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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 118066

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Seward Park, located beneath and adjacent to the tennis courts and adjacent parking lot, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair and operation of a combined sewer underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and superseding certain requirements of Ordinance 118477, which adopted Initiative 42.

WHEREAS, the City of Seattle, operating through Seattle Public Utilities (SPU), owns and operates a combined sewer system that overflows to Lake Washington 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, based on the volume of overflows and their impact on water quality in Lake Washington, Basin 44, which includes Seward Park and upland residential neighborhoods, has been identified in the NPDES permit and related Consent Decree between the City of Seattle, the Environmental Protection Agency (EPA) and State of Washington as a priority for CSO reduction, including regulatory milestones for completion of a capital improvement project; and

WHEREAS, after approximately three years of evaluation of CSO control options and alternative storage locations, and discussions with the Department of Parks and Recreation (DPR), residents and other interested stakeholders, SPU determined that constructing an underground storage tank in Seward Park is the best approach for the reduction of CSOs in Basin 44 required by the NPDES permit and Consent Decree; and

WHEREAS, Seward Park is a heavily-used, important, and historic part of the Seattle parks and recreation system; and

WHEREAS, SPU considered alternative sites in Seward Park for its CSO reduction project and, working closely with DPR, determined that locating the project beneath and adjacent to the tennis courts and parking lot at the southern boundary of Seward Park would have

1 less impact, both short term and long term, on the park and recreation use of Seward Park
2 than an alternative location; and

3 WHEREAS, DPR and SPU determined that a transfer of partial jurisdiction of the areas to be
4 occupied by the underground storage tank, associated underground pipes and electrical
5 lines, and limited surface ancillary facilities from DPR to SPU is appropriate because of
6 the permanent nature of the tank and ancillary facilities and to facilitate efficient on-
7 going maintenance, repair and operation of the underground storage tank and ancillary
8 facilities by SPU; and

9 WHEREAS, the portions of Seward Park affected by the limited surface ancillary facilities
10 associated with the underground tank are subject to the conditions of two federal Urban
11 Park and Recreation Recovery grants from 1979 and 1983, Grant Nos. 53-CTY-1960-
12 7901 and 53-CTY-1960-8301 (UPARR Grants); and

13 WHEREAS, no partial transfer of jurisdiction can occur unless the National Park Service
14 approves amendments to the UPARR Grants allowing transfer of conditions to other park
15 property; and

16 WHEREAS, DPR and SPU have requested that the National Park Service approve amendments
17 to the UPARR Grants to remove the grant conditions from areas of Seward Park to be
18 affected by surface ancillary facilities and to place grant conditions on an area of Lake
19 Washington Boulevard; NOW, THEREFORE,

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

21 Section 1. Conditioned upon National Park Service approval of amendments to two
22 federal Urban Park and Recreation Recovery grants from 1979 and 1983, Grant Nos. 53-CTY-
23 1960-7901 and 53-CTY-1960-8301, for the portions of Seward Park affected by the limited
24 surface ancillary facilities associated with the underground storage tank, underground facility
25 vault, associated underground pipes and electrical lines (collectively the foregoing are referred to
26 as the CSO Facility) and completion of the CSO Facility, such limited and partial jurisdiction of
27 the real property legally described and depicted in Attachment 1, attached hereto and
28 incorporated herein (Use Area), as shall be necessary for the maintenance, repair, and operation

1 of the CSO Facility (Purposes) is transferred from the Department of Parks and Recreation
2 (DPR) to Seattle Public Utilities (SPU) subject to the following: (a) SPU may access the Use
3 Area for the Purposes without further authorization upon at least 5 days' notice to DPR, except
4 in case of emergency, and shall coordinate with DPR to avoid time periods when heavy use by
5 the public is anticipated; (b) after any access to the Use Area for the Purposes, SPU will restore
6 the Use Area, at SPU's expense, to at least the condition existing immediately prior to such
7 access; (c) SPU shall not use any park land outside of the Use Area, except for access purposes
8 permitted in Section 2 below, without the prior written approval of DPR; (d) the initial
9 construction of the CSO Facility will be pursuant to authorization and terms and conditions of a
10 Revocable Use Permit for Non-park Use of Park Property issued by DPR until the effective date
11 of the partial transfer of jurisdiction; and (e) the Director of SPU and Superintendent of DPR will
12 enter into a memorandum of understanding, which they may amend from time to time, to address
13 ongoing responsibilities for maintenance, operation and coordination of each department's
14 respective facilities and operations in the Use Area. Both SPU and DPR understand that
15 notwithstanding the legal descriptions in Attachment 1, all of the Use Area except that portion
16 occupied by limited surface ancillary facilities is subsurface.
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21 Section 2. In order to reach the Use Area, SPU shall have reasonable pedestrian access
22 across the adjacent park land, or vehicular access if required for maintenance or repair. SPU
23 shall restore any park land, vegetation or improvements damaged by such access, at SPU's
24 expense, to at least the condition existing immediately prior to such maintenance and repair.
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1 Section 3. The following provisions of Ordinance 118477, which adopted Initiative 42,
2 shall not apply to the actions authorized by this ordinance:

3 Section.1. All lands and facilities held now or in the future by The City of Seattle
4 for park and recreation purposes, whether designated as park, park boulevard, or open
5 space, shall be preserved for such use, and no such land or facility shall be sold,
6 transferred, or changed from park use to another usage, unless the City shall first hold a
7 public hearing regarding the necessity of such a transaction and than [sic] enact an
8 ordinance finding that the transaction is necessary because there is no reasonable and
9 practical alternative and the City shall at the same time or before receive in exchange
10 land or a facility of equivalent or better size, value, location and usefulness in the
11 vicinity, serving the same community and the same park purposes.
12

13

14 Section 3. Section 1 also permits by duly enacted ordinance after a public
15 hearing and without providing replacement property: . . . a sub-surface or utility easement
16 compatible with park use;
17

18
19 Section 4. This ordinance shall take effect and be in force 30 days after its approval by the
20 Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall
21 take effect as provided by Seattle Municipal Code Section 1.04.020.
22

1 Passed by the City Council the ____ day of _____, 2014, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2014.

4 _____
5 _____
6 President _____ of the City Council
7

8
9 Approved by me this ____ day of _____, 2014.

10 _____
11 _____
12 Edward B. Murray, Mayor
13

14
15 Filed by me this ____ day of _____, 2014.

16 _____
17 _____
18 Monica Martinez Simmons, City Clerk
19

20 (Seal)

21
22 Attachment:

23 Attachment A: Legal Description of Use Area
24
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ATTACHMENT A

PTOJ Legal Description Parks to SPU - Seward Park

A portion of Government Lot Five (5), Section Twenty-three (23), Township Twenty-four (24) North, Range Four (4) East, W.M., lying east of a line which is parallel with and distant one hundred (100') feet west of the east line produced south of Lot Twenty-two (22) in B.W. Johns and C.H. Hanford's Five Acre Lots, as recorded on Page Seventy-six (76) in Volume Two (2) of Plats in the Records of King County, Washington; together with the Shorelands abutting upon or adjacent to the above described portion of said Government Lot Five (5).

containing 397,274 sf uplands

containing 623,923 sf shorelands

All situate City of Seattle, King County, Washington, more particularly described as follows:

Commencing at a point on the west line of Seward Park at an angle point on the east line of Lot 13, Block 1 according to the Plat of The Uplands, as recorded on Pages Forty-two (42) through Forty-four (44) in Volume Twenty-six (26) of Plats in the Records of King County (Recording Number 192602272145967), said point being 34.00' southerly, along the east line of said lot, from the northeast corner of said lot; thence northerly along the west line of Seward Park $N0^{\circ} 55' 06'' E$ a distance of 50.11'; thence leaving said west line at a right angle of $S 89^{\circ} 04' 54'' E$ a distance of 4.70' to the TRUE POINT OF BEGINNING of this PTOJ Area; thence the following 19 courses and distances to the Lower Limit of Lake Washington Elevation 16.75' (NAVD88 = C.O.E Elevation 20.00);

Course 1: $N16^{\circ} 38' 21'' E$ Length: 255.34', Course 2: $N02^{\circ} 00' 37'' E$ Length: 146.15', Course 3: $N83^{\circ} 43' 01'' E$ Length: 13.40', Course 4: $N00^{\circ} 25' 28'' E$ Length: 104.87', Course 5: $N41^{\circ} 47' 24'' W$ Length: 36.01', Course 6: $N01^{\circ} 56' 41'' E$ Length: 117.63', Course 7: $N42^{\circ} 06' 13'' W$ Length: 6.35', Course 8: $N47^{\circ} 53' 47'' E$ Length: 12.00', Course 9: $S42^{\circ} 06' 13'' E$ Length: 11.20', Course 10: $S01^{\circ} 56' 41'' W$ Length: 117.67', Course 11: $S41^{\circ} 47' 24'' E$ Length: 35.83', Course 12: $S00^{\circ} 25' 28'' W$ Length: 108.09', Course 13: $N83^{\circ} 43' 01'' E$ Length: 25.93', Course 14: $S45^{\circ} 10' 24'' E$ Length: 41.23', Course 15: $N20^{\circ} 11' 09'' E$ Length: 59.67', Course 16: $N85^{\circ} 07' 56'' E$ Length: 18.91', Course 17: $S04^{\circ} 16' 21'' E$ Length: 49.47', Course 18: $S13^{\circ} 25' 30'' W$ Length: 42.48', Course 19: $S45^{\circ} 10' 24'' E$ Length: 92.7'+/-;



SEWARD PARK

DATE 2/19/2014

SHEET 1 OF 2

Debbie Harris
SPU Seward Park ORD ATT A
March 14, 2014
Version #1

Thence from said TRUE POINT OF BEGINNING of this PTOJ Area; the following 5 courses and distances to the Lower Limit of Lake Washington Elevation 16.75' (NAVD88 = C.O.E Elevation 20.00);

Course 1: S28° 27' 08"E Length: 54.30', Course 2: N63° 10' 49"E Length: 55.51', Course 3: N21° 17' 55"E Length: 154.67', Course 4: N13° 48' 28"E Length: 197.17', Course 5: S47° 58' 47"E Length: 80.3'+/-, said point being S62° 57' 32"W a distance of 21.6'+/- from previous point on Lower Limit of Lake Washington at the end of said Course 19,

PTOJ Area containing: 46,221+/- sf

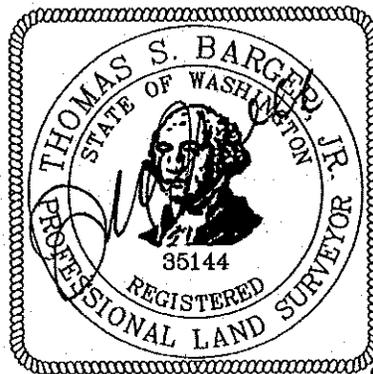
Prepared by:

Thomas S. Barger, Jr., PLS 35144

Seattle Parks and Recreation

206-684-4954

2/14/2014



2.19.2014



SEWARD PARK

DATE 2/19/2014

SHEET 2 OF 2

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Debbie Harris/3-9050	Saroja Reddy/ 5-1232
Department of Parks and Recreation	Donald Harris/4-8018	Catherine Cornwall/ 4-8725

Legislation Title:

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Seward Park, located beneath and adjacent to the tennis courts and adjacent parking lot, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair and operation of a combined sewer underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and superseding certain requirements of Ordinance 118477, which adopted Initiative 42.

Summary of the Legislation:

This legislation would transfer from Parks to Seattle Public Utilities (SPU) partial jurisdiction of the subsurface area under, and adjacent to the tennis courts and adjacent parking lot at Seward Park, as well as a small surface area and the subsurface of certain landscaped areas, within the very southern boundaries of Seward Park. SPU needs to use these areas to maintain, repair, and operate an underground sewage/stormwater storage tank, underground facilities vault and associated pipes and electrical lines to comply with state and federal water quality regulations.

The legislation also supersedes requirements of Ordinance 118477 (Initiative 42). Specifically, it would supersede the requirement that the Council enact an ordinance after a public hearing finding that: (a) the transaction is necessary because there is no reasonable and practical alternative; and (b) the tank, pipes, electrical lines, and limited surface ancillary facilities are compatible with park use and therefore no replacement property is required.

Background:

The City's combined sewer overflow (CSO) discharge permit from the Washington State Department of Ecology (Ecology) and related consent decree between the City, Ecology and the Environmental Protection Agency, requires SPU to construct facilities to reduce CSO discharges into Lake Washington. Ecology identifies Basin 44, which includes Seward Park and upland residential neighborhoods, as a priority to construct a CSO reduction project by 2018. Through a comprehensive siting analysis and public involvement process, SPU determined the appropriate approach to reducing CSOs in Basin 44 is to construct an underground storage tank in Seward Park.

Parks and SPU agree the proposed tennis court and adjacent small parking lot site in the very southern corner of Seward Park will have less impact on short term and long term uses of Seward Park than an alternative location in Seward Park.

This legislation does not have any financial implications.

 X **This legislation has financial implications.**

Spending/Cash Flow Notes:

The capital project to construct the underground storage tank is included in the 2013-2018 Adopted Drainage and Wastewater Fund capital appropriations (Henderson North Combined Sewer Overflow Reduction – Project C304102), within the Combined Sewer Overflows Budget Control Level (BCL) (C360). SPU will make a payment of \$1,097,676 for the partial transfer of jurisdiction from Parks to SPU upon the effective date authorized under this legislation, which is included in the project's capital budget appropriations above. SPU and Parks will also enter into a revocable use permit issued by Parks under its Revocable Use Permit for Non-park Use of Park Property Policy (RUP), which will cover the terms and conditions of the construction period of the project. Under the RUP, SPU will also make a payment of approximately \$600,000 to \$800,000 in accordance with Parks standard formula for these types of permits, which is also included in the project's capital budget. No additional appropriations are being requested due to this legislation. The SPU payments to Parks are anticipated to be made in 2015 for the RUP fees and in 2017 for the PTOJ payment as new revenue for Parks budget.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
In addition to the consideration for the partial transfer of jurisdiction and RUP mentioned above, Parks and SPU will need to cooperate and manage their respective facilities and operations in the area and will be entering into an MOA to address these ongoing needs.
- b) **What is the financial cost of not implementing the legislation?**
If the proposed alternative is not implemented, the financial costs are not quantified but could be substantial, including: (1) SPU may be subject to fines if it cannot comply with the requirements of the NPDES permit and related Consent Decree; and (2) SPU may incur substantial additional cost for analysis, new designs, and land acquisition.
- c) **Does this legislation affect any departments besides the originating department?**
Yes. The legislation will have operational impacts on Parks since the tennis court and adjacent small parking lot will be unavailable for use during the two-year long construction period. After construction is completed, Parks' operations will be minimally impacted.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
SPU has considered multiple alternatives over multiple years and has determined that this transaction is the best alternative.

e) Is a public hearing required for this legislation?

No. The ordinance supersedes the public hearing requirement of Ordinance 118477.

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. The legislation affects a portion of Seward Park, including the tennis courts and adjacent parking lot and landscaped area. A map of the project area is attached.

h) Other Issues:

The City received two federal Urban Park and Recreation Recovery (UPARR) grants for Seward Park, which include a condition to preserve the park for public recreational use. The grants allow an amendment to approve removal of these conditions from one area and placing them on a new area. SPU and Parks have requested grant amendments from National Park Service (NPS) to remove the UPARR grant conditions from the limited area within Seward Park where limited surface ancillary facilities would be constructed and to place the UPARR grant conditions on a portion of Lake Washington Boulevard. In conjunction with the grant amendments, SPU and Parks will also be required to enter into a Memorandum of Agreement (MOA) with the NPS and State Historic Preservation Officer, which is intended to ensure that any federal actions, i.e. approval of the grant amendments, consider impact to properties that are eligible for the national historic register. As part of that MOA, SPU will be required to prepare historic nomination forms, a walking tour and signage for Seward Park as part of the project. There are no additional requirements pertaining to the UPARR grant amendments as long as: (a) SPU does not construct above-ground facilities within the UPARR protected area; and (b) continuous closure of the parking lot adjacent to the tennis courts is limited to two years. SPU plans to meet both of these conditions.

List attachments to the fiscal note below:

Exhibit A – Project Area Map



City of Seattle
Edward B. Murray
Mayor

April 1, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill that would authorize the partial transfer of jurisdiction from the Department of Parks and Recreation to Seattle Public Utilities for the site of an underground wastewater storage tank at the tennis court site within Seward Park.

During heavy rains, the City of Seattle's sewer system lacks the capacity to contain the large volumes of stormwater runoff and sanitary sewage and, as a result, millions of gallons of the combined sewage are discharged into Lake Washington each year. The City, acting through Seattle Public Utilities, must reduce combined sewage overflows into Lake Washington to meet the terms of its combined sewer discharge permit. The proposed underground storage tank will retain combined sewage until the downstream system empties and it can be sent to a King County treatment plant for processing.

This project will enable the City to improve water quality in Lake Washington and meet critical permit requirements. Thank you for your consideration of this legislation. Should you have questions, please contact Debbie Harris, Capital Program Manager, at 733-9050.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward B. Murray', written over a horizontal line.

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council