

FINANCIAL IMPACT STATEMENT
For Council Action Items
(Use this form for Ordinances and Resolutions)
(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Nanci Klinger/ Bill Ryan	2. Telephone Number 503-823-3022/503-823-7203	3. Bureau/Office/Dept. City Attorney Office/BES Engineering Administration
4a. To be filed August 12, 2010	4b. Calendar (Check One) Regular Consent 4/5ths <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	5. Date Submitted to FPD Budget Analyst:

1) **Legislation Title:** *Authorize Agreement with ZRZ Property et.al. for Abandonment of Outfall 6 and Release of Claims.

2) **Purpose of the Proposed Legislation:** Ordinance authorizing the City to enter into Agreement with ZRZ Realty Company, Zidell Marine Corporation and Tube Forgings of America Inc., to abandon a City stormwater outfall and enter into a mutual release of claims for past operation of Outfall 6 and its continued presence as specifically described in Section 1 of Exhibit A.

3) **Revenue:** Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated identify the source.

This Ordinance will not generate or reduce current or future revenue coming to the City.

4) **Expense:** What are the costs to the City as a result of this legislation? *Include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract include the local contribution or match required.*

The estimate cost of the City's share of costs for abandonment of the Brick Line obligated pursuant to the agreement is approximately \$150,000. Funds are available in the Sewer System Operating Fund, FY2010-2011 Budget, BES Project Number E09061.

5 **Staffing Requirements:**

a) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? *If new positions are created include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term, indicate the end of the term.*

No positions will be created or eliminated as a result of this legislation

b) Will positions be created or eliminated in *future years* as a result of this legislation?

No positions will be created or eliminated as a result of this legislation

6) **Change in Appropriations:** Budget changes for the current year must go through the BMP Process. This section may only be use with prior permission of your OMF analyst for exceptions. *Reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts to be used by Central Accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.*

I.	FUND	Center Code	Account	Amount	Project Fund	Project No.

Dean Marriott, Director, Bureau of Environmental Services

APPROPRIATION UNIT HEAD (Typed name and signature)



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Linda Meng, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax No.: (503) 823-3089

August 12, 2010

INTEROFFICE MEMORANDUM

TO: Commissioner Saltzman

FROM: Nanci Klinger
Deputy City Attorney

SUBJECT: Authorize Agreement with ZRZ Property et al., for Abandonment of Outfall 7
and Release of Claims.

Requested Council Hearing Date: August 12, 2010

RECOMMENDATION

That the Council accept the report. This is an emergency ordinance to enter into an agreement with ZRZ Realty Company to share the costs of abandoning City Outfall 6 which crosses the ZRZ Property. Execution of the agreement will result in the closure of an outfall that is in disrepair, assist ZRZ Realty with environmental cleanup and redevelopment plans and provide mutual releases for the City, ZRZ Realty Company, Zidel Marine Corporation and Tube Forgings of America from claims for the past operations of Outfall 6 and its continued presence as described in section 1 of the agreement.

BACKGROUND

The original brick portion of Outfall 6 was installed in 1892 and an unpermitted extension was added to the brick line some time in the late 1960's. The extension is in disrepair and would require replacement to be brought to City engineering standards. The Outfall 6 drainage basin has been significantly reduced over time. The agreement provides a means for the City to abandon the outfall rather than seek rehabilitation of the extension and avoids potential future claims between the City and parties to the agreement regarding liability for past operations or continued existence of the outfall (except for releases to the submerged or submersible lands in the Willamette River).

August 12, 2010
Page 2 of 2

FINANCIAL IMPACT

The estimate cost of the City's share of costs for abandonment of the Brick Line obligated pursuant to the agreement is approximately \$150,000. Funds are available in the Sewer System Operating Fund, FY2010-2011 Budget, BES Project Number E09061.

LEGAL ISSUES

The City Attorney's office participated in the negotiation of the terms of the release of claims and recommends that the City share abandonment costs of the brick line and redirect the remaining stormwater flow from Outfall 6 in exchange for the release.

CONTROVERSIAL ISSUES

The agreement explicitly states that it is not an admission of liability or fault for matters described or referenced in the agreement. The agreement does not release or apportion liability for liabilities associated with discharges from the outfall to the submerged or submersible lands of the Willamette River. Thus, the agreement does not alter claims or liabilities related to Portland Harbor Superfund or any other action that may be related discharges to the river.

LINK TO CURRENT CITY POLICIES

The agreement facilitates redevelopment of South Waterfront properties by resolving a long-standing issues regarding the condition of the outfall and abandoning the outfall and releasing the City's reserved rights in the former Woods Street for the outfall.

CITIZEN PARTICIPATION

The agreement resolves legal liabilities and is not subject to public notice or citizen review requirements.