

RESOLUTION No.

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Direct the Bureau of Environmental Services and the Office of Management and Finance, in consultation with and under the direction of the City Attorney's Office, to develop a strategy to satisfy potential Natural Resources Damages Claims related to Superfund (Resolution)

WHEREAS, the Portland Harbor of the Willamette River from River Mile 2 to River Mile 11.8 was designated a Superfund site in 2000; and

WHEREAS, in 2002 a federal, state, and Tribal Natural Resources Trustee Council was formed to develop and coordinate damage assessment activities at Portland Harbor and to plan for the restoration of natural resources; and

WHEREAS, the Superfund law gives the Natural Resource Trustees the authority to seek compensation for natural resources damaged by contamination at a Superfund site through the Natural Resource Damage Assessment (NRDA) process; and

WHEREAS, the City is a potentially responsible party for Superfund contamination, and anticipates some obligation to provide compensation for natural resource damages; and

WHEREAS, the City of Portland has provided funding to the Trustees for damage assessment and restoration planning work; and

WHEREAS, the Trustees recently completed a draft restoration plan and programmatic Environmental Impact Statement for restoration; and

WHEREAS, the City is committed to working collaboratively with the Trustees and other partners to advance the shared goal of a healthy Willamette River; and

WHEREAS, the City has identified restoration projects that meet City storm water management and healthy watershed goals; and

WHEREAS, the City has mutually agreed with the Trustees to calculate the NRDA restoration credit available in certain projects and to support and advance these projects for credit through the NRDA process; and

WHEREAS, the liability for Superfund will be determined through an allocation process, not scheduled to be completed for several years; and

WHEREAS, the City of Portland is committed to fulfilling all obligations and is willing to make early investments; and

WHEREAS, any NRDA credits the City may obtain that are not needed to meet the City's liability can be sold or traded to other Superfund contributing parties; and

WHEREAS, the City has received insurance receipts related to Superfund liability and has placed those funds within the City's Environmental Remediation Fund (ERF) at the Bureau of Environmental Services (BES); and

WHEREAS, the City has also collected funds from ratepayers for expenses related to Superfund, and placed those funds in the ERF; and

WHEREAS, the Council previously assigned to the BES the primary responsibility to respond to the Superfund listing because BES is the only City bureau with the necessary expertise, the BES system was named by the regulatory agencies as contributing to the City's identification as a potentially responsible party, and BES has responsibility under the Charter for managing streams, channels, and other waters and for improving City waterfronts; and

WHEREAS, the Council anticipates that if the City is ultimately held liable to pay costs and damages under Superfund, that the Council will then assess how best to assign those costs to its various agencies, bureaus, or funds, taking into account the bases of liability and the Council's authority under the Charter; and

WHEREAS, the Council finds that it is not reasonably possible at this time to determine the responsibility of individual City agencies, bureaus, or funds, for potential Superfund liability, if any, including potential NRDA claims;

NOW, THEREFORE, BE IT RESOLVED, that the Council designates the Environmental Remediation Fund as the primary fund for recording receipts of money for Superfund related activities, and

BE IT FURTHER RESOLVED, that any and all future insurance recoveries related to Superfund liability shall be placed within the Environmental Remediation Fund; and

BE IT FURTHER RESOLVED, that BES and OMF, in consultation with and under the direction of the City Attorney's Office, are directed to prepare recommendations for early action NRDA projects and appropriate funding strategies within 90 days; and

BE IT FURTHER RESOLVED, that upon the final determination of the City's total Superfund obligations, if any, including potential NRDA liabilities, OMF shall assist the Council in evaluating the basis of the City's liability and, if appropriate, shall recommend the assignment of financial obligations related to that liability among City agencies, bureaus, and funds and suggest funding mechanisms to meet those obligations.

Adopted by the Council: DEC 19 2012

Mayor Sam Adams

Prepared by: Jenna Papaefthimiou

Date Prepared: December 13, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By



Deputy

Agenda No.
RESOLUTION NO.
 Title

36990

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams Commissioner Dan Saltzman Commissioner Amanda Fritz</p>	<p>CLERK USE: DATE FILED <u>DEC 14 2012</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz <i>[Signature]</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>[Signature]</i></p> <p>Position 4/Safety - Leonard</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Office of the Mayor Bureau Head: Sam Adams <i>[Signature]</i></p>	<p>ACTION TAKEN:</p>
<p>Prepared by: Jonna Papaefthimiou Date Prepared: 13 December 2012</p>	
<p>Financial Impact & Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <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 19 December 2012</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 20 mins (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	✓	