

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Dave Schuchardt/5-1642	Craig Stampher/4-0535

Legislation Title: AN ORDINANCE authorizing Seattle Public Utilities to establish institutional controls relating to the long-term protection of the environmental remediation of Slip 4 of the Lower Duwamish Waterway consisting of development and execution of an environmental covenant with U.S. Environmental Protection Agency that will place restrictions on City of Seattle real property; negotiate and execute a lot line adjustment with 1st South Properties, L.L.C.; negotiate and execute a nonexclusive storm water drainage outfall facility easement with 1st South Properties, L.L.C.; and pursue and establish a permanent Regulated Navigation Area within Slip 4 through coordination with the U.S. Department of Homeland Security.

Summary of the Legislation: This legislation helps implement institutional controls for the City's cleanup of contaminated sediment in Slip 4 of the Lower Duwamish Waterway (LDW) Superfund Site. Institutional controls are non-engineering measures intended to ensure the integrity and protectiveness of an environmental cleanup (remedy) where contaminated material remains at the site after active cleanup is finished. These institutional controls will help manage human activities by preventing or reducing exposure to contaminated sediments located beneath the protective cap placed in Slip 4 in late 2011 and early 2012.

Background: Slip 4 is a 6.4-acre navigable inlet on the LDW in Seattle, King County, Washington, and is located three miles upstream from the confluence of the LDW with Elliott Bay. Approximately 3.5 acres of sediment within Slip 4 is contaminated with polychlorinated biphenyls (PCBs) along with metals, organic compounds, and petroleum products. Due to this contamination, Slip 4 is one of five priority Early Action Areas (EAAs) within the 5.5-mile long LDW Superfund Site.

Consistent with agreements with King County and administrative orders with the U.S. Environmental Protection Agency (EPA), the City managed the Slip 4 remedy construction, which was completed on February 7, 2012. Construction included dredging and offsite disposal of contaminated nearshore soil, sediment, and debris; placing capping materials; demolishing a large pier structure; and habitat improvements along the riverbank and intertidal areas. A significant portion of the upland and aquatic areas that underwent remediation in Slip 4 is owned by the City of Seattle and managed by SPU. The EPA order also requires the City to implement institutional controls at Slip 4 because some hazardous substances would remain on site at levels that do not allow unrestricted use.

Institutional controls for Slip 4 include:

1. Executing an environmental covenant with EPA that will place restrictions on City property within the Slip 4 EAA to protect human health and the environment and insure the integrity of the Slip 4 remedy, and
2. Establishing a permanent regulated navigation area within the Slip 4 EAA to prohibit activities that would disturb the riverbed (this will not affect transit or navigation of the area).

In addition, a lot-line adjustment along the boundary of City property in Slip 4 and an adjacent parcel owned by 1st South Properties would provide the City with better control over the remedy and facilitate development and implementation of the environmental covenant. Granting a storm water drainage outfall facility easement to 1st South Properties is a necessary component of this lot-line adjustment.

Note: Although the proposed legislation would authorize Seattle Public Utilities to purchase property through a lot line adjustment, there is no purchase price for the property and no money will be exchanged between Seattle Public Utilities and 1st South Properties for the lot line adjustment or the related storm water drainage easement.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
The proposed environmental covenant and regulated navigational area will likely be in place as long as contaminated sediment remains contained (beneath the remedial cap) at Slip 4. These administrative instruments, to some extent, constrain the use of City owned property, but are a component of the cleanup process and required by the regulatory agencies. These restrictions also preserve the long-term integrity of the restored aquatic habitat that was established as a component of the remedy.
- b) **What is the financial cost of not implementing the legislation?**
Not implementing the legislation would leave the sediment remedy in Slip 4 vulnerable to damage. If the sediment cap were to be damaged or breached by, for example, navigational activity or other disturbances, the City would be exposed to substantial costs (hundreds of thousands to millions of dollars) to repair the cap and remediate contamination that was released. In addition, because the institutional controls are required by the regulatory agency (EPA), not implementing the legislation would likely lead to penalties and legal orders from the federal government to implement the controls.

- c) Does this legislation affect any departments besides the originating department?**
Yes, Seattle Public Utilities and Seattle City Light share all costs for Slip 4. As stated in item (b) above, not implementing the legislation could impose costs on Seattle Public Utilities and Seattle City Light
- d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
There are no practical or feasible alternatives to the legislation at this time. Because some contamination remains beneath an engineered cap at the Site as part of the EPA-approved cleanup, institutional controls must be in place to protect human health and the environment.
- e) Is a public hearing required for this legislation?**
No
- f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- g) Does this legislation affect a piece of property?**
Yes. Maps showing the property involved are attached to the proposed Ordinance.
- h) Other Issues:** None.

List attachments to the fiscal note below:

None.