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191045

Ordinance

Amend annual grant fund limit not to exceed \$450,000 for the Habitat Fund in support of the Bull Run Water Supply Habitat Conservation Plan (amend Ordinance No. 184345)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Ordinance No. 182235, passed by the Council on October 1, 2008, authorized an agreement between the Water Bureau and the National Marine Fisheries Service to implement the Bull Run Water Supply Habitat Conservation Plan (HCP). The HCP is a regulatory agreement that commits the City of Portland (City) to take specific measures to address the impacts of Portland's drinking water system on the Bull Run River and larger Sandy River Basin. Implementation of the HCP is required to for the City of Portland's municipal water supply operations to maintain compliance with the federal Endangered Species Act and the Clean Water Act.
2. The HCP included the establishment of a Habitat Fund, dedicated to projects that improve habitat conditions for federally listed fish species in the Sandy River Basin. The HCP commits the City to allocate a total of \$5 million in Habitat Fund grants over 20 years (until FY 2029/30) to other entities to improve fish habitat in the Sandy River Basin.
3. Ordinance No. 184345, passed by the Council on January 5, 2011, authorized the Water Bureau to execute grants to improve salmon habitat through the Habitat Fund established by the HCP. The grant funds are currently capped at \$250,000 per year through FY 2029-30.
4. The HCP outlines requirements for Habitat Fund projects. Decisions on funding, per terms of the HCP, are made by the Portland Water Bureau and National Marine Fisheries Services.
5. Since 2011, the Water Bureau has entered into 18 agreements with other agencies and organizations to fund nearly \$2 million in salmon habitat restoration projects to increase the productivity of Sandy River

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Water](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

October 26, 2022

Basin salmon and steelhead.

6. Despite these successes, the City is not on pace to meet its Habitat Fund financial commitments by FY 2029/30. The annual pace of spending has been slower than anticipated due to the time required to initially establish the Habitat Fund program and occasional delays in implementation of some large and complex projects. Increasing the annual amount available for Habitat Fund grants to \$450,000 enables the City to catch up and meet its HCP regulatory commitments by FY29/30.
7. Funds granted to partners from the Habitat Fund shall not exceed \$450,000 per year for FY 2022-23 through FY 2029-30. The Water Bureau Funds will be requested in the FY 2022-23 through 2029-30 Budgets.
8. The Water Bureau will enter into agreements with local, regional, state, federal, and tribal governments and agencies; special districts; educational institutions; and community and nongovernmental organizations to expend the funds in accordance with the terms of the HCP
9. Funds appropriated for these purposes will be distributed to organizations pursuant to grant agreements or intergovernmental agreements generally in a form similar to the agreement attached as Exhibit A, subject to alterations appropriate in individual circumstances as approved by the Administrator and the City Attorney's Office.

NOW, THEREFORE, the Council directs:

- A. Amend Ordinance 184345, Finding 7, to increase the funds granted from the Habitat Fund not to exceed \$450,000 per year for FY 2022-23 through FY 2029-30.

Documents and Exhibits

 [Exhibit A](#) (65.5 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
October 26, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

The Water Bureau worked for nearly a decade with numerous agencies and organizations to develop the Bull Run Water Supply Habitat Conservation Plan (HCP), approved by City Council in 2009. The HCP is a 50-year regulatory agreement between the City and National Marine Fisheries Services (NMFS) that enables the City to comply with the federal Endangered Species Act (ESA) and Clean Water Act. Among the 49 measures the City is obligated to implement, is a commitment to provide \$5 million in grants over 20 years (until FY 2029/30) to other agencies and organizations to improve habitat conditions for ESA-listed fish in the Sandy River Basin. Ordinance No. 184345, passed by Council in 2011, authorized the Water Bureau Administrator to execute grant agreements and intergovernmental agreements with selected government and non-governmental entities through FY 2029-30 to support projects to restore salmon habitat in the Sandy River Basin. The authorizing ordinance capped the per-year grant limit at \$250,000. This ordinance will increase that limit to \$450,000. It also clarifies the legislative intent of the ordinance to allow the Water Bureau to enter into agreements with a broad range of entities, including tribal governments.

The Water Bureau is currently not on track to meet its \$5 million regulatory commitment and will be unable to meet that commitment under the current spending level cap. To date (through FY22-23), the Water Bureau has allocated nearly \$2 million for salmon habitat restoration in the Sandy River Basin. The annual pace of spending has been slower than anticipated due to the time required to initially establish the Habitat Fund program and occasional delays in implementation of some large and complex projects. The increase in annual grant capacity allows the Water Bureau to meet its regulatory commitment.

Per terms of the HCP, all projects receiving grants will continue to be guided by the Sandy River Basin Aquatic Habitat Restoration Strategy (Strategy). The Strategy guides ESA-listed fish habitat restoration in the Sandy River Basin. All final funding decisions will continue to be made by the City and NMFS, as directed by the HCP.

The HCP was approved in October 2008 by City Council through Ordinance No. 182235 and was formally approved by NMFS in April 2009. The HCP is a regulatory plan to protect and improve aquatic habitat in and around the Bull Run River, including the Sandy River Basin, while continuing to manage the Bull Run watershed as a drinking water supply for the City.

Financial and Budgetary Impacts

As part of the HCP, the City created a \$5,000,000 Habitat Fund grant program dedicated to supporting ESA-listed fish habitat restoration projects in the Sandy River Basin. Since the City Council agreed to authorize grants from the Habitat Fund in 2011, 18 grants and agreements have been awarded for a total of nearly \$2 million. Funds granted were originally capped at \$250,000 per year

for fiscal years FY 2011-12 through FY 2029-30. This ordinance will increase the available grant amount to an amount not to exceed \$450,000 per year. Funds will be requested in the FY 2022-23 through 2029-30 Budgets.

Community Impacts and Community Involvement

The Water Bureau is committed to the stewardship of the Bull Run Watershed and honoring our responsibility to serve excellent water every minute of every day. Positive project impacts include habitat improvements in the lower Bull Run River and Sandy River Basin benefitting anadromous fish and other species, and long-term regulatory compliance with the federal Endangered Species Act and Clean Water Act for Portland's drinking water utility. Project impacts of the HCP include financial impacts to the ratepayers of the Water Bureau and construction impacts from some measures on communities in the Sandy River Basin, where HCP projects will occur.

The Water Bureau, in coordination with the City's Tribal Relations office, reached out to the Confederated Tribes of the Grand Ronde (Grand Ronde), the Confederated Tribe of Siletz Indians (Siletz), the Cowlitz Indian Tribe (Cowlitz), the Confederated Tribes of the Colville Reservation (Colville), and the Columbia River Intertribal Fish Commission (CRITFC) to have conversations about the tribes' interests in the Sandy River Basin. Those conversations are the foundation of a long-term partnership and communication on fish and habitat restoration in the basin. Initial conversations with tribes convey a high level of support for any work that supports recovery of salmon and their habitat, like that funded by the Habitat Fund, as this work is valuable for maintaining salmon, a critical element of Native culture in the Pacific Northwest. The proposed ordinance clarifies legislative intent of the ordinance by explicitly including tribal governments in the list of entities that the Water Bureau may enter into agreements with for Habitat Fund grants.

The HCP was shaped over a 10-year planning process, starting in the 1990s, with the participation of a wide range of public agencies, nongovernmental organizations, community interest groups, and many members of the public. These groups provided key input that directly influenced the proposed set of measures the Water Bureau included in the proposed HCP, which was then evaluated by NMFS through a full National Environmental Policy Act (NEPA) process.

100% Renewable Goal

n/a

Budget Office Financial Impact Analysis

This ordinance increases the annual grant fund limit from \$250,000 to \$450,000. The Habitat Conservation Plan (HCP) commits \$5 million starting in FY 2009 for 20 years, ending in FY 2030, with \$2 million allocated in salmon restoration projects. Increasing the amount available for Habitat Fund grants will enable the City to meet the regulatory goals of the HCP. The bureau will request the difference through FY 2030 from Water Bureau Funds.

Agenda Items

866 Consent Agenda in [October 19, 2022 Council Agenda](#)

Passed to second reading

Passed to second reading October 26, 2022 at 9:30 a.m.

896 Regular Agenda in [October 21-27, 2022 Council Agenda](#)

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea