

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Dave Schuchardt/5-1642	Aaron Blumenthal/3-2656

Legislation Title:

AN ORDINANCE authorizing Seattle Public Utilities to enter into an Easement Agreement with the Port of Seattle for the construction, operation, maintenance and monitoring of City-owned stormwater drainage facilities including an outfall at the Terminal-117 cleanup site on the Lower Duwamish Waterway.

Summary and Background of the Legislation:

Part of Seattle's South Park neighborhood is located within the 15.2-acre T117 environmental cleanup area. As part of the site cleanup, the U.S. Environmental Protection Agency (EPA) is requiring the City to construct a storm drain that collects stormwater runoff from 2.8 acres of this area before discharging it to the Lower Duwamish Waterway (LDW). To accomplish this, the City needs to route the stormwater pipe through the Port's T117 property. An easement agreement between the City of Seattle and the Port of Seattle (Port) is required for the construction, operation, maintenance, and monitoring of these stormwater drainage facilities and outfall.

T117 is on the west side of the LDW, about 3.5 miles from the southern tip of Harbor Island. The upland part of the site includes the former Duwamish Manufacturing and Malarkey Asphalt Company location, and other property owned by the Port. Asphalt manufacturing by Duwamish Manufacturing and Malarkey Asphalt left oil and PCBs in the river sediments and on the uplands, streets, and yards.

T117 is one of seven Early Action cleanup sites within the LDW Site identified by EPA in 2003 as being contaminated by polychlorinated biphenyls (PCBs) and requiring cleanup. Cleanup is underway by the Port that will remove soil and river sediment to reduce PCBs to levels that will protect the river environment and reduce health risks to people. The site will be clean enough for many possible future uses, including business and residential development, river habitat, and public access.

The Port plans to construct approximately 10 acres of restored fish and wildlife habitat on and around T117 and including the area of the proposed easement. This restoration, proposed to start in spring 2014, will address several key priorities identified in regional salmon recovery plans and will include public access.

Construction of a permanent storm drain is required that consists of a stormwater collection system, a treatment system and outfall. SPU is responsible for construction. SPU analyzed multiple options for the storm drain, all of which must be constructed on Port T117 property. The proposed outfall is like-kind replacement for two existing stormwater outfalls.

The proposed Easement Agreement includes the following provisions:

Restrictions on Use and Operations – The City’s use of the Easement Property will not cause damage to natural resources or result in deposition of waste or other material including pollutants of any type, except as needed for construction of the drainage and permitted outfall discharges. In the unlikely event a devaluation of the Port’s proposed environmental restoration project is caused by the City outfall pipe installation or operation, the City will reimburse the Port for such devaluation.

Term of Construction Easement – Construction activities on Port property can take place from March 1, 2014 through September 1, 2015, unless extended by the Port.

Term of Operation Easement – The term of operation is thirty years, beginning on September 1, 2014, and may be renewed for two additional, thirty year terms.

Expenses and Payment – The City would pay all costs related to the construction, alteration, replacement, maintenance, repair, modification, demolition, and deconstruction of the stormwater facilities and outfall including all environmental costs. The City will also pay all utility fees, taxes and assessments related to the easement and related uses. If the Port constructs a habitat project at T117, and the City’s use of the Easement Property results in damage to the T117 habitat project, or loss of value, the City must compensate the Port for such damages. The proposed Easement Agreement documents two options for the Port to quantify the value of the habitat damage.

Environmental Liability/Risk Allocation – City would indemnify the Port for Port liabilities arising from construction, operation and maintenance of the City’s drainage system at T117. If City actions result in discovery, disturbance, excavation or release of hazardous substances exceeding regulatory thresholds, the City would have to manage them at its expense.¹

Port Obligations – The Port would take all reasonable precautions to do no harm to the City’s conveyance system and outfall located on the Easement Property.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:
Dallas Avenue South Drainage	C308046	Port of Seattle Terminal-117 in South Park	Fall 2014	Fall 2015

Please check any of the following that apply:

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

This legislation has financial implications.

Other Implications:

¹ Existing data and technical analyses indicate that the potential for the City to incur the liabilities described in this section is small.

- a) **Does the legislation have indirect financial implications, or long-term implications?**
City cleanup and related drainage improvement activities at the T-117 site are part of SPU's Sediment Remediation – Drainage and Wastewater Fund Program (C3503). The budget and related cost projections for the Dallas Avenue South Drainage project (C308046) take into account the design and construction of the proposed storm drain and outfall that are the subject of this legislation.
- b) **What is the financial cost of not implementing the legislation?**
Constructing the storm drain and outfall related to this legislation is required by the Administrative Settlement Agreement and Order on Consent (ASAOC) the City and Port have with EPA. Drainage in the project area is currently handled by a temporary system with pump stations that costs approximately \$39,000 per year to operate and maintain and is not designed as a permanent system. If the City does not comply with the ASAOC, EPA is likely to impose penalties up to \$7,500 per day.
- c) **Does this legislation affect any departments besides the originating department?**
Yes. SPU and Seattle City Light (SCL) are involved with cleaning up T117 and implementing the proposed Easement Agreement is necessary to meet EPA-mandated schedules. Should liabilities arise as described in the “Environmental Liability/Risk Allocation” above, SPU and SCL will need to evaluate how incurred costs are addressed.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
None.
- 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. See Exhibit A attached.
- h) **Other Issues:**
No.

List attachments to the fiscal note below:

Exhibit A

Exhibit A

