

## ORDINANCE No. 184346

\*Authorize the Commissioners in Charge of Bureau of Environmental Services or designee and Portland Parks and Recreation or designee to jointly execute agreements for the design and construction of watershed restoration projects in partnership with the U.S. Army Corps of Engineers. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On March 6, 2006, City Council passed Resolution 36384, adopting the Portland Watershed Management Plan which includes actions for protecting Portland's rivers and restoring the upland activities that shape the watersheds.
2. In November of 2007, the Grey to Green Initiative was launched to address principal elements of the *Portland Watershed Management Plan* implementation, which includes restoring fish passage at 8 culverts so imperiled fish can access their historical habitats. The priority area for culvert replacement is Crystal Springs Creek, a tributary of Johnson Creek, because it provides the highest quality habitat and best opportunity for salmon recovery. Crystal Springs Creek has 8 culverts that prevent salmon, steelhead and lamprey from spawning and rearing in its 2.8 miles of cold, clean habitat. In 2011 (FY 2012), the City will replace the Umatilla, Brannen and Tenino culverts and restore Crystal Springs Creek in that reach, and in 2012 (FY 13) will replace the Tacoma culvert.
3. Restoration of Crystal Springs Creek requires improvement of the river's edge. Westmoreland Park, a large urban park in the Sellwood/Westmoreland neighborhood that is owned and managed by Portland Parks and Recreation, offers significant opportunities to improve the quality of Crystal Springs through riparian and wetland restoration. In 2004, Portland Parks and Recreation adopted the Westmoreland Parks Master Plan which identifies the measures to be taken by Portland Parks & Recreation to restore the natural resources of Westmoreland Park, including Crystal Springs Creek. Portland Parks & Recreation intends to restore Westmoreland Park in 2012 (FY 13).
4. From 2000-2004, the Endangered Species Act Program (now the Science, Fish and Wildlife) partnered with the Oregon Department of Fish and Wildlife to study the presence, habitats and behavior of salmon and steelhead in the Willamette River. The study concluded that shallow water habitat and off channel habitat in the Lower Willamette River was limited habitat for young salmon and steelhead, reducing their ability to survive the migration to the ocean.
5. The Oaks Bottom Wildlife Refuge is a former, large off channel habitat refuge for salmon. Oaks Bottom Wildlife Refuge is owned and managed by Portland Parks and Recreation. It was isolated from the Willamette River with a railroad berm built in the early 1900s. A small culvert and a water control structure preclude use of the refuge by Willamette River fish. Improving the connectivity with the Willamette River and the wetland habitat quality within Oaks Bottom Wildlife Refuge will greatly improve fish and wildlife habitat along the Willamette River, addressing a previously identified limiting habitat. The Bureau of Environmental Services and Portland Parks and Recreation have jointly designed a restoration plan for the Oaks Bottom Wildlife Refuge.

6. The Springwater Corridor Wetlands Project is located north of the Springwater Corridor Trail in Portland Oregon, between SE 109<sup>th</sup> and SE 120<sup>th</sup> and includes approximately 40 acres of wetland and riparian habitat improvements. The multi-objective project also will also positively impact critical habitat for ESA-listed salmon and steelhead by creating flood storage for an area that currently sustains damages from frequent nuisance flooding. The project also includes educational facilities such as walking trails and interpretive signs near the Springwater Trail and Zenger Farm. The project calls for excavation of approximately six acres of fill material and creation of wetlands, enlarging the culverts under the Springwater Trail, removal and control of exotic species, native plantings, and creation of additional open water habitats.
7. The Springwater Corridor Wetlands project site was identified as a high priority in the City's Johnson Creek Restoration Plan, endorsed by City Council in June 2001.
8. The U.S. Army Corps of Engineers administers portions of the Water Resources Development Act (WRDA), 33 U.S.C 2309, multiple sections of WRDA authorize federal funds to be used towards watershed restoration projects in partnership with a local sponsor, including Sections 206, 536 and 1135.
9. The City of Portland is interested in partnering with the Army Corps of Engineers as a local sponsor under Sections 206, 536, 1135 and other sections of WRDA for the purposes of designing and constructing watershed restoration projects within the City of Portland including, but not limited to Crystal Springs Creek including the four culverts and Westmoreland Park identified above ("Westmoreland Park"), Oaks Bottom Wildlife Refuge, and Springwater Wetlands (Johnson Creek).
10. This ordinance will authorize the Bureau of Environmental Services and Portland Parks and Recreation to enter into agreements with the Army Corps of Engineers to jointly design and construct restoration projects using a combination of local and federal funds.
11. The partnership with the Army Corps of Engineers will require expenditures of approximately 35% of the total project cost, which may include the value of lands, easements, rights of ways and other real property interests. Funds are available in the Sewer System Operating Fund, FY 10-13 Budgets, Bureau of Environmental Services, WBS Element E09112 for the Crystal Springs Restoration and in PP&R's local share of the 2006 regional Natural Area Bond Measure
12. Funds for Oaks Bottom and Springwater Wetlands, and other yet undetermined projects, will be requested in future budget years once the project costs are determined. The Commissioners of the Bureau of Environmental Services or designee and Portland Parks and Recreation or designee, will only execute the Partnership Agreements with the Army Corps of Engineers when adequate funds have been identified in the Bureau of Environmental Services and Portland Parks and Recreation budgets.
13. Operation and maintenance funds are integral to the project to ensure the established ecological functions are maintained.

NOW, THEREFORE, the council directs:

## Section 2.

- a. The Commissioners in Charge of Bureau of Environmental Services, and his/her designee, and Portland Parks and Recreation, and his/her designee, are authorized to execute Project Partnerships Agreements in substantially similar form to the attached agreement, and all ancillary documents including feasibility studies, cost share agreements, real property documents and other necessary agreements, once approved as to form by the City Attorney. The Commissioners in Charge of Bureau of Environmental Services or designee and Portland Parks and Recreation or designee, are authorized to release all funds necessary to execute such documents and agreements upon identification of adequate funds in appropriate budgets.
- b. The Mayor and Auditor are hereby authorized and directed to accept assets and improvements resulting from said projects for the City of Portland, Bureau of Environmental Services and/or Portland Parks and Recreation.

Section 3. The Council declares that an emergency exists because the Corps of Engineers funding is contingent on fully executed agreements and the funding may be reassigned if the agreements are not executed in January 2011. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

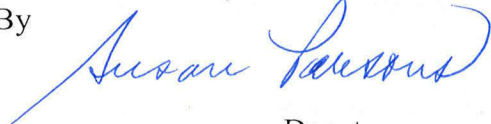
JAN 05 2011

Passed by the Council,  
Dan Saltzman  
Commissioner of Public Affairs  
Nick Fish  
Commissioner of Public Works

[Kaitlin Lovell, BES, Emily Roth, PPR]  
[December 9, 2010]

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

By



Deputy

Agenda No.  
**ORDINANCE NO. 184346**  
 Title

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<p align="center"><b>INTRODUCED BY</b>                  Commissioner/Auditor:  <b>Fish and Saltzman</b></p>	<p>CLERK USE: DATE FILED <u>DEC 30 2010</u></p>
<p align="center"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish <i>Mick Fish</i></p> <p>Position 3/Affairs - Saltzman <i>Saltzman</i></p> <p>Position 4/Safety - Leonard</p>	<p align="center">LaVonne Griffin-Valade                  Auditor of the City of Portland</p> <p>By: <u><i>LaVonne</i></u> Deputy</p>
<p align="center"><b>BUREAU APPROVAL</b></p> <p>Bureau: Environmental Services                  Bureau Head: Dean Marriott <i>DM</i></p> <p>Bureau: Portland Parks and Recreation                  Bureau Head: Zari Santner <i>Zari</i></p>	<p><b>ACTION TAKEN:</b></p>
<p>Prepared by: Kaitlin Lovell, BES                  Emily Roth, PPR                  Date Prepared: 12/9/10</p>	<p align="center">DEC 30 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  <b>January 5, 2011</b></p>	
<p>City Attorney Approval <i>AKS</i></p>	

<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 type="checkbox"/></p>	
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <u>30 min.</u>                  (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	✓	