

## ORDINANCE No. 187662

\* Authorize an agreement with TriMet to allow construction of a building over the Tanner Creek Sewer and grant a replacement easement (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Tri-Met owns the property located between SW 18<sup>th</sup> & SW 17<sup>th</sup> and SW Salmon and SW Taylor (“the Property”). It is currently used as a surface parking lot.
2. Tri-Met desires to redevelop the Property as a mixed-use Transit Oriented Development (TOD). The TOD will be consistent with City of Portland and regional Metro goals that advocate for redevelopment of surface parking lots adjacent to light rail stations into TODs.
3. The City’s Tanner Creek Sewer (72” brick), a combined sewer (“the Sewer”), is located across the northern portion of the Property and is protected by a permanent, public, sewer easement (“the Easement”). The Sewer is approximately 40 feet below the grade surface of the Property.
4. BES generally does not allow construction of buildings over sewers but is willing to allow construction of a TOD over the Sewer and allow associated encroachment upon the Easement for the purpose of constructing, occupying and maintaining the foundation and structures through, under and along the Property, in accordance with the terms of Exhibit A.
5. The parties entered into two separate but related intergovernmental agreements effective October 8, 2004 titled “Intergovernmental Agreement Between City of Portland and Tri-County Metropolitan Transportation District of Oregon for Indemnification Related to Structures Over Tanner Creek Sewer in the Butler Block” and “Intergovernmental Agreement Between City of Portland and Tri-County Metropolitan Transportation District of Oregon for Establishment of Structures Over Tanner Creek Sewer in the Butler Block.” (Ordinance 178778, September 29, 2004) The parties have agreed to terminate those agreements and to replace them with Exhibit A.
6. Because the Easement is nearly illegible, TriMet will grant BES a new easement on the northern portion of the property before selling the property.
7. As a condition of BES’ consent to allow the encroachment over the sewer, BES requires that Tri-Met indemnify BES in accordance with the terms and conditions in Exhibit A.

NOW, THEREFORE, the Council directs:

- a. The Director of the Bureau of Environmental Services is authorized to enter into an agreement in substantial conformance with Exhibit A for the purpose described in Section 1 and to accept a public, permanent, sewer easement from TriMet protecting the Sewer.

Section 2. The Council declares that an emergency exists because Tri-Met has an interested buyer in the property and failure to pass this ordinance as an emergency could delay the transaction. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

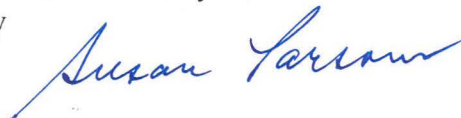
Passed by the Council,  
Commissioner Nick Fish

APR 06 2016

Elisabeth Reese Cadigan  
March 15, 2016

**Mary Hull Caballero**  
Auditor of the City of Portland

By



Deputy

with

\* Authorize an Agreement between Tri-County Metropolitan Transportation District of Oregon and the Bureau of Environmental Services to allow construction of a building over the Tanner Creek Sewer and grant BES a replacement easement (Ordinance)

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Fish</b>	CLERK USE: DATE FILED <u>MAR 29 2016</u>
<b>COMMISSIONER APPROVAL</b>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p> <p><b>ACTION TAKEN:</b></p>
Mayor—Finance and Administration - Hales	
Position 1/Utilities - Fritz	
Position 2/Works - Fish <u>Ni</u>	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
<b>BUREAU APPROVAL</b>	
Bureau: Environmental Services Bureau Head: Michael Jordan <u>with Michael Jordan</u>	
Prepared by: Elisabeth Reese Cadigan Date Prepared: March 1, 2016	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> <u>Est</u>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> <u>FB</u> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date <b>March 30, 2016</b> <u>April 6</u>	

<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 type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> <b>Total amount of time needed: 10 minutes</b> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Novick	✓	
Hales	✓	