

## ORDINANCE No. 186047

\*Authorize the Director of the Bureau of Environmental Services or designee and the City Attorney to enter into a settlement agreement with Kathleen Benafel. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On September 12, 2012 the Washington County Hearings Officer issued a conditional approval for the construction of the SW 86th Avenue Pump Station and Appurtenances ("the Project"), Washington County file no. 12-174-SU/D/FP.
2. One condition of the approval was that the City must "determine what additional measures are feasible to implement in order to reduce . . . impacts" to "any household [with] particular sensitivities to construction . . . ."
3. Ms. Kathleen Benafel lives at 7060 SW 84th Avenue, adjacent to the Project, and has represented to the City that she or a member of her family suffers from particular sensitivities to construction such as that required by the Project. Ms. Benafel has concluded that retrofitting her home is her only choice in the face of the estimated two years and nine months of construction.
4. The Bureau of Environmental Services ("BES") has concluded that it would be feasible and reasonable to pay a portion of Ms. Benafel's retrofitting costs.
5. BES proposes to pay Ms. Benafel up to \$51,000 upon the provision to BES of the invoices for these services.
6. Ms. Benafel will agree that this payment will fully discharge the City's obligations to her under the above-quoted condition of approval and that she will forever waive any claims against the City in relation to the potential impacts of the Project.
7. The established not-to-exceed cost is \$51,000. Funds are available in the Sewer System Operating Fund, FY 2013 Budget, Bureau of Environmental Services, Project Number E09051.

NOW, THEREFORE, the Council directs:

- a. The Director of the Bureau of Environmental Services or designee and the City Attorney are authorized to enter into a settlement agreement with Kathleen Benafel in substantial conformance with the agreement attached as Exhibit A, subject to approval as to form by the City Attorney.
- b. The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the Sewer System Operating Fund, FY 2013 Budget, Bureau of Environmental Services, Project Number E09051. when demand is presented and approved by the proper authority.

Section 2. The Council declares that an emergency exists because Ms. Benafel's home needs to be modified prior to construction of the pump station. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,  
Charlie Hales  
Office of the Mayor

MAY 29 2013

Debbie Caselton  
May 10, 2013

Cost object - ord

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



Deputy

580081

492

Agenda No.

ORDINANCE NO.

Title

186047

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<p><b>INTRODUCED BY</b> Commissioner/Auditor: <i>Mayor Charlie Hales</i></p>	<p>CLERK USE: DATE FILED <u>MAY 24 2013</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: Environmental Services Bureau Head: <i>Dean Marriott</i></p>	
<p>Prepared by: Debbie Caselton Date Prepared: May 10, 2013</p>	
<p><b>Financial Impact &amp; Public Involvement Statement</b></p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p><i>EM</i></p>	
<p><b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date <b>May 29, 2013</b></p>	<p><b>ACTION TAKEN:</b></p>
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</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 checked="" type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/></p> <p>Total amount of time needed: _____ (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. Novick	4. Novick	✓	
Hales	Hales	✓	