

ORDINANCE No. 187565 As Amended

*Authorize an exemption to the competitive bidding process pursuant to ORS Chapter 279C and City Code Chapter 5.34 for construction of certain Green Street facilities funded by % for Green program (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland adopted the Green Street Policy and Cross Bureau Report in April 2007 through Resolution No. 36500. Green Streets collect runoff and provide natural stormwater treatment reducing demand on the wastewater treatment plant in the combined sewer basin, and improving water quality for streams and rivers in the separated stormwater system. Currently, there are approximately 1,600 Green Street facilities throughout the City.
2. Green Streets are a key part of the City's sustainable stormwater strategy to meet the goals of Portland's *Watershed Management Plan* adopted in 2006 through Resolution No. 36384. They also help the City meet regulatory requirements in the combined sewer basins and in the Municipal Separate Storm Sewer System (MS4) where the Phase I National Pollutant Discharge Elimination System (NPDES) applies.
3. To achieve these goals, the City depends on voluntary cooperation from private landowners and citizens. Partnerships with private individuals, institutions and businesses help to advance the City's goals by leveraging projects to achieve greater and more cost-effective results. The % for Green Program provides a competitive process by which public and private projects may request funding for voluntary stormwater additions to projects. Because these Green Streets are not otherwise required by federal, state, or local requirements, and are strictly voluntary, it is unlikely that the projects would happen without a private-public partnership. BES would like to provide funds for a portion of the total cost of these Green Street projects that would not otherwise occur without this public funding.
4. The City Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS Chapter 279.
5. On May 5, 2010, Council approved Ordinance No. 183749 authorizing an exemption to the competitive bidding process for construction of Green Street facilities involving private-public partnerships awarded through the % for Green Program. This exemption from competitive bidding was effective for a five-year period. A re-authorization of the exemption is necessary for BES to continue to fund Green Street projects initiated by private developers through the % for Green Program.
6. Draft Findings (Exhibit A) addressing cost savings, competition, operational, budget and financial data, public benefits, value engineering, specialized expertise required, market conditions, technical complexity, public safety, and funding sources were made available 14 days in advance of the public hearing of this ordinance.
7. A limited number of projects in the overall % for Green program will qualify for the exemption from competitive bidding. Exempted projects will comply with the Draft Factual Findings attached as Exhibit A.

8. The City will realize cost savings from the exemption because of: 1) construction, mobilization and material economies from incorporating Green Streets into existing private projects; 2) project management provided by private landowners; and 3) the reduced cost of construction due to developers' monetary and in-kind contributions such as land and/or easements, direct construction costs, contract management and public outreach and education.
9. The exemption provided in this ordinance is effective for the five-year period following the adoption of this ordinance.

NOW, THEREFORE, the Council directs:

- a. The Findings attached as Exhibit A to this ordinance are hereby adopted.
- b. Green Street projects consistent with Exhibit A are hereby exempt from the competitive bidding requirements of ORS Chapter 279C and City Code Chapter 5.34.150.
- c. The Director of the Bureau of Environmental Services is authorized to execute contracts not exceeding \$500,000 each for Green Street projects covered by this ordinance.
- d. The Director of the Bureau of Environmental Services is authorized to execute amendments to these contracts that do not increase the contract amount above \$500,000.
- e. A performance bond and a payment bond each in the amount of 100% of the amount of the contract must be furnished by the public-private partner or by the contractor hired by the public-private partner to perform the work.
- f. The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the Sewer System Operating and Capital Fund Budget when demand is presented and approved by the proper authority.

Section 2. The Council declares that an emergency exists because construction is anticipated to start soon on a % for Green project covered by this ordinance and any delay may hold up the construction. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,
Commissioner Nick Fish

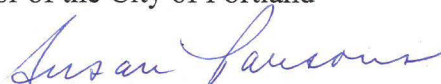
[Ivy Dunlap]
[December 22, 2015]

Cost object - ord

JAN 27 2016

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

Agenda No.
ORDINANCE NO. 187565 As Amended
 Title

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program

INTRODUCED BY Commissioner/Auditor: Fish	CLERK USE: DATE FILED <u>JAN 19 2016</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	Mary Hull Caballero Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy
BUREAU APPROVAL Bureau: Environmental Services Bureau Head: Michael Jordan Prepared by: Ivy Dunlap Date Prepared: December 22, 2015 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 Council Meeting Date 1/27/16	ACTION TAKEN:

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion) CONSENT <input type="checkbox"/> REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 15 (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	✓	