



Legislation Text

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File #: CB 120138, Version: 1

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to the Terminal 5 Quiet Zone Improvements project under the Freight Spot Improvement Program; authorizing the Director of the Department of Transportation to acquire, accept, and record both temporary and permanent property rights from abutting property owners located along West Marginal Way Southwest between 17th Avenue Southwest and Delridge Way Southwest, necessary or convenient for the Terminal 5 Quiet Zone Improvements project through negotiation or condemnation; placing the acquired real property rights under the jurisdiction of the Seattle Department of Transportation and designating for transportation, utility, and general municipal purposes; authorizing payment of all other costs associated with acquisition; and ratifying and confirming certain prior acts.

WHEREAS, The Port of Seattle (the “Port”), in coordination with The Northwest Seaport Alliance (the “NSA”), will be constructing the Terminal 5 Cargo Wharf, Berth Deepening, and Improvements Project on the West shoreline of the West Waterway in Southwest Elliot Bay, the address for the site is 2701 26<sup>th</sup> Avenue Southwest, Seattle, Washington, 98106, and is approximately 1.5 miles from the city of Seattle urban center (“Terminal 5”), to rehabilitate the existing marine cargo facilities at Terminal 5 of the Port of Seattle to serve larger cargo vessels (the “Terminal 5 Project”); and

WHEREAS, Terminal 5 has long been considered a premier container cargo facility on the West Coast because of its naturally deep berth, wide footprint (185 acres), and the availability of an on-dock rail yard that allows containers to be directly loaded from the ship onto rail lines; and

WHEREAS, in recent years, the introduction of new ultra-large container vessels has triggered dramatic changes in the container shipping industry with vessels of more than 10,000 20-foot-equivalent units (“TEUs”) capacity currently calling at North American West Coast ports (the “Ports”), and 18,000-TEUs vessels are expected to be more prevalent in the near future requiring larger, heavier cranes with a

larger reach, which in turn requires strengthening the dock and upgrading utilities; and

WHEREAS, Terminal 5 could only handle ships with a maximum capacity of 6,000 TEUs when container operations were suspended in July 2014 to allow for the strategic planning and investments necessary to prepare the terminal to handle two 18,000-TEUs ships simultaneously; and

WHEREAS, competition for the trans-Pacific market among the Ports has become particularly fierce over the last few years as shipping lines have consolidated operations into larger vessels with fewer port calls; and

WHEREAS, the Terminal 5 Project renovates Terminal 5 to serve larger vessels and consists of: cargo wharf rehabilitation necessary to support larger and heavier cranes, deepening of the vessel berth, water and stormwater utility retrofits, electrical utility capacity increases, reconfiguration of the marine cargo marshalling area, reorganization of the intermodal rail facilities, cargo area lighting modifications, pavement repair and maintenance, stormwater drainage improvements, alteration of maintenance and repair buildings, and a redesign of entrance/exit gates and heavy vehicle access points to serve increased capacity; and

WHEREAS, in addition to these infrastructure improvements, the Terminal 5 Project also provides for environmental investments to enhance water and air quality for the community, including updating stormwater treatment systems and installing “shore power” infrastructure that allows a vessel to plug into electricity while at berth, substantially reducing air emissions, technology improvements to manage truck flow around the terminal, and a railroad quiet zone to reduce noise impacts for the surrounding community; and

WHEREAS, in October of 2016, the Terminal 5 Project’s Final Environmental Impact Statement, prepared by the Port acting as the lead agency for environmental review under the State Environmental Policy Act (SEPA), was published and identifies train horn noise required for public and private crossings and presence of human activity as an annoyance noise; and

WHEREAS, on April 3, 2017, The City of Seattle (the “City”) published the Master Use Permit, Application Number 3019071, Analyses and Decision of the Director of the Seattle Department of Construction and Inspections, with conditions, for the Terminal 5 Project (the “MUP”); and

WHEREAS, one of the conditions of the MUP required that the Port enter into a Memorandum of Understanding (the “MOU”) with the Seattle Department of Transportation (“SDOT”), on behalf of the City, to describe how the Port and the City will work together to secure approval of a U.S. Federal Railroad Administration (the “FRA”) designated quiet zone between the West end of the train bridge across the West Waterway of the Duwamish and the Terminal 5 gate (the “Quiet Zone”); and

WHEREAS, the MOU, executed by the parties, dated August 29, 2017, codifies the quiet zone noise mitigation strategy conditioned in the MUP and as contemplated in SDOT’s Seattle City Council Statement of Legislative Intent (SLI) 95-2-A-1: West Seattle Bridge Corridor Improvements Update on White Paper and Investment List Report as a part of the City’s 2016 budget process, and memorialized in Clerk Files 319666, 320210, 320307, and 320423; and

WHEREAS, the Seattle Department of Transportation’s (SDOT’s) Terminal 5 Quiet Zone Improvements project, under the Freight Spot Improvement Program (the “Quiet Zone Project”), is part of the Terminal 5 Project impacting West Marginal Way Southwest from 17<sup>th</sup> Avenue Southwest to Delridge Way Southwest, and will mitigate train noise generated by terminal operations along this West Marginal Way Southwest street corridor; and

WHEREAS, the Quiet Zone Project has been planned and is being executed in accordance with the provisions of the MUP, and as contemplated by the Seattle City Council, and requires that the City obtain certain temporary and permanent property rights necessary to mitigate train noise and also provides for acquiring the FRA quiet zone designation; and

WHEREAS, completion of the Quiet Zone Project will meet an important condition of the Terminal 5 Project, which will modernize Terminal 5 and expand its cargo-handling capabilities allowing it to remain

competitive in the shipping industry, which is critical for trans-Pacific trade, growing our economy, and creating more jobs; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Public convenience and necessity require that the real property interests generally shown in Attachments 1 and 2, attached to this ordinance and incorporated by reference, and such other property as may be necessary or convenient for the Terminal 5 Quiet Zone Improvements project under the Freight Spot Improvement Program (the “Quiet Zone Project”), located in the city of Seattle, county of King, State of Washington, together with all rights, privileges, and other property interests pertaining thereto, be acquired for transportation, utility, and general municipal purposes through negotiations and use of eminent domain (condemnation) if necessary, in connection with the Quiet Zone Project.

Section 2. The Director of the Department of Transportation or designee (“Director”), on behalf of The City of Seattle (the “City”), is authorized to: determine the portions and interests of the properties shown on Attachments 1 and 2 that are necessary or convenient for the Quiet Zone Project, and any other properties that may be necessary or convenient for the Quiet Zone Project; negotiate and enter into agreements to acquire the properties upon payment of just compensation thereto; and accept the deeds, permanent and temporary easements, and/or permits for the properties by attaching to the deeds, easements, and/or permits the Director’s written acceptance thereof, and recording the same. The funds for the acquisition of the property and/or property rights shall be from the City’s Transportation Fund, or such other funds lawfully available, and reimbursed by the Port of Seattle (the “Port”) under the terms of the Memorandum of Understanding between the City and the Port, as amended, that describes how the Port and the City will work together to secure approval of a U.S. Federal Railroad Administration designated quiet zone between the West end of the train bridge across the West Waterway of the Duwamish and the Port’s Terminal 5 gate.

Section 3. The City Attorney is authorized to commence and prosecute proceedings in the manner provided by law to condemn, take, damage, and appropriate the properties in fee simple or such other interests

that are necessary or convenient for the Quiet Zone Project, after just compensation has been made or paid into court for the owners thereof, in the manner provided by law; and to stipulate for the purpose of minimizing damages.

Section 4. The Director is authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests necessary for the Quiet Zone Project. Such settlements shall be made for amounts deemed to be a reasonable estimation of fair market value and shall not exceed established budgets.

Section 5. The deeds, permanent and temporary easements, and/or permits referenced above shall be placed under the jurisdiction of the Seattle Department of Transportation and designated for transportation, utility, and general municipal purposes.

Section 6. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 7. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Map of Construction Corridor

Attachment 2 - Contact List for Properties Affected (Preliminary)