

ORDINANCE No. 187914

Authorize the Bureau of Environmental Services to acquire certain permanent property rights necessary for construction of the Fanno Basin Pressure Line System Upgrade Project No. E10599 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 Fanno Basin Pressure Line System Upgrade 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: Upgrading two existing parallel 30-inch diameter welded steel pressure sewer lines by removing 18 tee sections that are subject to stress concentrations that can result in leakage cracking, and upgrading the pressure monitoring and reporting station at SW 69th Ave & Railroad Street to provide real-time reporting of pressures in the pipelines. The result will be significant increase in long term reliability of a key pressure line system that conveys up to 30.4 million gallons per day from the Fanno Creek Basin sewer collection system to the City of Portland's sewage conveyance and treatment system.
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 Exhibit A and depicted on Exhibit B attached to this Ordinance and by this reference incorporated herein.
6. The City must acquire possession of these property interests by September 30, 2016 so that construction can proceed on schedule.
7. The Bureau's level of confidence in the cost estimates for this project is optimal. Funds are available in the Sewer System Operating Fund, FY 2015-2016 Budget, Project No. E10599.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described on Exhibit A and depicted on Exhibit B 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 Exhibit A and depicted on Exhibit B. 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 Exhibit A and depicted on Exhibit B.
- 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 Fanno Basin Pressure Line System Upgrade Project No. E10599.
- 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,
Commissioner Nick Fish

JUL 27 2016

Scott Gibson
June 14, 2016

E10599 - ord

Mary Hull Caballero
Auditor of the City of Portland

By

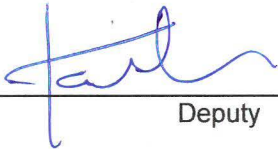

Gayla Jennings

Deputy

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Agenda No.
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Title

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INTRODUCED BY Commissioner/Auditor: Commissioner Fish	CLERK USE: DATE FILED <u>JUL 12 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: June 14, 2016 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"/>	ACTION TAKEN: JUL 20 2016 PASSED TO SECOND READING JUL 27 2016 9:30 A.M.
City Auditor Office Approval: City Attorney Approval:  Council Meeting Date July 20, 2016	

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: 10 minutes (for presentation, testimony and discussion)	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS: <table border="1"> <thead> <tr> <th></th> <th>YEAS</th> <th>NAYS</th> </tr> </thead> <tbody> <tr> <td>1. Fritz</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>2. Fish</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>4. Novick</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Hales</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		YEAS	NAYS	1. Fritz	<input checked="" type="checkbox"/>		2. Fish	<input checked="" type="checkbox"/>		3. Saltzman	<input checked="" type="checkbox"/>		4. Novick	<input checked="" type="checkbox"/>		Hales	<input type="checkbox"/>	<input type="checkbox"/>
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