



Legislation Text

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File #: CB 119961, Version: 1

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**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to acquire, accept, and record on behalf of The City of Seattle both temporary and permanent property rights from owners of property located along the alignment of the planned combined sewage conveyance and storage tunnel between 24th Avenue NW and Shilshole Avenue NW in Ballard and Interlake Avenue N and N 35th Street in Wallingford, and from owners of property located along the alignment of the planned Ballard Conveyance pipeline between 28th Avenue NW and NW 56th Street and 24th Avenue NW and Shilshole Avenue NW, and for related infrastructure in 28th Avenue NW, that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and 3rd Avenue W Water Main Replacement Project, through negotiation or eminent domain (condemnation); placing an underground electrical easement under the jurisdiction of the City Light Department; placing other real property rights acquired under the jurisdiction of Seattle Public Utilities; designating the property rights acquired for utility and general municipal purposes; authorizing termination of an easement held by the former Milwaukee Terminal Railway Company or its successors; authorizing payment of all other costs associated with acquisition; and ratifying and confirming certain prior acts.

WHEREAS, The City of Seattle (“City”) owns and operates a combined sewer system that in some locations overflows during heavy rain events; and

WHEREAS, the combined sewer system overflows (CSOs) are governed by the State of Washington under the terms of a National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, the terms of the NPDES permit mandate the City limit untreated overflows at each CSO outfall to an average of no more than one per year on a moving 20-year average; and

WHEREAS, the City is required by federal Consent Decree, as authorized by Ordinance 123908, and amended by Ordinance 124129, to construct control measures to limit untreated combined sewer overflows in accordance with State of Washington requirements by December 31, 2025; and

WHEREAS, Seattle Public Utilities and King County have been working together to evaluate possible joint

projects to reduce both City and County CSOs, and have agreed to jointly fund and build a 2.7-mile underground storage tunnel designed to temporarily store more than 29 million gallons of combined stormwater and sewage in order to reduce CSOs and partially fulfill the objectives of the City's and County's NPDES permits and Consent Decrees; and

WHEREAS, in 2015 the City Council pursuant to Ordinance 124966 authorized Seattle Public Utilities to enter into a Joint Project Agreement with King County to design, construct, operate, and maintain the Ship Canal Water Quality Project to reduce combined sewer overflows; and

WHEREAS, while the tunnel and its ancillary structures will be built primarily within street right-of-way, temporary and permanent property rights will be necessary to construct, maintain, and operate portions of the Ship Canal Water Quality Project; and

WHEREAS, in 2016 and in 2017 the City Council pursuant to Ordinances 125153 and 125390 previously authorized Seattle Public Utilities to acquire certain property rights necessary and convenient for the Ship Canal Water Quality Project; and

WHEREAS, Seattle Public Utilities' 3rd Avenue W Water Main Replacement Project will share the use of a temporary access easement with the Ship Canal Water Quality Project; and

WHEREAS, construction of the Ship Canal Water Quality Project in 2nd Avenue NW will require acquisition of permanent and temporary property rights necessary for relocating a City Light Department electrical vault to private property located at 123 NW 36th Street; and

WHEREAS, in 1908 the Milwaukee Terminal Railway Company was granted an easement across property later purchased by the City, as authorized by Ordinances 124718 and 124719, for the Ship Canal Water Quality Project, and

WHEREAS, the easement area is needed by the City for construction, operation, and maintenance of the Ship Canal Water Quality Project, and since the easement area is no longer being utilized for any railroad purpose and the easement can be terminated by the City as owner of the property for such non-use,

Seattle Public Utilities desires to terminate the easement, NOW, THEREFORE,

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

Section 1. The City of Seattle (“City”) accepts the easements and other property rights that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and the 3rd Avenue W Water Main Replacement Project, and granted for drainage and wastewater and water supply utility purposes over, under, across, and upon the real property generally described below and legally described in Attachment 1 to this ordinance.

A. Grantor: The United States Department of the Army, acting through the Corps of Engineers; Easement No. DACW67-2-19-8 (not recorded with King County).

B. Grantor: The United States Department of the Army, acting through the Corps of Engineers; Permit with King County Recording No. 20181226000674.

C. Grantor: Fremont West Office LLC, a Washington limited liability company; King County Recording No. 20190131000152.

D. Grantor: Mobile Properties, LLC, a Washington limited liability company; King County Recording No. 202009210000428.

Section 2. Public convenience and necessity require that real property interests generally shown on Attachments 2 and 3 of this ordinance, and such other property as may be necessary or convenient for the Ship Canal Water Quality Project (“Project”) located in the City of Seattle, County of King, State of Washington, together with all rights, privileges, and other property interests pertaining to the real property interests, be acquired for utility and general municipal purposes through negotiations and use of eminent domain (condemnation), if necessary, in connection with the Project.

Section 3. The General Manager and Chief Executive Officer of Seattle Public Utilities (“General Manager/CEO”) is authorized to: determine the portions and interests of the properties shown on Attachments 2 and 3 that are necessary or convenient for the Project, and any other property interests that may be necessary or

convenient for the Project, negotiate and enter into written agreements for and acquire, after paying just compensation, the real property interests that are necessary or convenient for the Project, including temporary or permanent rights, in fee or easement, or other property use agreement; and accept and record deeds, easements, and other written instruments on behalf of the City by attaching to the instrument the General Manager/CEO's written acceptance and recording the deed or other written instrument. The acquisition costs, including purchase price and transaction costs, together with relocation benefits to the extent required by law, shall be paid from the funds appropriated, or to be appropriated, for such purposes in connection with the Project.

Section 4. The City Attorney is authorized to commence and prosecute proceedings in the manner provided by law to condemn, take, damage, and appropriate easements or other property interests determined by the General Manager/CEO or the General Manager/CEO's designee to be necessary or convenient to the Project; provided the lands, rights, and privileges, and other property are to be appropriated and taken only after just compensation has been made or paid into court for the owners in the manner provided by law; and to stipulate for the purpose of minimizing damages.

Section 5. The real property interests referenced above include, but are not limited to, easements and temporary construction easements that, when received or recorded, shall be placed under the jurisdiction of Seattle Public Utilities and designated for utility and general municipal purposes.

Section 6. The real property interests acquired for the electrical vault to be relocated from 2nd Ave NW to private property located at 123 NW 36th Street shall, when received or recorded, be placed under the jurisdiction of the City Light Department and designated for utility and general municipal purposes.

Section 7. The General Manager/CEO, and/or the General Manager/CEO's designee, is authorized to terminate the easement granted to the Milwaukee Terminal Railway Company on November 25, 1908, and recorded under King County Auditor's File No. 593847, in King County, Washington.

Section 8. Any act consistent with the authority of this ordinance taken prior to its effective date is

ratified and confirmed.

Section 9. 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 \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2020.

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

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Legal Descriptions of Acquired Property Rights

Attachment 2 - List of Affected Properties

Attachment 3 - Map of Affected Properties