold water habitat will make these species more resilient to climate change.

Financial and Budgetary Impacts

This Council action does not amend the City budget. If awarded, up to \$20,000,000 in grant funds will be used to construct the Tryon Creek Hwy 43 Culvert Project.

No grant match is required in this grant opportunity. However, BES may indicate a cost-share of 100%. Showing full cost share match results in getting additional points during the grant application evaluation. This cost share will be budgeted in the Bureau of Environmental Services Capital Improvement Projects, E11498. If the grant application is not accepted, the partnership with the US Army Corps of Engineers will continue, and our federal partner will provide 65 percent of the project cost and BES will provide 35%.

Community Impacts and Community Involvement

Replacing the Tryon Creek Hwy 43 culvert has been a priority for years among agencies, nonprofits, community groups, and individuals concerned about restoring threatened and endangered fish species. At the 2019 Annual Convention, Affiliated Tribes of Northwest Indians (ATNI), signed a resolution supporting WRDA projects, which includes replacing the Tryon Creek Hwy 43 culvert. Nonprofits Friends of Tryon Creek and the Tryon Creek Watershed Council, the OR State Parks and Recreation Department, and West Multnomah Soil and Water Conservation District signed letters supporting replacing the Tryon Creek Hwy 43 culvert. In recent meetings, the City of Lake Oswego has expressed support for the project, and Metro has expressed strong support.

Due to potential impacts to traffic on Hwy 43, some drivers, particularly commuters between Lake Oswego and Portland, may object to the project. How the culvert will be constructed has not been determined, but project managers, designers, and engineers will do everything possible to reduce and mitigate traffic impacts on all adjacent streets, including Hwy 43.

The culvert sits at a juncture of several interests. Trail enthusiasts want to see a path created that links George Himes Park with Tryon Creek State Park (west of Hwy 43). Pedestrian crossing over Hwy 43 is a significant and highly dangerous barrier. Some individuals and groups may advocate for the project to include safe pedestrian crossing across Hwy 43, either with an underpass that would be constructed with the culvert, or with a traffic light on Hwy 43. Due to the limitations of the US Army Corps' mission, the project must focus on restoration and neither option to increase pedestrian access is part of the culvert replacement project. Access to Stampher Road, which is just to the north of the creek, is dangerous. People living on Stampher Road may advocate for safer vehicle access. Again, this road improvement project would not be part of the culvert replacement project.

100% Renewable Goal

This action may not directly impact the City's total energy use.

Agenda Items

853 Consent Agenda in [October 11, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/10/11)
(<https://www.portland.gov/council/agenda/2023/10/11>)

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Mayor Ted Wheeler Yea