

## ORDINANCE No. 186181

\*Authorize the Director of the Bureau of Environmental Services or designee and the City Attorney to enter into a settlement agreement with Paul Herman not-to-exceed \$67,000 for retrofitting costs in regards to SW 86<sup>th</sup> Avenue Pump Station and Appurtenances Project (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. Mr. Paul Herman lives at 7025 SW 84th Avenue, adjacent to the Project, and has represented to the City that he or a member of his family suffers from particular sensitivities to construction such as that required by the Project. Mr. Herman has concluded that retrofitting his home is his 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 Mr. Herman’s retrofitting costs.
5. BES proposes to pay Mr. Herman up to \$67,000 upon the provision to BES of the invoices for these services.
6. Mr. Herman will agree that this payment will fully discharge the City’s obligations to him under the above-quoted condition of approval and that he 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 \$67,000. 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 Paul Herman 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.

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Section 2. The Council declares that an emergency exists because Mr. Herman'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.

000,000 for pump station

Passed by the Council,  
Commissioner Nick Fish

AUG 07 2013

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

By



Deputy

[Debbie Caselton]  
[July 16, 2013]

Cost object - ord

2-10-2013

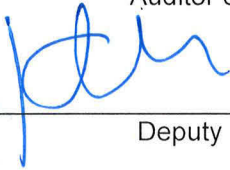
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756

✓140

Agenda No. **ORDINANCE NO. 186181**  
Title

\*Authorize the Director of the Bureau of Environmental Services or designee and the City Attorney to enter into a settlement agreement with Paul Herman, (Ordinance) *not-to-exceed \$67,000 for retrofitting costs in regards to SW 80th Avenue Pump Station and Appurtenances Project*

INTRODUCED BY Commissioner/Auditor: <b>Commissioner Nick Fish</b>	CLERK USE: DATE FILED <u>AUG 02 2013</u>
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Hales	By:  Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL	ACTION TAKEN:
Bureau: Environmental Services Bureau Head: <i>Dean Marriott</i>	
Prepared by: Debbie Caselton Date Prepared: July 16, 2013	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>YDS</i>	
Council Meeting Date <b>August 7, 2013</b>	

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

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	✓	