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# 191555

Ordinance

## Authorize the Bureau of Environmental Services to acquire certain permanent and temporary property rights necessary for construction of the Hillsdale Middle Sewer Rehabilitation Project E11188 through the exercise of the City's eminent domain authority

Passed

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 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 Bureau of Environmental Services' ("BES") project known as the Hillsdale Middle Sewer Rehabilitation 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, safeguards the environment, and is the most compatible with the greatest public good and the least private injury.
4. The Project aims to repair aging and deteriorated sewer pipes to reduce sewer collection system risk, improve sewer service reliability, and protect public health, properties, and the environment. The project will rehabilitate or replace 13,000 feet of deteriorated sewer pipes.

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Environmental Services](#)

Contact

Amy Dunning

Engineering Supervisor

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📞 [503-865-6951](tel:503-865-6951)

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

December 20, 2023

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 1 through 32 attached to this Ordinance, and by this reference incorporated herein.
6. The City must acquire possession of these property interests by September 1, 2024, so construction of the Project can begin on schedule.
7. The Bureau's level of confidence in the cost estimates for the Project is moderate. Funds are available in the Sewer System Operating Fund, FY 2023-2024 Budget, BES Project No. E11188.

NOW, THEREFORE, the Council directs:

- A. That the Director of BES 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. The Director of BES or designee and the City Attorney are each further authorized to enter into obligations agreements with property owners to address construction management concerns within available Project budget funds.
- B. That the power of eminent domain is hereby exercised with respect to each of the interests in property described and depicted in Exhibits 1 through 32. Each is acquired subject to payment of just compensation and subject to the procedural requirements of Oregon law.
- C. That BES staff 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.
- D. That 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 acquisition described and depicted in Exhibits 1 through 32.
- E. Exhibits 1 through 32 hereby authorize 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.
- F. The costs incurred in connection with the acquisition authorized herein shall be charged to the Sewer System Operating Fund, FY 2023-2024

Budget, BES Project No. E11188.

G. The Mayor and the City 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.

## Documents and Exhibits

 <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-1-tce-legal-exhibit-1.pdf">9420-1 TCE Legal Exhibit 1</a>	91.71 KB
( <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-1-tce-legal-exhibit-1.pdf">https://www.portland.gov/sites/default/files/council-documents/2023/9420-1-tce-legal-exhibit-1.pdf</a> )	
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( <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-2-tce-map-exhibit-4.pdf">https://www.portland.gov/sites/default/files/council-documents/2023/9420-2-tce-map-exhibit-4.pdf</a> )	
 <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-3-pe-legal-exhibit-5.pdf">9420-3 PE Legal Exhibit 5</a>	88.43 KB
( <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-3-pe-legal-exhibit-5.pdf">https://www.portland.gov/sites/default/files/council-documents/2023/9420-3-pe-legal-exhibit-5.pdf</a> )	
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( <a href="https://www.portland.gov/sites/default/files/council-documents/2023/9420-11-tce-legal-exhibit-23.pdf">https://www.portland.gov/sites/default/files/council-documents/2023/9420-11-tce-legal-exhibit-23.pdf</a> )	
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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 20, 2023

Auditor of the City of Portland  
Simone Rede

## 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 in Exhibits 1 through 32, for the repair and replacement of aging and deteriorated sewer pipes within the Hillsdale Middle Sewer Rehabilitation Project (the "Project") through the exercise of the City's Eminent Domain Authority.

A total of seven (7) permanent easements are needed where either existing sewers do not currently have easements or a new pipe alignment is being established. Easements will provide the City with legal rights to operate and maintain the sewer system. A total of nine (9) temporary construction easements are needed for the project. The temporary construction easements will provide room for construction access and equipment during construction.

### **Financial and Budgetary Impacts**

The cost of acquiring the needed property rights will be determined by PBOT during the Eminent Domain process. Funds are available in the Sewer System Operating Fund, FY 2023-2024 Budget, Bureau of Environmental Services WBS E11188.

The proposed legislation will not create, eliminate or re-classify any positions now or in the future.

### **Community Impacts and Community Involvement**

BES staff has discussed the proposed project with the property owners over the course of the past year. The property owners appear supportive of the proposed work. BES Public Involvement and PBOT Right of Way staff will continue to coordinate schedules, obtain access to the properties and finalize easement agreements.

The Contractor will be held to contract documents the requirement to restore all affected areas that are disturbed during construction.

### **100% Renewable Goal**

- This project will neither increase or 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.

### **Budget Office Financial Impact Analysis**

The cost of acquiring the property rights included in this ordinance will be determined by PBOT in the eminent domain process. The bureau has resources set aside in their CY budget, WBS E11188.

### **Agenda Items**

**1031 Consent Agenda in [December 13, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/12/13)  
(<https://www.portland.gov/council/agenda/2023/12/13>)**

Passed to second reading

Passed to second reading December 20, 2023 at 9:30 a.m.

**1060 Consent Agenda in [December 20, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/12/20)  
(<https://www.portland.gov/council/agenda/2023/12/20>)**

Passed

Commissioner Mingus Mapps Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Absent