

September 10, 2021

MEMORANDUM

To: Transportation and Utilities Committee
From: Brian Goodnight, Analyst
Subject: CB 120175: RainCity Partnership Program Authorization

On September 15, the Transportation and Utilities Committee will consider and possibly vote on Council Bill (CB) 120175, a bill that would authorize Seattle Public Utilities (SPU) to enter into the type of agreements covered by [RCW 70A.140.040](#) for the construction and operation of water pollution control projects using green stormwater infrastructure (GSI) and other nature-based approaches. This memorandum provides background information, summarizes the relevant state provision, and describes the benefits that SPU believes this authorization would provide to the City.

Background

In July 2013, the Council adopted [Resolution 31459](#) recognizing GSI as a critical aspect of a sustainable drainage system and setting a goal for Seattle to manage 700 million gallons of stormwater annually with GSI methods by 2025. The resolution also established a policy for the City, in part, to:

- Rely on GSI for stormwater management wherever it is technically feasible and aligned with urban development priorities,
- Encourage and facilitate the implementation of GSI on private land, where appropriate, and
- Explore novel and innovative funding, financing, and partnership opportunities to support GSI implementation.

In partnership with King County's Wastewater Treatment Division, SPU operates a website (<https://700milliongallons.org/>) focused on GSI and offering educational resources and program information. That website describes GSI as attempting to mimic nature by capturing, slowing down, and cleaning stormwater runoff that can wash pollution from rooftops, roads, and other hard surfaces into local waterways. "Unlike pipes and treatment plants that collect and clean runoff after it travels for miles, GSI uses plants, trees, soil, and engineering to reduce rainwater pollution and overflows in our drainage and sewer systems." SPU estimates that in 2020, the City and its partners managed approximately 410 million gallons of stormwater with GSI.

Earlier this year, the Council adopted SPU's 2021–2026 Strategic Business Plan via [Resolution 32000](#). The plan highlights GSI as one type of investment supporting the department's efforts to "advance climate-resilient, nature-based, and community-led solutions." The plan also contains

a commitment to manage 510 million gallons of stormwater runoff annually with GSI investments by 2023, making progress towards the City's 2025 goal.

State Provision

[RCW 70A.140.040](#) authorizes the legislative authority of a public body to enter into an agreement with a service provider "to perform one or more of the following services: Design, finance, construct, own, operate, or maintain water pollution control facilities by which services are provided to the public body." State law also lists a number of procedures that jurisdictions must follow when entering into agreements authorized by this section. A few notable requirements are:

- The public body must publish notice for two consecutive weeks that it is seeking to enter into agreements for certain services.
- The request for proposals process must include evaluation criteria, list any minimum requirements or other limitations, and require the respondents to demonstrate that it is in the public interest to enter into the service agreement.
- Before the public body enters into a service agreement, the agreement must be reviewed by the Washington State Department of Ecology to ensure consistency with other chapters of state law (specifically Reclaimed Water Use, [Chapter 90.46 RCW](#), and Water Pollution Control, [Chapter 90.48 RCW](#)).
- The public body must hold a public hearing on the proposal and make written findings that it is in the public interest to enter into the agreement and that the service agreement is financially sound and advantageous compared to other methods.

Many of the required procedures are directed at the legislative authority of the public body or its designee, and the authority granted in the proposed bill would allow SPU to fulfill those requirements on behalf of the City.

RainCity Partnership Program

SPU is intending to use the authority that would be delegated in the proposed bill to pilot a new program, known as the RainCity Partnership program, that will fund community-identified GSI improvements in areas with high-priority drainage and wastewater system needs.

Rather than the department entering into many small individual agreements for GSI projects, SPU intends to engage in a formal solicitation process in conformance with RCW 70A.140.040 to select a primary service provider and to enter into a performance-based contract with that provider. The provider will then work with interested private landowners, community-based organizations, and potential funding partners to implement green infrastructure retrofits and/or riparian restoration projects.

The primary provider is responsible for financing all project development and delivery costs. SPU would only reimburse the primary provider for completed and inspected projects with verified water pollution control achievements. By paying only for verified outcomes, the performance-based contract arrangement creates financial incentives for the service provider to determine the most cost-effective ways to achieve and maintain project benefits, and it also reduces the City's risk of funding projects that do not produce the desired results.

SPU anticipates that the pilot program would invest a total of between \$6 million and \$10 million over three to five years to incentivize the design, installation, and initial maintenance of GSI projects throughout the city. The proposed legislation does not request any additional appropriation authority in 2021; and the program has funding identified within the adopted six-year capital improvement program that may be included in future proposed budgets.

Next Steps

If the Committee votes on September 15, the Council could consider voting on the bill at its September 20 meeting.

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager