



SEATTLE CITY COUNCIL

Legislative Summary

CB 119475

Record No.: CB 119475

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125798

In Control: City Clerk

File Created: 01/29/2019

Final Action: 03/29/2019

Title: AN ORDINANCE relating to the Seattle Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of the West Ewing Mini Park from the Seattle Department of Parks and Recreation to Seattle Public Utilities for installation, maintenance, repair, and operation of a combined sewer underground microtunnel and associated internal underground pipes, ducts, and electrical lines; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Juarez

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att 1 - Use Area

Drafter: Louis Webster

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	02/12/2019	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	02/12/2019	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						

1	Council President's Office	02/19/2019	sent for review	Civic Development, Public Assets, and Native Communities Committee	
	Action Text: The Council Bill (CB) was sent for review. to the Civic Development, Public Assets, and Native Communities Committee				
	Notes:				
1	City Council	03/18/2019	referred	Civic Development, Public Assets, and Native Communities Committee	
	Action Text: The Council Bill (CB) was referred. to the Civic Development, Public Assets, and Native Communities Committee				
	Notes:				
1	Civic Development, Public Assets, and Native Communities Committee	03/20/2019	pass		Pass
	Action Text: The Committee recommends that City Council pass the Council Bill (CB). In Favor: 2 Chair Juarez, Vice Chair Bagshaw Opposed: 0				
1	City Council	03/25/2019	passed		Pass
	Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:				
	Notes: In Favor: 9 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant Opposed: 0				
1	City Clerk	03/27/2019	submitted for Mayor's signature	Mayor	
1	Mayor	03/29/2019	Signed		
1	Mayor	03/29/2019	returned	City Clerk	
1	City Clerk	03/29/2019	attested by City Clerk		
	Action Text: The Ordinance (Ord) was attested by City Clerk.				
	Notes:				

CITY OF SEATTLE

ORDINANCE

125798

COUNCIL BILL

119475

AN ORDINANCE relating to the Seattle Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of the West Ewing Mini Park from the Seattle Department of Parks and Recreation to Seattle Public Utilities for installation, maintenance, repair, and operation of a combined sewer underground microtunnel and associated internal underground pipes, ducts, and electrical lines; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

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 CSOs to a long-term average of no more than one untreated discharge per year per outfall, on a 20-year moving 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 (SPU) 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 north of the Lake Washington Ship Canal designed to temporarily store more than 15 million gallons of

1 combined stormwater and sewage in order to reduce CSOs and partially fulfill the
2 objectives of the City's and County's NPDES permits and Consent Decrees; and
3 WHEREAS, in 2015 the City Council pursuant to Ordinance 124966 authorized SPU to enter
4 into a Joint Project Agreement with King County to design, construct, operate, and
5 maintain the Ship Canal Water Quality Project to reduce combined sewer overflows; and
6 WHEREAS, while the tunnel and its ancillary structures will be built primarily within street
7 right-of-way, temporary and permanent property rights will be necessary to construct,
8 maintain, and operate portions of the Ship Canal Water Quality Project; and
9 WHEREAS, a new microtunnel under the Lake Washington Ship Canal will be built to convey
10 polluted stormwater and sewage from North Queen Anne to the storage tunnel; and
11 WHEREAS, the West Ewing Mini Park is managed by Seattle Department of Parks and
12 Recreation (DPR), and consists of Lots 1-3, Block 49, Denny and Hoyt's Addition which
13 is under the jurisdiction of SPU; Lots 4-8, Block 49, Denny and Hoyt's Addition which is
14 under the jurisdiction of DPR; and the unopened portion of 3rd Avenue West south of and
15 adjacent to the Lake Washington Ship Canal and north of West Ewing Street; and
16 WHEREAS, engineering and hydraulic limitations determine that the southern end of the
17 microtunnel pass beneath property under the jurisdiction of DPR; and
18 WHEREAS, the portion of West Ewing Mini Park under the jurisdiction of SPU contains the
19 southern end of a utility tunnel built in 1911 to carry sewer and water lines and is
20 unavailable for additional uses; and
21 WHEREAS, DPR and SPU determined that a transfer of partial jurisdiction of the area to be
22 occupied by the microtunnel, including associated internal pipes, ducts, and electrical
23 lines, from DPR to SPU is appropriate because of the permanent nature of the

1 microtunnel and ancillary facilities and to facilitate efficient ongoing maintenance, repair,
2 operation, and protection of the underground microtunnel and internal facilities by SPU;
3 and

4 WHEREAS, the City Council held a public hearing in accordance with the requirements of
5 Section 3 of Ordinance 118477; NOW, THEREFORE,

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

7 Section 1. The City Council hereby finds that the transfer of limited and partial
8 jurisdiction of a portion of West Ewing Mini Park, as described in Section 2 below, from the
9 Seattle Department of Parks and Recreation (DPR) to Seattle Public Utilities (SPU) for the
10 installation, maintenance, repair, operation, and protection of a microtunnel and associated
11 internal facilities, (CSO Facility) to reduce combined sewer system overflows into the Lake
12 Washington Ship Canal, meets the requirements of Ordinance 118477, adopting Initiative 42, as
13 follows: (a) the proposed use is necessary because there is no reasonable and practical alternative
14 location for the CSO Facility; (b) transfer of limited and partial jurisdiction for installation,
15 maintenance, repair, operation and protection of the CSO Facility is equivalent to a subsurface or
16 utility easement, as permitted by Section 3 of Ordinance 118477; and (c) the CSO Facility is
17 compatible with park use because it is compatible with the current use of the property for
18 recreating, parking and landscaping.

19 Section 2. Conditioned upon the completion of the CSO Facility, such limited and partial
20 jurisdiction of the real property legally described and depicted in Attachment 1 (Use Area),
21 attached to this ordinance and incorporated herein, as shall be necessary for the maintenance,
22 repair, operation, and protection of the CSO Facility (Purposes) is transferred from DPR to SPU
23 subject to the following: (a) SPU may access the Use Area for the Purposes without further

1 authorization upon at least five days' notice to DPR, except in case of emergency, and shall
2 coordinate with DPR to avoid time periods when heavy use by the public is anticipated; (b) after
3 any access to the Use Area for the Purposes, SPU will restore the Use Area, at SPU's expense, to
4 at least the condition existing immediately prior to such access; (c) SPU shall not use any park
5 land outside of the Use Area without the prior written approval of DPR and (d) DPR agrees not
6 to build any structures above the Use Area without the prior granted consent of SPU.

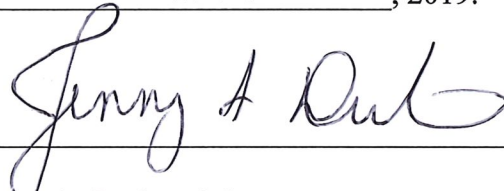
Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 25th day of March, 2019,
and signed by me in open session in authentication of its passage this 25th day of
March, 2019.



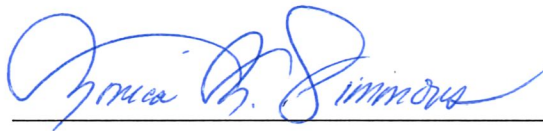
President _____ of the City Council

Approved by me this 29th day of March, 2019.



Jenny A. Durkan, Mayor

Filed by me this 29th day of MARCH, 2019.

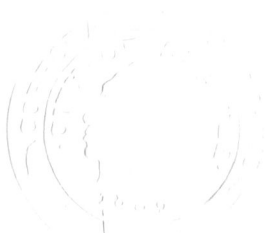


Monica Martinez Simmons, City Clerk

(Seal)

Attachment:

Attachment 1 – Use Area



Attachment 1 – Use Area

THAT PORTION OF LOTS 6 AND 7, BLOCK 49, OF DENNY AND HOYT'S ADDITION TO THE CITY OF SEATTLE, AS RECORDED IN VOLUME 2 OF PLATS, PAGE 136, RECORDS OF KING COUNTY, WASHINGTON, SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M.;

EXCEPT THAT PORTION THEREOF HERETOFORE CONVEYED TO THE UNITED STATES OF AMERICA FOR A CANAL RIGHT OF WAY BY DEED RECORDED UNDER RECORDING NUMBER 192544, RECORDS OF KING COUNTY.

DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 49; THENCE ALONG THE NORTHERLY RIGHT OF WAY MARGIN OF WEST EWING STREET, S 70° 22' 55" E A DISTANCE OF 171.83 FEET TO THE **POINT OF BEGINNING**; THENCE N 23° 00' 48" E A DISTANCE OF 20.22 FEET TO A POINT ON THE AFORESAID SOUTHERLY CANAL RIGHT OF WAY; THENCE ALONG SAID SOUTHERLY CANAL RIGHT OF WAY S 52° 10' 33" E A DISTANCE OF 15.52 FEET; THENCE S 23° 00' 48" W A DISTANCE OF 15.37 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF WEST EWING STREET; THENCE ALONG THE NORTHERLY RIGHT OF WAY MARGIN OF WEST EWING STREET N 70° 22' 55" W A DISTANCE OF 15.03 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 267 SQ. FT., MORE OR LESS

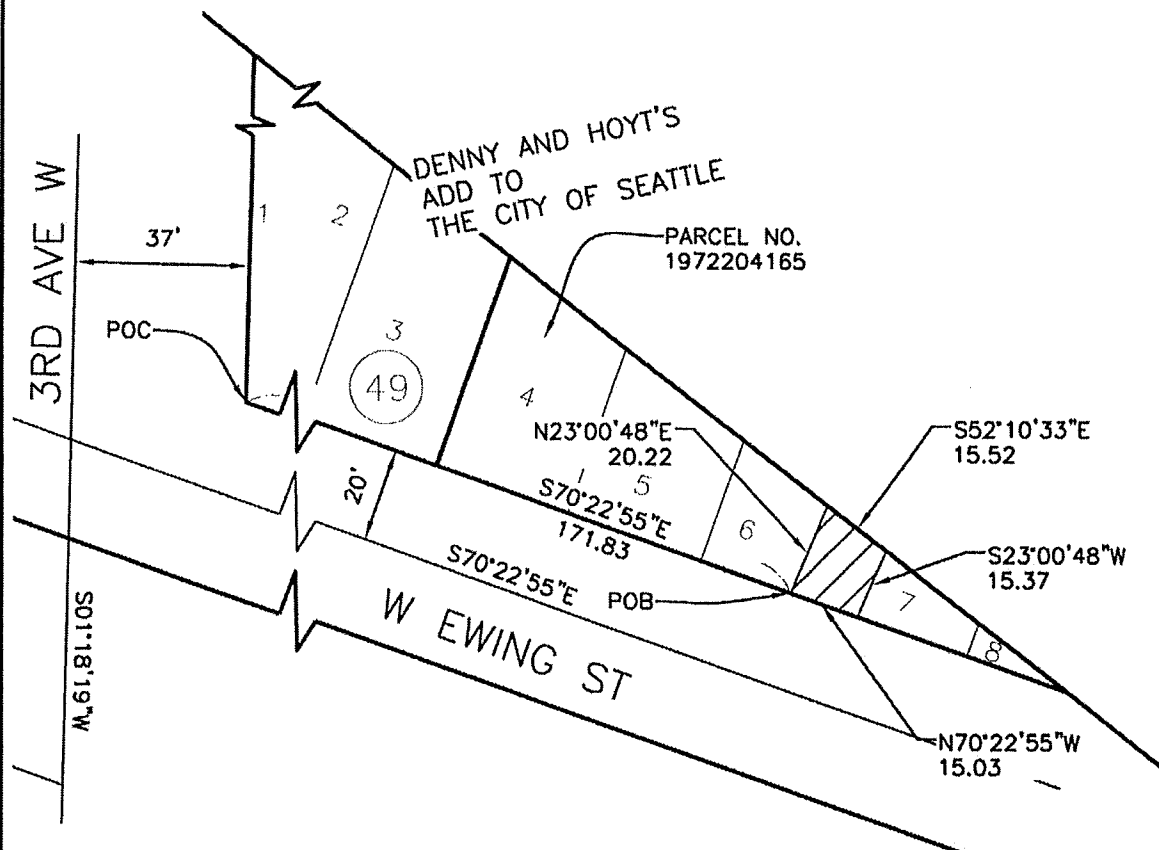
AND SHALL BE A SUBSURFACE USE AREA LYING VERTICALLY BETWEEN TWO HORIZONTAL PLANES AT ELEVATION -15.00 AND ELEVATION -64.00 FEET, BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), THE TOP PLANE BEING APPROXIMATELY 40 FEET BELOW THE EXISTING GROUND SURFACE.

THAT PORTION OF LOTS 6 AND 7 BLOCK 49
DENNY AND HOYT'S ADDITION TO THE CITY OF SEATTLE
NE 1/4 SE 1/4 SEC. 13, TWP. 25 N., RGE. 3 E., W.M.



SCALE IN FEET

POC=POINT OF COMMENCEMENT
POB=POINT OF BEGINNING



SPU

DRAWN: MHK

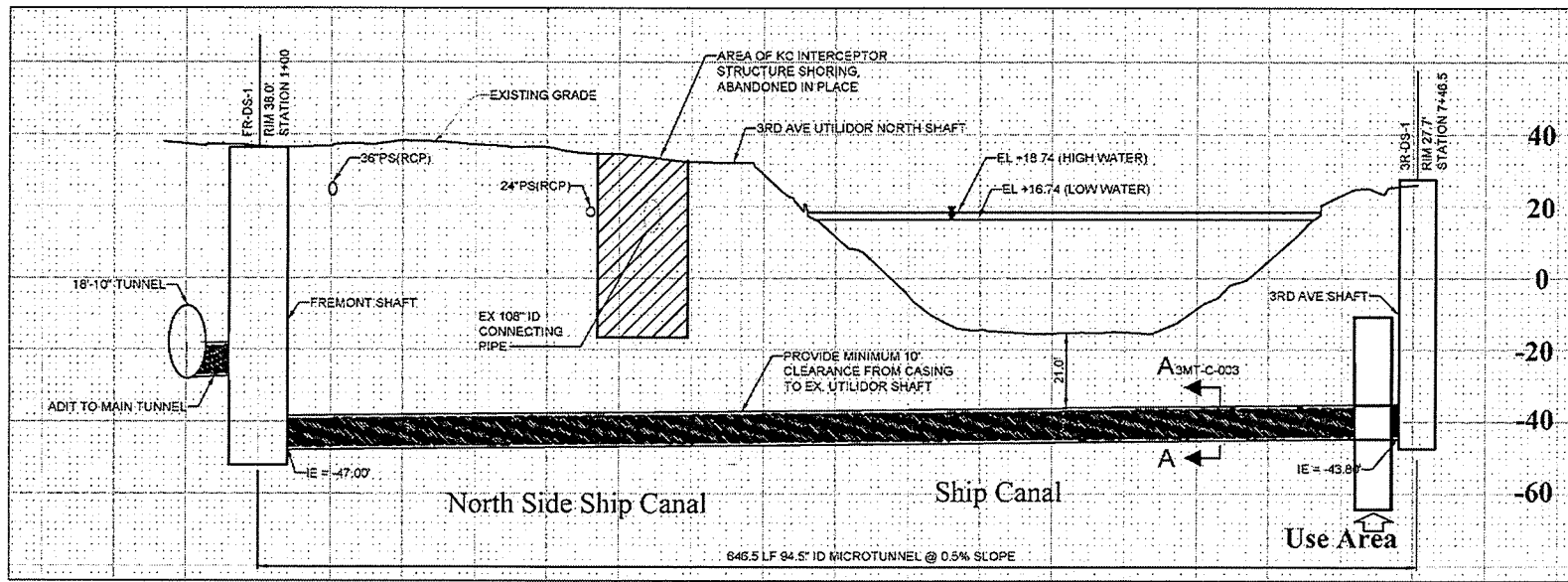
CHECKED: CSR

SCALE: 1"=40'



City of Seattle

Seattle Public Utilities



SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Seattle Public Utilities	Mike Wynne (SPU) 206-684-7859	Anna Hurst/733-9317
Seattle Department of Parks and Recreation	Stephanie Secord (SPU) 206-386-9778	
	Louis Webster (SPR) 206-684-5461	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE relating to the Seattle Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of the West Ewing Mini Park from the Seattle Department of Parks and Recreation to Seattle Public Utilities for installation, maintenance, repair, and operation of a combined sewer underground microtunnel and associated internal underground pipes, ducts, and electrical lines; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

Summary and background of the Legislation:

This legislation would transfer partial jurisdiction for the subsurface area of a parking, recreating and landscaped portion of the West Ewing Mini Park from Seattle Department of Parks and Recreation (DPR) to Seattle Public Utilities (SPU). SPU needs to use the subsurface area to install, maintain, repair, operate, and protect a proposed 8-ft diameter micro-tunnel containing combined sewage pipes in addition to an air duct and electrical lines, to comply with state and federal water quality regulations.

The legislation includes findings that the transfer of partial jurisdiction meets the requirements of Ordinance 118477 (Initiative 42). Specifically, (a) the proposed use is necessary because there is no reasonable and practical alternative location for the underground microtunnel and associated internal facilities; (b) transfer of limited and partial jurisdiction for installation, maintenance, repair, operation, and protection of the microtunnel and the associated internal facilities is equivalent to a subsurface or utility easement, as permitted by Section 3 of Ordinance 118477; and (c) the microtunnel internal pipes, ducts, electrical lines, are compatible with the current use of the property for recreating, parking and landscaping.

The City of Seattle is required by a Federal Consent Decree, as authorized by Ordinance 123908 and amended by Ordinance 124129, to construct control measures to reduce untreated combined sewer overflows in accordance with State of Washington requirements by December 31, 2025.

To achieve the goals of the Consent Decree, SPU and King County are working together to construct a proposed facility that handles combined sewage from Ballard, Fremont, Wallingford and north Queen Anne neighborhoods. SPU and the King County Department of Natural Resources and Parks (DNRP) will build a 2.7-mile-long underground storage tunnel between Ballard and Wallingford to temporarily hold peak combined sewage flows that exceed the

collection system capacity (Combined Sewer Overflows, CSO), and then gradually release the excess volume back into the sewer collection system for conveyance to the King County West Point Treatment Facility. The microtunnel is part of the system for intercepting and transporting excess flows from the combined sewer system in the north Queen Anne neighborhood to the storage tunnel. The proposed storage tunnel and micro-tunnel will be owned and operated by SPU.

Through a comprehensive siting analysis and public involvement process, SPU and King County determined that the only practical and reasonable alternative for reducing CSOs in north Queen Anne and transferring the combined sewage to the storage tunnel is to construct an underground microtunnel and internal facilities under the West Ewing Mini Park.

Ordinance 118477 does not require replacement property for transfer or change of use for subsurface or utility easements compatible with park use. This proposed transfer of partial and limited jurisdiction is equivalent to a subsurface or utility easement and the installation of an underground microtunnel with associated internal facilities is compatible with park use because it is compatible with the current use of the property for recreating, landscaping and parking.

2. CAPITAL IMPROVEMENT PROGRAM

- a. Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

- a. Does this legislation amend the Adopted Budget? ☐ Yes ☒ No
- b. Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

Seattle Public Utilities will pay the Seattle Department of Parks and Recreation \$17,880 for this partial transfer of jurisdiction. The amount was calculated using a method agreed to by both departments. The transfer includes 267 square feet at \$133.94/square foot with SPU getting a 50% share of the area (use is only underground). $133.94 \times 267 \times 50\% = \$17,880$.

Separately from this partial transfer, SPU and DPR are negotiating on the terms of a Revocable Use Permit (similar to a temporary construction easement) to provide adequate space for construction activities adjacent to West Ewing Mini Park. The funds for the Permit will come from the Ship Canal project budget, which is part of the adopted budget of the Drainage and Wastewater Fund, combined Sewer Overflows BCL.

- c. Is there financial cost or other impacts of *not* implementing the legislation?

Yes, not utilizing the West Ewing Mini Park parcel for the alignment of the microtunnel would require significant engineering and re-design for a new alignment which would result in increased capital costs, community impacts, and operation and maintenance costs. A new alignment may require additional real properties acquisitions and

associated costs. A delay that causes the Ship Canal Water Quality Project schedule to miss Consent Decree deadlines will result in financial penalties listed in the Consent Decree. In addition, uncontrolled CSOs in the north Queen Anne neighborhood are a violation of the Clean Water Act, the City's National Pollutant Discharge Elimination System (NPDES) permit and the City's Consent Decree, which could result in additional fines.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

There is no effect to other departments except the Seattle Department of Parks and Recreation and Seattle Public Utilities. A portion of West Ewing Mini Park will be temporarily inaccessible during construction in accordance with the DPR Revocable Use Permit for this project.

b. Is a public hearing required for this legislation?

Yes, pursuant to Ordinance 118477 a public hearing is required. The public hearing will be held at the City Council's Civic Development, Public Assets and Native Communities Committee meeting.

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

No

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

e. Does this legislation affect a piece of property?

Yes, this legislation affects one parking space and a small landscaped area of a DPR-owned parcel located at 170 W. Ewing St., known as the West Ewing Mini Park. The parking space and landscaping will be restored to existing condition. See attached vicinity map.

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

No known RSJI impacts.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

This legislation is not precedent setting and does not include a new initiative or programmatic expansion. However, it is required to maintain the schedule and water quality requirements of the Consent Decree. The microtunnel is a critical-path component of the Ship Canal Water Quality project, meaning a delay to this component delays completion of the overall project. The Ship Canal Water Quality project will reduce CSOs, thereby improving the water quality of the Ship Canal and Puget Sound with the corresponding reduction in public health risks.

List attachments/exhibits below:

Summary Exhibit A – Vicinity Map

STATE OF WASHINGTON -- KING COUNTY

--SS.

372361

No.

CITY OF SEATTLE, CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125797-125800 TITLE

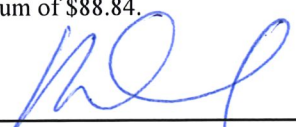
was published on

04/05/19

The amount of the fee charged for the foregoing publication is the sum of \$88.84.



Affidavit of Publication



Subscribed and sworn to before me on

04/05/2019



Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on March 25, 2019, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125797

Council Bill 119486

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125798

Council Bill 119475

AN ORDINANCE relating to the Seattle Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of the West Ewing Mini Park from the Seattle Department of Parks and Recreation to Seattle Public Utilities for installation, maintenance, repair, and operation of a combined sewer underground microtunnel and associated internal underground pipes, ducts, and electrical lines; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

Ordinance 125799

Council Bill 119477

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute and accept from the Washington State Department of Natural Resources, on behalf of The City of Seattle, a waterway permit for Waterway 1 in Laurelhurst.

Ordinance 125800

Council Bill 119482

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute and accept from the Washington State Department of Natural Resources on behalf of The City of Seattle a waterway permit for Waterway 3A in the Washington Park Arboretum.

Date of publication in the Seattle Daily Journal of Commerce, April 5, 2019.

4/5(372361)