

## ORDINANCE No. 183819

\*Authorize agreements for the conveyance of properties under the Bureau of Environmental Services' Grey to Green Land Acquisition and Johnson Creek Willing Seller Programs (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. In November of 2007, the Grey to Green Initiative was launched to address principal elements of the *Portland Watershed Management Plan* implementation, which includes acquiring over 400 acres of key natural resource lands from 2008-2013. Priority areas for acquisition that are most critical for watershed health include tributaries, confluences, floodplains, riparian areas, off-channel habitats, seeps, springs, steep slopes, forested areas, wetlands, riverine islands, and special status habitats. In addition, targeted acquisition improves open space connectivity and builds existing habitats by focusing on properties that are contiguous or provide corridors between existing habitats.
2. The Johnson Creek Willing Seller Program provides land acquisition in support of the *Johnson Creek Restoration Plan*, adopted by City Council in 2001. The program purchases flood prone properties within four target locations, allowing property owners to move out of harms way while increasing the Bureau's ability to perform floodplain restoration work that minimizes flooding and increases habitat for Endangered Species Act (ESA) listed species.
3. The Bureau of Environmental Services has a long and successful record of land acquisition since the Willing Seller Program inception in 1997. The Bureau acquires property rights through real estate transactions including fee simple, conservation easements, donations, and tax foreclosures. The Bureau of Environmental Services has acquired over 50 acres of real property since the implementation of Grey to Green in 2008, and 256 acres through the Johnson Creek Willing Seller Program. These transactions are typically forwarded to City Council for action due to the absence of authority for the Commissioner in Charge to close and accept title associated with these transactions. The transactions have routinely been passed by Council.
4. This ordinance will expedite the acquisition of properties in Grey to Green and Willing Selling target areas, including transactions completed in partnership with other Bureaus when the Commissioner of the partnering bureau is supportive of the acquisition, by providing the Bureau of Environmental Services' Commissioner in Charge or designee with the ability to purchase properties quickly and efficiently, which can be a critical element to creating successful transactions in a real estate market that is constantly in flux.
5. The proposed authority to facilitate real estate acquisitions via the Commissioner in Charge of Bureau of Environmental Services or designee will provide an additional means to protect the confidentiality of willing sellers.
6. The Bureau of Environmental Services has determined that significant water quality, floodplain, wildlife habitat, watershed health protection, and passive recreation benefits will occur as a result of the City's acquisition and management of natural area properties consistent

with Grey to Green and Johnson Creek Willing Seller Program goals, and that the acquisitions are in the public interest and for the general benefit of the people of the City of Portland.

7. The Bureau of Environmental Services has estimated the expenditure of approximately \$21,000,000 for land acquisition during the next five (5) years, with all acquisitions made from willing sellers. It is anticipated through FY 15, acquisitions will total 380 acres of natural area. Funds are available in the Sewer System Operating Fund, FY 10 Budget, Bureau of Environmental Services, WBS Elements E08905 and E10040.
8. The funds will be used for:
  - **Land Acquisition**, including appraisals, real estate consultant fees, purchase price, closing costs, moving allowances;
  - **Environmental Assessment**, including Phase I and II assessment, and soil and/or groundwater monitoring;
  - **Site Stabilization**, including building deconstruction or demolition, vegetative stabilization, installation of fencing and signage, and utility decommissioning.

NOW, THEREFORE, the council directs:

- a. The Commissioner in Charge of Bureau of Environmental Services, and his/her designee, is authorized to execute all land acquisition documents, once approved as to form by the City Attorney. The Commissioner in Charge of Bureau of Environmental Services or designee is authorized to release all funds necessary to negotiate, perform due diligence, close and accept title of property rights, and stabilize properties – (e.g. earnest money checks, Purchase and Sales Agreements, Conservation Easement Agreements, Donation Agreements, Settlement Statements, Deeds, Title Report Approvals, Escrow Papers) – with said authorization to include dedications, easements, donations, and transactions partially funded by other City Bureaus.
- b. Property acquisitions funded jointly by the Bureau of Environmental Services and one or more other City bureaus are authorized under this ordinance upon approval of the Commissioners in Charge of all bureaus funding the acquisition.
- b. The Mayor and Auditor are hereby authorized and directed to accept deeds for the properties to the City of Portland, Bureau of Environmental Services.
- c. Notification will be sent to Council after each property closing with a full report forwarded annually.
- d. BES has accepted responsibility for on-going maintenance costs of the parcels acquired through the Willing Seller Program, estimated at \$500-\$1,500 per acre per year.
- e. The Council recognizes that acquisition of new Grey to Green properties will necessitate appropriation of additional monies for operation and maintenance. The Bureau of Environmental Services will seek Council appropriation, as appropriate, with their acquisition and management partner, Portland Parks & Recreation, through the BuMP process, for operation and maintenance costs associated with properties acquired under the authority of this Ordinance.

Section 2. The Council declares that an emergency exists because real estate transactions are dependant on BES' timely action to negotiate and conduct transactions to acquire properties. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

*[Faint handwritten notes and signatures in blue ink]*

Passed by the Council, **MAY 26 2010**  
Dan Saltzman  
Commissioner of Public Affairs

[Shannah Anderson]  
[May 7, 2010]

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

By 

Deputy

Agenda No.  
**ORDINANCE NO 183819**  
 Title

\*Authorize the Commissioner in Charge of Bureau of Environmental Services or designee to execute agreements for the conveyance of properties under the Bureau of Environmental Services' Grey to Green Land Acquisition and Johnson Creek Willing Seller Programs. (Ordinance)

INTRODUCED BY Commissioner/Auditor: <b>Saltzman</b>	CLERK USE: DATE FILED <u>MAY 21 2010</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - <b>Saltzman</b> Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland  By: <u>[Signature]</u> Deputy  ACTION TAKEN:
BUREAU APPROVAL Bureau: Environmental Services Bureau Head: <b>Dean Marriot</b>  Prepared by: Shannah Anderson Date Prepared: 5/7/10  Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>  Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  Council Meeting Date <b>May 26, 2010</b>  City Attorney Approval	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____  Total amount of time needed: _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input checked="" type="checkbox"/>
<b>REGULAR</b> <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	_____	
Adams	✓	