

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
Seattle Public Utilities	David Schuchardt	Akshay Iyengar

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the Harbor Island Superfund Site; authorizing Seattle Public Utilities and Seattle City Light to agree to orders issued by the United States Environmental Protection Agency regarding remediation of contamination at the East Waterway Operable Unit of the Harbor Island Superfund Site; and authorizing Seattle Public Utilities and Seattle City Light to enter into agreements with other parties to implement and share the costs of implementing those orders, including making commitments to expend funds not contemplated in the annual budget, consistent with RCW 35.32A.070.

Summary and Background of the Legislation: The East Waterway of the Duwamish River is a one mile long, 157-acre portion of the federal Harbor Island Superfund Site. The East Waterway contains historical pollution from industrial and urban use. Sediment contamination in the waterway, which includes PCBs, arsenic, dioxin/furans, and PAHs, poses risk to people and the environment.

The U.S. Environmental Protection Agency (EPA) is overseeing the cleanup of the East Waterway to remove and remediate historical contaminants that threaten human and environmental health. In May 2024, EPA issued its draft cleanup plan detailing the agency's selected remedy for the East Waterway. The East Waterway Group, comprised of the City of Seattle, King County and the Port of Seattle, is working together to collect data and design a cleanup.

The design is expected to cost approximately \$30 million. EPA estimated the full cost of design, construction, and long-term maintenance for the East Waterway cleanup is \$401 million. The City's share of the cleanup costs will be determined through negotiation with the other liable parties, and/or litigation. Pending the liability settlements, the City's Memorandum of Agreement with King County and the Port will include an interim cost sharing agreement, in which each party pays a 33.33% share. The City is eligible for State Remedial Action Grant funds, which reimburses up to 50% of cleanup costs.

In April of 2025, the Council approved legislation authorizing Seattle Public Utilities and Seattle City Light to continue expending funds to participate in environmental investigation and remediation of the nearby Lower Duwamish Waterway Superfund Site

This ordinance would authorize Seattle City Light and Seattle Public Utilities to continue participating in environmental investigation and cleanup of the East Waterway Operable Unit of the Harbor Island Superfund Site (EWOU); enter orders with the EPA to remediate contamination at the site; and authorize the two utilities to enter into agreements with other

parties to implement and share the costs of implementing those orders, including making commitments to expend funds not contemplated in the annual budget.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?

☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City?

☐ Yes ☒ No

Note: While this legislation authorizes spending beyond the current budget cycle, future expenditures would be subject to Council appropriations. SCL and SPU have each budgeted for these projects assuming the City would sign an administrative order and pursue financial contributions from other parties.

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts.

The ordinance authorizes continuation of East Waterway cleanup work, which has been implemented to date under an Administrative Settlement Agreement and Order on Consent (ASAOC) signed by the Port of Seattle. The work will continue under an ASAOC signed by SPU.

The ordinance authorizes cost settlements with other responsible parties. When these settlements are reached, they will affect the cost share SPU and SCL pay toward the cleanup. Since 2006, the City has shared East Waterway costs (1/3 City share) under an interim cost share agreement. The City's share going forward and reconciliation of past costs will be determined by litigation or settlements.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

SPU and SCL have planned and budgeted for the East Waterway cleanup costs. The ASAOC is the next administrative mechanism to continue the work.

Please describe any financial costs or other impacts of *not* implementing the legislation.

If the City does not implement the ordinance, EPA would issue a Unilateral Order requiring the same work and costs. Also, the City would lose grant eligibility to recover up to 50% of costs

through State Model Toxics Control Act grants. In addition, the work be implemented but without protecting the City from lawsuits by other parties.

Please describe how this legislation may affect any City departments other than the originating department.

SPU and SCL share costs on EW (55% SPU; 45% SCL) under an interim agreement.

4. OTHER IMPLICATIONS

- a. Is a public hearing required for this legislation?** No
- b. Is publication of notice with The Daily Journal of Commerce and/or The Seattle Times required for this legislation?** No
- c. Does this legislation affect a piece of property?** No
- d. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**
 - i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.** Communities in the Duwamish Valley are both vulnerable and historically disadvantaged. Signing the ASAOC affirms Seattle's 20+ year commitment to correct historic contamination and associated health risks. Seattle works with its project partners and EPA to implement meaningful public participation in the cleanup, including multilingual meetings and written materials.
 - ii Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.** None
 - iii What is the Language Access Plan for any communications to the public?** Seattle works with its project partners and EPA to implement meaningful public participation in the cleanup, including multilingual meetings and written materials.
- e. Climate Change Implications**
 - i. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.** EPA will require this work regardless of this legislation. The cleanup is a construction project with short-term construction emissions. The design seeks to minimize these emissions using green remediation best practices.

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects. No effects on resiliency are expected.**
- f. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?** This legislation allows the planned cleanup to move forward under the authority of an EPA administrative order. The cleanup goals are identified in EPA’s Record of Decision for the cleanup project.
- g. **Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?** No

5. ATTACHMENTS

Summary Attachments:

Summary Exhibit A – Administrative Settlement Agreement and Order on Consent for Remedial Design