

## ORDINANCE No. 184091

Authorize the Bureau of Environmental Services to acquire certain permanent easements necessary for construction of the NE 148<sup>th</sup> Water Quality Facility Project, BES Project E07177, through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Environmental Services has designed the 148<sup>th</sup> Water Quality Facility Project to improve water quality in the Columbia Slough, to address TMDL requirements, and help the City meet its requirements for stormwater pollutant management under Federal NPDES guidelines.
2. The 148<sup>th</sup> Water Quality Facility Project requires acquisition of certain permanent sewer easements to complete the project.
3. Acquisition efforts will be completed in accordance with Eminent Domain procedures provided for in ORS Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation and early possession if necessary.
4. It is necessary to acquire possession of the permanent easements by January 1, 2011, so that construction can begin on schedule.
5. Funds are available in the Sewer System Operating Fund, FY 2010-2011 Budget, Bureau of Environmental Services, Project E07177, Account No. 563300 (permanent asset).

NOW, THEREFORE, the council directs:

- a. The Director of the Bureau of Environmental Services or designee and/or City Attorney are authorized to acquire necessary permanent sewer easements for the 148<sup>th</sup> Water Quality Facility Project under the Eminent Domain Authority of the City, including filing an action to acquire the property interests described herein or negotiating just compensation with property owners within available project budget funds. The Director of the Bureau of Environmental Services or designee and/or City Attorney are further authorized to enter into obligations agreements with property owners to address construction management concerns within available project budget funds.
- b. There is hereby authorized 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.
- c. The costs incurred in connection with the acquisition authorized herein shall be charged to the 148<sup>th</sup> Water Quality Facility Project E07177.

- d. The property affected by this ordinance is described as follows:

SEWER EASEMENT #1 – RUTH L. PRUITT AND HENRY A. MOSHBERGER – PARCEL 1, PARTITION PLAT 2002-001, WEST HALF OF SECTION 24, T1N R2E, W.M.

A portion of Parcel 1, Partition Plat 2002-001, recorded January 10, 2002, Multnomah County Plat Records, situated in the west half of Section 24, T1N, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, described as follows;

Commencing at the southeast corner of Parcel 1, Partition Plat 2002-001, on the north line of NE Whitaker Way, thence N 88° 34' 46" W, along the north line of NE Whitaker Way, a distance of 27.31 feet, to the west line of a 20.00 foot sewer easement, described in Multnomah County Instrument #94-120184, recorded August 9, 1994, and the True Point of Beginning of the tract herein described; thence continuing along said north line of NE Whitaker Way, N 88° 34' 46" W, a distance of 20.00 feet; thence N 46° 30' 39" E, a distance of 28.33 feet, to the west line of said 20.00 foot sewer easement; thence S 01° 36' 04" W, along the west line of said 20.00 foot sewer easement, a distance of 20.00 feet, to the Point of Beginning. Contains 200.00 square feet.

SEWER EASEMENT #2 – A PORTION OF PARCEL 1, PARTITION PLAT 2002-001, ABUTTING THE EAST LINE OF PARTITION PLAT 2002-001 AND ABUTTING THE NORTH LINE OF NE WHITAKER WAY, IN THE WEST HALF OF SECTION 24, T1N, R1E, W.M.

A portion of Parcel 1, Partition Plat 2002-001, recorded January 10, 2002, Multnomah County Plat Records, situated in the west half of Section 24, T1N, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, described as follows;

Beginning on the north line of NE Whitaker Way, at the southeast corner of Parcel 1, Partition Plat 2002-001; thence N 88° 34' 46" W, along the north line of NE Whitaker Way, a distance of 7.31 feet; thence N 01° 36' 04" E, a distance of 100.00 feet; thence S 88° 34' 46" E, a distance of 7.00 feet, to the east line of Partition Plat 2002-001; thence S 01° 25' 14" W, along the east line of Partition Plat 2002-001, a distance of 100.00 feet, to the north line of NE Whitaker Way, and the Point of Beginning. Contains 715 square feet.

- e. The Commissioner of Public Utilities and Auditor are hereby authorized to draw and deliver a warrant chargeable to the Sewer Operating Fund when demand is presented and approved by the proper authority.

Passed by the Council, SEP 01 2010  
Dan Saltzman  
Commissioner of Public Affairs

Scott Gibson  
August 2, 2010

WBS E07177 - ord

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

  
Deputy

~~1182~~ 1213

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Agenda No. **184091**  
**ORDINANCE NO.**  
Title

Authorize the Bureau of Environmental Services to acquire certain permanent easements necessary for construction of the NE 148<sup>th</sup> Water Quality Facility Project, BES Project No. E07177, through the exercise of the City's Eminent Domain Authority. (Ordinance)

<b>INTRODUCED BY</b> Commissioner/Auditor: <i>SALTZMAN</i>	CLERK USE: DATE FILED <u>AUG 20 2010</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland  By: <i>Susan Parsons</i> Deputy
<b>BUREAU APPROVAL</b> Bureau: Environmental Svcs. Bureau Head: Dean Marriott <i>Dean Marriott</i>	<b>ACTION TAKEN:</b> AUG 25 2010 PASSED TO SECOND READING SEP 01 2010 9:30 A.M.
Prepared by: Scott Gibson Date Prepared: Aug. 2, 2010	
<b>Financial Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Council Meeting Date</b> August 25, 2010	
<b>City Attorney Approval</b> <i>Kelli May</i>	

<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 type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <u>5 min.</u> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Leonard	<input checked="" type="checkbox"/>	
Adams	<input checked="" type="checkbox"/>	