

# ORDINANCE No. 183650

Designate a sewer tunnel easement in City-owned property assigned to the Bureau of Parks and Recreation and assign said easement to the Bureau of Environmental Services for the East Side Combined Sewer Overflow Tunnel Project No. E07594. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Environmental Services (BES) has designed the East Side Combined Sewer Overflow (ESCSO) Tunnel Project to comply with an Amended Stipulation and Final Order (ASFO) with the Oregon Department of Environmental Quality to reduce combined sewer overflow discharges to the Willamette River by December 1, 2011.
2. Construction of the ESCSO Tunnel project requires construction of sewer improvements in City-owned property assigned to the Bureau of Parks and Recreation (BP&R). These improvements require designation of a sewer tunnel easement and assignment of this easement to BES.
3. BP&R has agreed to assign the public sewer tunnel easement to BES.
4. Allowing the proposed use of Park property is in the public interest and is consistent with the City policy on non-park use of Park property.
5. It should be made a matter of public record that a public sewer tunnel easement has been designated in a portion of City-owned property assigned to BP&R and that the easement has been assigned to BES.
6. There is no cost involved in the assignment of responsibilities.

NOW, THEREFORE, the Council directs:

- a. That the following described non-exclusive easement for sewer tunnel purposes is hereby designated and assigned to BES, as being necessary for construction, reconstruction, operation, inspection, monitoring, maintaining and protecting a subsurface sewer tunnel facility and appurtenances, through, under and along the following described parcel:

A portion of that tract of land, quitclaimed to the City of Portland in Deed Book 1718, page 1095, recorded January 9, 1984, Multnomah Count Deed Records, situated in Block 5 of *WOODWARD'S SUBDIVISION OF LOT 1, RIVERSIDE HOMESTEAD*, in the southwest quarter of Section 11, T1S, R1E, W.M., in the City of Portland, State of Oregon, described as follows;

Beginning at the northwest corner of said tract of land quitclaimed to the City of Portland in Deed Book 1718, page 1095, said northwest corner being on the northerly line of said Block 5 of *WOODWARD'S SUBDIVISION OF LOT 1, RIVERSIDE HOMESTEAD*; thence S 88° 20' 57" E, along the northerly line of said Block 5, a distance of 17.86 feet; thence S 08° 18'

09" E, a distance of 367.78 feet, to the southerly line of said Block 5; thence N 87° 44' 40" W, along the southerly line of said Block 5, a distance of 12.32 feet; thence N 09° 09' 12" W, along the westerly line of said tract of land quitclaimed to the City of Portland in Deed Book 1718, page 1095, a distance of 368.65 feet, to the Point of Beginning.


Said easement area contains 5,460 square feet, more or less, and is generally depicted on Exhibit A, attached hereto.

- b. That the easement for sewer tunnel purposes is hereby designated with the following provisions:
  1. Except as described in Paragraph 2 below, BP&R reserves the right to use the Easement Area for any lawful purposes not inconsistent with BES's permitted use which do not materially interfere with BES's ability to construct, reconstruct, operate, maintain, inspect, monitor, maintain, and protect the tunnel facility or jeopardize the integrity of the tunnel facility.
  2. No activities may be conducted and no underground improvements may be constructed within 39 feet of the crown of the tunnel facility and 13 feet on each side of the outside wall of the tunnel facility, as shown in Exhibit B, attached hereto.
  3. BES shall construct operate and maintain the tunnel facility below ground, and will therefore not require access across the surface of the property.
  4. This easement includes the right to enter the property to make visual and photographic inspection of the surface and associated improvements during construction and for six months after completion of the construction of the tunnel facility.
  5. This easement shall bind the successors and assigns of BP&R and shall inure to the benefit of the successors in title of BES.
- c. Upon conveyance or sale of the City-owned property, an easement shall be reserved for the sewer tunnel facility as described above, on behalf of BES and its successors and assigns.
- d. That the Auditor shall return a certified copy of this Ordinance to the Right-of-Way Acquisition Section, Development and Capitol Program, PBOT, for recording in the Multnomah County Deed Records. Right-of-Way Acquisition shall return the recorded Ordinance to the Auditor and send copies of the recorded Ordinance to both BES and BP&R.

Passed by the Council, **MAR 31 2010**  
 Dan Saltzman  
 Commissioner of Public Affairs

Patty Nelson  
 March 8, 2010

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**LaVonne Griffin-Valade**  
 Auditor of the City of Portland  
 By 

Deputy

✓ 140

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Agenda No. **183650**  
**ORDINANCE NO.**  
 Title

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<p><b>INTRODUCED BY</b>          Commissioner/Auditor:  <i>Saltzman</i></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Dean Saltzman</i></p> <p>Position 4/Safety - Leonard</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau Head: <i>Dean</i> <b>Marriott</b></p> <p>Prepared by: Patty Nelson          Date Prepared: March 8, 2010</p> <p>Financial Impact Statement          Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>          Not Required <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>Council Meeting Date:          March 24, 2010</p> <p><b>City Attorney Approval</b>  <i>Sam V. V. [Signature]</i></p>	<p>CLERK USE: DATE FILED <b>MAR 19 2010</b></p> <p style="text-align: right;">LaVonne Griffin-Valade          Auditor of the City of Portland</p> <p>By: <i>[Signature]</i>          Deputy</p> <p><b>ACTION TAKEN:</b></p> <p><b>MAR 24 2010 PASSED TO SECOND READING MAR 31 2010 9:30 A.M.</b></p>
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<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____          (for presentation, testimony and discussion)</p> <p><b>CONSENT</b> <input checked="" type="checkbox"/></p> <p><b>REGULAR</b> <input type="checkbox"/></p> <p>Total amount of time needed: _____          (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. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	