

ORDINANCE No. **186463** As Amended

*Authorize agreements to implement settlement in *Wright et al v. City*; declare any property interest acquired through the Station Place Lot 7 assignment of parking agreement as not needed for public use and authorize disposition through termination of parking agreement (Ordinance)

The City of Portland ordains:

SECTION 1. The Council finds that:

1. On December 10, 2012, the City was sued in a declaratory and injunctive relief legal action in Multnomah County Circuit Court, case no. 1212-15728, ("the Lawsuit") filed by plaintiffs Michael and Linda Wright, Daniel and Donna Cossette and Right to Dream Too ("R2DToo") over the Bureau of Development Services' (BDS') assessed code enforcement fines, penalties and interests against the property at the northeast corner of NW 4th Avenue and E Burnside Street ("4th/Burnside Property"). The Wrights and Cossettes had permitted R2DToo to occupy and undertake certain rest area activities at the 4th/Burnside Property for assisting houseless persons.
2. On or about September 25, 2013, for the purpose of resolving the Lawsuit without the need for protracted litigation, the parties to the Lawsuit including the City executed a Settlement Agreement and Mutual Release. Commissioner Fritz agreed to the City's signing of the Settlement Agreement as the commissioner in charge of BDS. In the Settlement Agreement, the City agreed to undertake certain good faith efforts to assist R2DToo in moving to a PDC owned surface parking lot located adjacent to NW Lovejoy Court and underneath the NW Lovejoy Street vehicle off-ramp, and known as "Station Place Lot 7" or "Lot 7".
3. On or about October 3, Mayor Hales asked Commissioner Fritz, staff and R2DToo to work with property owners known as "The Pearl Group" in finding an alternate location suitable for the R2DToo rest area and its houselessness advocacy activities.
4. The City has been in discussion with PDC, R2DToo, and The Pearl Group in this effort to find suitable alternate siting options.
5. The City has employed the services of real estate brokers at Cushman & Wakefield to find sites based on certain criteria mutually acceptable to the City and R2DToo, including having the potential alternate location(s) be within 1.5 miles radius of the Portland Building and 'near public transportation'. R2DToo and the City will continue working in collaboration until a suitable site, mutually agreeable to the City and R2DToo for is identified and purchased or rented. The City currently has no funds for buying or renting a new site for R2DToo.

6. Lot 7 is located in the River District Urban Renewal Area. Lot 7 is encumbered by property interests of Station Place LLC and SP Tower Limited Partnership through a May 1, 2009 parking agreement.
7. The Mayor's Office and Commissioner Fritz, in good faith and in partnership with Portland Development Commission staff and leaders, have been working diligently to facilitate agreements amongst the interested parties and broker transactions to meet the intent and purpose of the Settlement Agreement
8. To that end, PDC has agreed to enter into a purchase and sale agreement of Lot 7 to Pearl Hotel Investors LLC, an Oregon limited liability company. A portion of the Lot 7 sales proceeds (\$142,000) is restricted and must be returned to the urban renewal district within which Lot 7 is located.
9. Station Place LLC and SP Tower Limited Partnership have agreed to assign and transfer their parking agreement encumbrance interest in Lot 7 to the City for a fee of \$50,000.
10. The City upon receipt of the assignment of parking agreement encumbrance interest will terminate the parking agreement. For the termination, Pearl Hotel Investors LLC has agreed to pay the sum of \$896,000 to the City. The balance after paying the parking encumbrance fee of \$50,000 will be used for funding an alternate site for relocating R2DToo that is mutually agreeable to the City and R2DToo. Such funding may include but not be limited to: the purchase or leasing of an alternative site; improvements to such site; and operations at such site. R2DToo will work with Commissioner Fritz to identify appropriate additional uses of the funds to address houselessness, if there is any money left after funding the alternative site as set forth above. The allocation of such remainder funds, if any, shall be made with the approval of R2DToo.
11. There is no public need to retain the property interest the City will acquire from the assignment of the parking agreement. It will serve the City's and the public's interest to terminate the parking agreement encumbrance interest in order to generate funds that can be used to satisfy the undertakings and obligations that the City has to R2DToo for addressing concerns of people experiencing houselessness..

NOW, THEREFORE, the Council directs:

- a. In order to fulfill the City's obligations under the Settlement Agreement and pursue the transactional goals set forth in the findings, including obtaining funds for site preparation, relocation of R2DToo and addressing homelessness concerns, the Mayor and Commissioner Fritz, or their designees, are delegated the authority to negotiate with all interested parties including R2DToo, Pearl Hotel Investors LLC and other interested persons, and to execute necessary agreements, contracts and

amendment to such agreements, subject to approval to form by the City Attorney's Office, including but not limited to the following agreements to:

- i) Enter into formal or informal interagency cooperation from PDC for its commitment related to Lot 7 transfer and disbursal of funds to the City;
 - ii) Accept assignment of parking agreement interest from Station Place LLC and SP Tower Limited Partnership as related to Lot 7 and appropriate funds to satisfy the fees require to be paid for the assignment;
 - iii) Terminate the parking agreement for Lot 7 and direct funds that are received from Pearl Hotel Investors LLC associated with the termination to be used for the purposes stated herein, and,
 - iv) Enter into appropriate use agreement of the future alternate site that may be found for R2DToo upon conditions of use or occupancy that are acceptable to the City and to R2DToo.
- b. Further, the Mayor and Commissioner Fritz are delegated the joint authority to:
- i) Work cooperatively with PDC so that if the 4th/Burnside Property should become a PDC owned site, then R2DToo will be allowed to stay at that site until the City finds a suitable alternate site to relocate R2DToo;
 - ii) Waive the BDS assessed code enforcement fines, fees, penalties and interests that arose related with R2DToo's occupancy of the 4th/Burnside Property, which was the subject of the Lawsuit, so that they are permanently dismissed on adoption of this ordinance;
 - iii) Direct the Director of BDS to refrain in assessing new fines for the presence of the R2DToo rest area against the 4th/Burnside Property; and,
 - iv) Take reasonable actions to assist R2DToo collaboratively in finding a new site where the R2DToo use per their current model is allowed by right under applicable regulations.
- c. The property interest the City may temporally acquire through the assignment of the parking agreement shall be deemed not needed for public use and surplus to the City and may be disposed of through the termination of the parking agreement as set out in this Ordinance.

SECTION 2. The Council declares that an emergency exists because a delay would unnecessarily delay the City's ability to satisfy its obligations under the Settlement Agreement. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:

FEB 19 2014

Mayor Hales/Comm. Fritz
Prepared by: Comm. Fritz
Date Prepared: Feb. 6, 2014

LaVonne Griffin-Valade

Auditor of the City of Portland

By *Gaia Jennings*

Deputy

Agenda No. **186463** As Amended
ORDINANCE NO.
 Title

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Hales and Comm. Fritz</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz <i>[Signature]</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau Head:</p> <p>Prepared by: T. Bizeau Date Prepared: 2/6/14</p> <p>Financial Impact & Public Involvement Statement 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 type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p> <p>Council Meeting Date 2/12/14</p>	<p>CLERK USE: DATE FILED FEB 07 2014</p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN: FEB 12 2014 PASSED TO SECOND READING As Amended FEB 19 2014 9:30 A.M.</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 type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <u>30</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. Novick	4. Novick	✓	
Hales	Hales	✓	