

ORDINANCE No. 189156

Authorize the Bureau of Environmental Services to acquire certain permanent and temporary property rights necessary for construction of the Hillsdale Crest Rainfall Derived Infiltration and Inflow Project No. E10941, through the exercise of the City's Eminent Domain Authority (Ordinance).

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to City Charter, Section 9-108, the City may exercise the power of eminent domain when deemed necessary by the City Council to accomplish public purposes for which the City has responsibility, provided power is exercised in accordance with the 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 BES project known as the Hillsdale Crest RDII 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, promotes healthy ecosystems and safeguards the environment.
4. The Project will include the lining of 18,500 linear feet of 8" and 12" diameter sanitary sewer mains and public laterals using Cured-in-Place Pipe (CIPP). The result will be the rehabilitation of sewer lines, originally installed in the 1950's, reducing infiltration and inflow into the sanitary sewer system and lowering the possibility of sanitary overflow into streets and rivers.
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 and depicted in Exhibits A through D, attached to this Ordinance and by this reference incorporated herein.
6. The City must acquire possession of these property interests by December 20, 2018 so construction of the Project can begin on schedule.
7. Funds are available in the Sewer System Operating Fund, FY 2018-2019 Budget, BES Project No. E10941.

NOW, THEREFORE, the Council directs:

- a. That it is hereby declared that it is necessary to acquire the property interests described and depicted in Exhibits A through D attached 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.

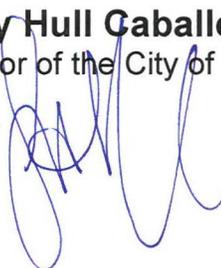
- c. That the power of eminent domain is hereby exercised with respect to each of the interests in property described and depicted in Exhibits A through D. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
- d. That the Bureau of Environmental 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 and depicted in Exhibits A through D.
- f. Exhibits A through D hereby authorize 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 Sewer System Operating Fund, FY 2018-2019 Budget, BES Project No. E10941.
- 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, SEP 05 2018
Commissioner Nick Fish

Prepared by: Scott T. Gibson, PE
Date Prepared: July 13, 2018

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

Agenda No.
ORDINANCE NO. 189156
Title

Authorize the Bureau of Environmental Services (BES) to acquire certain permanent and temporary property rights necessary for construction of the Hillsdale Crest Rainfall Derived Infiltration and Inflow (RDI) Project, BES Project Number E10941, through the exercise of the City's Eminent Domain Authority (Ordinance).

<p align="center">INTRODUCED BY Commissioner/Auditor: Nick Fish</p>	<p>CLERK USE: DATE FILED <u>AUG 21 2018</u></p>
<p align="center">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish <i>Nia R</i></p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p>	<p align="center">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p align="center">BUREAU APPROVAL</p> <p>Bureau: Environmental Services Bureau Head: Michael Jordan <i>Michael Jordan</i></p> <p>Prepared by: Scott T Gibson, PE Date Prepared: July 13, 2018</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 checked="" 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 August 29, 2018</p>	<p>ACTION TAKEN: AUG 29 2018 PASSED TO SECOND READING SEP 05 2018 9:30 A.M.</p>

<p align="center">AGENDA</p> <p>TIME CERTAIN <input type="checkbox"/> 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"/> Total amount of time needed: 10 min (for presentation, testimony and discussion)</p>
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FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	