

ORDINANCE No. 187684

Authorize the Bureau of Environmental Services to acquire certain permanent and temporary property rights necessary for the Beaverton-Hillsdale Hwy Drainage Retrofits for Water Quality Project through the exercise of the City's Eminent Domain Authority (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland may exercise the power of eminent domain pursuant to Section 9-108 of the City Charter when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, provided that power is exercised in accordance with the eminent domain procedures established by Oregon Revised Statutes Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation, and early possession if necessary.
2. The City of Portland has the responsibility to provide sewage and stormwater collection and treatment services to accommodate the City's current and future needs and to protect public health, water quality and the environment.
3. The project known as the Beaverton-Hillsdale Hwy Drainage Retrofits for Water Quality Project ("the Project") has been planned in accordance with appropriate engineering standards for the construction, maintenance, or improvement of the City's sewer infrastructure in a way that minimizes property damage, protects public health and safeguards the environment.
4. The Project will include: construction of above ground vegetated planters (green streets) and underground stormwater filter structures. The result will be improved stormwater quality and stream health in Fanno Creek.
5. To accomplish the Project's goals set forth above and to construct the Project as designed, the City must acquire the property interests described on Exhibits A-1 through A-6 and depicted on Exhibits B-1 through B-6 attached to this Ordinance and by this reference incorporated herein.
6. The City must acquire possession of these property interests by December 1, 2016 so that construction can begin on schedule.
7. The Bureau's level of confidence in the cost estimates for this project is moderate. Funds are available in the Sewer System Operating Fund, FY 2016-2017 Budget, Project No. E08675.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described on Exhibits A-1 through A-6 and depicted on Exhibits B-1 through B-6 to this Ordinance for the Project, for which the City is authorized by law to acquire property, and that the Project has been planned, designed, located, and will be constructed in a manner that will be most compatible with the greatest public good and the least private injury.
- b. That the Director of the Bureau of Environmental Services or designee and the City Attorney are each authorized to acquire the necessary property interests described herein for the Project under the eminent


domain authority of the City, including filing an action to acquire said property interests or negotiating just compensation with property owners within available project budget funds. The Director of the Bureau of Environmental Services or designee and the City Attorney are each further authorized to enter into obligations agreements with property owners to address construction management concerns within available project budget funds.

- c. That the power of eminent domain is hereby exercised with respect to each of the interests in property described on Exhibits A-1 through A-6 and depicted on Exhibits B-1 through B-6. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
- d. That the Bureau of Environmental Services' staff and the Office of the City Attorney are authorized to compensate property owners and other persons-in-interest for each acquisition. In the event that no satisfactory compensation agreement can be reached, the City may commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined or determinable by the City Council.
- e. That the Bureau of Environmental Services is authorized to determine the continuing necessity or propriety of the acquisition authorized by this Ordinance, its quantity, quality, or locality, and to reduce or abandon any acquisition described on Exhibits A-1 through A-6 and depicted on Exhibits B-1 through B-6.
- f. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for each interest in the property which, if necessary, shall be deposited with the clerk of the court where an action is commenced.
- g. The costs incurred in connection with the acquisition authorized herein shall be charged to the Beaverton-Hillsdale Hwy Drainage Retrofits for Water Quality Project No. E08675.
- h. The Commissioner-in-Charge and the Auditor are hereby authorized to draw and deliver warrants chargeable to the Sewer System Operating Fund Budget when demand is presented and approved by the proper authority.

Passed by the Council, APR 20 2016

Commissioner Nick Fish
Prepared by: Scott T. Gibson
Date Prepared: March 9, 2016
R/W #8071

Mary Hull Caballero
Auditor of the City of Portland
By

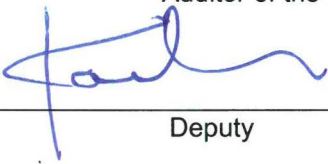
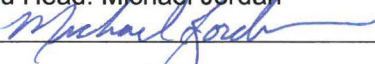



Deputy

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Agenda No.
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Title

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INTRODUCED BY Commissioner/Auditor: FISH	CLERK USE: DATE FILED <u>APR 05 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: _____ Deputy
BUREAU APPROVAL Bureau: Environmental Services Bureau Head: Michael Jordan  Prepared by: Scott Gibson Date Prepared: 3/9/16 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 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 <u>13</u> April 6, 2016	ACTION TAKEN: APR 13 2016 PASSED TO SECOND READING APR 20 2016 9:30 A.M.

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