

ORDINANCE No. 186422

*Pay claim of Wilkins Trucking Co, Inc. involving Portland Parks and Recreation (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 26, 2002, by Ordinance 177163, the Council authorized the acceptance of an easement from Michael P. Wilkins and Wildish Land Company for a portion of the Columbia Slough Recreational Trail.
2. Michael P. Wilkins requested, and the Council also authorized by Ordinance 177163, that the City enter into an agreement to build a fence within the trail easement area to protect his private property from trespassers who might come from the trail.
3. The Easement was recorded and the Letter of Agreement for the construction of the fence was executed on February 7, 2003.
4. The fence construction required approval of Peninsula Drainage District #2. Despite its best efforts to do so, Portland Parks and Recreation has not been able to obtain the Drainage District's approval to construct the fence.
5. Michael P. Wilkins has made a claim that the City is in breach of its agreement to construct the fence, but offered to release the City from its obligation to build the fence in return for the payment of money.
6. The City Attorney has advised that there is risk that Mr. Wilkins might prevail on the claim.
7. Portland Parks and Recreation has determined that it is in the public interest to resolve this matter amicably.
8. The parties have negotiated, and have agreed that \$50,000 is fair compensation to Michael P. Wilkins for releasing the City from its obligation to build the fence.
9. Construction of the trail segment along this easement area is complete, and there is sufficient money in the project budget, primarily from elimination of the fence work from the scope of work, to pay this claim.

NOW, THEREFORE, the Council directs:

- a. The Commissioner in Charge is authorized to execute such documents as may be necessary to relieve the City of the obligation to build the fence,

per the Letter of Agreement previously authorized by Ordinance 177163, in return for payment by the City of \$50,000, once those documents have been approved as to form by the City Attorney

- b. The Mayor and the Auditor are authorized to issue a warrant made payable to Michael P. Wilkins, from the 2013-14 Budget, Fund #402, Project No.(WBS#) P10224, Center Code PKSB000013.

Section 2. The Council declares that an emergency exists in order to avoid delay in the resolution of this claim and in the closeout of the construction contract for the trail segment; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: JAN 22 2014

Commissioner: Amanda Fritz
Prepared by: Harry Auerbach
Date Prepared: January 8, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Susan Parsons
Deputy

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Agenda No.
ORDINANCE NO. 186422

Title

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Fritz</p> <hr/> <p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz <i>Amal Fritz</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <hr/> <p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Parks and Recreation Bureau Head: Michael Abbate <i>Michael Abbate</i></p> <p>Prepared by: Harry Auerbach Date Prepared: January 8, 2014</p> <p>Financial Impact Statement & Public Involvement Statement Completed <input 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>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>LA</i></p> <p>Council Meeting Date January 15, 2014</p>	<p>CLERK USE: DATE FILED <u>JAN 17 2014</u></p> <p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
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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 checked="" type="checkbox"/></p>
<p>REGULAR <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	✓	