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CB 117310

ORDINANCE _____

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AN ORDINANCE amending Chapter 20.48 of the Seattle Municipal Code in order to modify City policies pertaining to capital appropriations.

WHEREAS, it is the policy of the City of Seattle to finance capital projects in a cost-effective manner in order to maximize value to the public and to minimize public resources required; and

WHEREAS, section 35.32A.030 of the Revised Code of Washington (RCW) requires that budgeted and appropriated expenditures not exceed estimated revenues, available balances, and revenue resulting from new legislation; and

WHEREAS, RCW 35.32A.090 requires that contracts and payments not exceed allowances authorized in the final budget as adopted or modified; and

WHEREAS, it is generally not cost-effective for the City and its public resources to legislate and secure all required financing in advance for multi-year, debt-financed capital projects, but it is often prudent and cost-effective to enter into multi-year contracts in order to secure favorable construction bids; and

WHEREAS, in some cases, the City can most cost-effectively finance a project through multiple appropriations over time, resulting in the securitization of required resources over time, and the City's annual Adopted Six-Year Capital Improvement Program (CIP) contains anticipated future spending and appropriation amounts for City capital projects; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 20.48.030 of the Seattle Municipal Code as last amended by Ordinance 123361 is amended as follows:

20.48.030 Funds to be available before entering into contract.

~~((Before the construction of any public work or improvement, or any part thereof, either by contract or by day labor, is authorized or begun under the direction and general supervision of the Director of Finance and Administrative Services, said Director shall obtain from the head of the City department for which such work is to be undertaken, such department head's~~



1 ~~certification that sufficient funds have been appropriated to cover the full cost and expense of~~
2 ~~completing the desired public work or improvement (which appropriations shall be identified, by~~
3 ~~ordinance number and, where appropriate, by Capital Improvement Project number, in such~~
4 ~~certification). No contract shall be entered into, nor shall the construction of such work or~~
5 ~~improvement, or any part thereof, be undertaken by said Director, unless there is a balance in the~~
6 ~~appropriation sufficient to cover such cost and expense. For contracts executed pursuant to~~
7 ~~Chapter 39.10 RCW, the Director or department head is authorized to enter into contracts~~
8 ~~without such certification, provided that no phase of any public work may be started unless~~
9 ~~sufficient funds have been appropriated to cover the full cost and expense of completing that~~
10 ~~phase.)) Before the Director of Finance and Administrative Services ("FAS Director")~~
11 ~~authorizes or enters into any contract for construction of a public work or improvement, the~~
12 ~~head of the City department for which the work is to be performed shall provide the FAS~~
13 ~~Director with written certification that sufficient funds have been appropriated to cover the full~~
14 ~~cost and expense of completing the contracted-for public work or improvement (which~~
15 ~~certification shall identify the appropriation by ordinance number and, where applicable, by~~
16 ~~Capital Improvement Program Project number). For any public works contract that is to be~~
17 ~~performed in phases or in more than one budget year, and where the full cost and expense of the~~
18 ~~project is not appropriated, the head of the City department will instead certify in writing that~~
19 ~~the contract price does not exceed the total amount identified as appropriated or allocated for the~~
20 ~~project in the most-recently Adopted Capital Improvement Program, less any amount already~~
21 ~~spent or encumbered, and that sufficient funds have been appropriated to cover the costs and~~
22 ~~expense of work anticipated to be performed in that budget year. In such event, the FAS~~
23 ~~Director shall ensure that the contract includes a provision allowing the City to terminate the~~
24 ~~contract for convenience without liability. The FAS Director may waive the certification~~
25 ~~required by this section in case of emergency as defined by applicable law.~~



1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020:

4 Passed by the City Council the ____ day of _____, 2011, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2011.

7
8 _____
9 President _____ of the City Council

10
11 Approved by me this ____ day of _____, 2011.

12
13 _____
14 Michael McGinn, Mayor

15
16 Filed by me this ____ day of _____, 2011.

17
18 _____
19 Monica Martinez Simmons, City Clerk

20 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
City Budget Office	Hall Walker / 233-7065	Tom Taylor / 233-5032

Legislation Title: AN ORDINANCE amending Chapter 20.48 of the Seattle Municipal Code in order to modify City policies pertaining to capital appropriations.

Summary of the Legislation:

This legislation will update and clarify how the City approaches appropriations for phased or multi-year capital projects. It will allow the Director of the Department of Finance and Administrative Services to authorize public works contracts for amounts which exceed existing appropriation authority, but not beyond amounts included in the most recent Adopted CIP document, provided that the contract includes a provision allowing the City to terminate the contract without liability if future appropriations are insufficient to complete the contract.

This approach is consistent with the attached capital appropriation policy (Attachment A). The objective of the policy is to equate appropriation needs to anticipated expenditures for multi-year capital projects. This will enable the City to strategically structure its approach to financing, thereby reducing transaction costs, minimizing interest paid, and increasing flexibility with existing resources.

Background:

This change is driven by recent evaluation of how the City appropriates and budgets for multi-year contracts. The City is required by state law to secure funds for appropriations either through anticipated revenues or through financing mechanisms such as debt issuance. In some cases, this may result in the issuance of more debt than is needed to finance near-term capital costs, resulting in higher interest payments than would otherwise be made. By phasing appropriations for multi-year projects and ensuring that contracts and City liability are contingent upon appropriations, the City can make smaller debt issuances, reducing the time and amount of interest paid, and will ultimately reduce costs on capital projects.

X **This legislation has financial implications.**

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
This legislation will enable the City to more strategically plan financing for multi-year projects, resulting in capital cost savings. These savings accrue via the City paying less interest on



outstanding debt. The City may have less idle cash than otherwise as a result of smaller more targeted debt issuances.

b) What is the financial cost of not implementing the legislation?

Additional interest costs on outstanding debt.

c) Does this legislation affect any departments besides the originating department?

All capital departments that manage multi-year capital projects.

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?

No.

h) Other Issues:

List attachments to the fiscal note below:

Attachment A – Capital Appropriations Policy



	City of Seattle – City Budget Office and the Department of Finance and Administrative Services	Document: Capital Appropriations Policy
Contact: Tom Taylor (233-5032)		Last Update: September 25, 2011

Definitions

CBO	City Budget Office
CIP	Capital Improvement Program
FAS	Department of Finance and Administrative Services

Purpose

This policy establishes the use of a spending plan based approach for budgeting annual appropriations for multi-year capital projects.

The objective of the policy is to equate appropriation needs to anticipated expenditures for multi-year capital projects. This will enable the City to strategically structure its approach to financing, thereby reducing transaction costs, minimizing interest paid, and increasing flexibility with existing resources.

Authority

As specified in section 1 of ordinance 123361, the City Budget Office is responsible for carrying out budget-related functions and to oversee fiscal policy and financial planning activities for the City. As such, CBO is establishing the capital budgeting policy as detailed in this document.

Areas Affected

This policy affects all departments with capital project appropriations. This policy will also require changes to SMC 20.48.030.

Policy

It is the policy of the City of Seattle to utilize a spending plan based capital appropriation model for establishing annual appropriation budgets for multi-year capital projects.

Departments are directed to use annual spending plans as the basis for establishing annual appropriation requests in most circumstances. For example, appropriation requests for Capital Improvement Program (CIP) projects in a given budget year should equate to anticipated spending levels for that year only.



	City of Seattle – City Budget Office and the Department of Finance and Administrative Services	Document: Capital Appropriations Policy
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In accordance with this policy it is allowable for departments to enter into multi-year contractual agreements without full appropriation authority, as long as standard cancellation language is included in the contract and future spending AND anticipated appropriation needs in future years have been identified in the project page within the City's Adopted CIP.

In limited circumstances, appropriation requests in excess of the level anticipated for the coming budget year may be acceptable when funding sources are secure and legally authorized, or where legal authorization for the funding source will be included as proposed budget legislation that accompanies the appropriation request. This may apply to projects supported by dedicated property tax levies or bond proceeds. Departments interested in this alternate approach for particular projects should contact the City Budget Office (CBO).

Responsibilities

CBO:

- The City Budget Office is responsible for providing counsel to departments regarding budget related issues pertaining to multi-year capital projects.
- CBO will confirm that sufficient funding sources for budget appropriations are in place and are legally authorized, or included in proposed authorizing ordinance.

FAS:

- The Purchasing and Contracting Division of the Department of Finance and Administrative Services shall provide guidance to departments about details of the City's standard cancellation language for multi-year contracts.

City Departments:

- When submitting appropriation requests, departments will validate that sufficient cash and fund balances are available to support the requested appropriations or included in proposed authorizing legislation. Funding sources need to be secure and legally authorized. Where oversight of the Fund is not provided by the department requesting the appropriation, CBO should be consulted on the Funds resource availability.



	City of Seattle – City Budget Office and the Department of Finance and Administrative Services	Document: Capital Appropriations Policy
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- When entering into multi-year contractual agreements without full appropriation authority departments need to ensure that standard cancellation language is included in the contract. As reference, cancellation language can be found under provision 1-08.10(2) "Termination for Public Convenience" in the "Standard Specifications for Road, Bridge and Municipal Construction" manual.
- Identification of future spending and anticipated appropriation needs are included in the project page within the City's Adopted CIP.

Budget Procedures:

- As part of the normal budgeting process departments determine their capital spending needs for the upcoming budgeting cycle. In most circumstances, annual spending plans should be used as the basis for establishing annual appropriation requests.
- CBO will provide guidance as necessary to assist departments in developing their budget requests.
- Funding sources should be reviewed to ensure that sufficient resources are available to support the requested appropriations or included in proposed authorizing legislation.

Accounting Procedures:

- All authorized budgets shall be recorded in Summit. Any approved multi-year Purchase Order or Contract shall be recorded in Summit in the affected budget years in amounts that match the budget authorizations in those years. Any amounts not used at year-end shall carry forward into the subsequent year.
- Budget monitoring reports shall include only that portion of a multi-project Purchase Order or Contract that has been recorded in the report year. Portions of the multi-year Purchase Order or Contract posted in future years shall be included in budget monitoring reports for those future years.

Contract Procedures:

- All City Public Works projects contain a standard provision for the City to exercise early termination for City needs.
- Alternative Public Work contract boilerplate templates issued by FAS also include such language.



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Document Revisions:

The revision history section shows the history of policies and procedures for this particular policy. The original document is always 1.0.

Version #	Revised Date	Description	Approved Date
Version 1	April 29, 2011	Budgeting for Multi-Year Capital Appropriations	
Version 2	May 11, 2011	Budgeting for Multi-Year Capital Appropriations	
Version 3	June 10, 2011	Budgeting for Multi-Year Capital Appropriations	





City of Seattle
Office of the Mayor

September 26, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill for consideration with the 2012 Proposed Budget. This legislation will update and clarify how the City approaches appropriations for phased or multi-year capital projects. It will allow the Director of the Department of Finance and Administrative Services to authorize public works contracts for amounts which exceed existing appropriation authority, but not beyond amounts included in the most recent Adopted CIP document, provided that the contract includes a provision allowing the City to terminate the contract without liability if future appropriations are insufficient to complete the contract.

The objective of the policy is to allow the City to more strategically structure its approach to financing multi-year and phased projects, thereby reducing transaction costs, minimizing interest paid, and increasing flexibility with existing resources. The City is required by state law to secure funds for appropriations either through anticipated revenues or through financing mechanisms such as debt issuance. In some cases, this may result in the issuance of more debt than is needed to finance near-term capital costs, resulting in higher interest payments than would otherwise be made. By phasing appropriations for multi-year projects and ensuring that contracts and City liability are contingent upon appropriations, the City can make smaller debt issuances, reducing the time and amount of interest paid, and will ultimately reduce costs on capital projects.

This legislation will allow the City to keep capital costs low while preserving our ability to receive competitive construction bids for public works projects. Thank you for your consideration of this legislation. Should you have questions, please contact Hall Walker at (206) 233-7065.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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