



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

February 18, 2015

Ordinance 17976

Proposed No. 2015-0038.1

Sponsors Gossett

1 AN ORDINANCE authorizing the condemnation of certain  
2 property and property rights required for construction,  
3 operation and maintenance of the Hanford #1 combined  
4 sewer overflow control project.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 **SECTION 1. Findings:**

7 A. On November 13, 2012, the King County council adopted the 2013 Annual  
8 Budget and program by Ordinance 17476 and provided funding for capital projects to  
9 support King County's wastewater treatment program.

10 B. One of the funded capital projects is the Hanford #1 combined sewer overflow  
11 control project for the upgrade and construction of conveyance infrastructure, under  
12 capital improvement project 1116802.

13 C. The Hanford #1 Project was approved as part of King County's long-term  
14 combined sewer overflow control plan under Ordinance 17413, and incorporated in King  
15 County's combined sewer overflow Consent Decree approved by the United States  
16 Environmental Protection Agency, United States Department of Justice and Washington  
17 state Department of Ecology and entered into on July 3, 2013. This project involves the  
18 construction of a new sewer pipeline that will be installed near the intersection of Rainier  
19 Avenue South and Martin Luther King Jr. Way South to divert flows to an existing pipe

20 with available capacity. Excess flows from this area will be routed to a storage tank at  
21 the intersection of South Hanford Street and South 27th Avenue. These new facilities  
22 will keep sewage and municipal stormwater from the Mt. Baker and northern Rainier  
23 Valley neighborhoods out of the Duwamish river.

24 D. Private property rights and rights in property in the vicinity of the project must  
25 be acquired to provide space for the construction of pipes, storage tanks and an odor  
26 control facility. This includes property owned by Worthington Real Estate LLC and Niro  
27 Investments LLC and Harry T. Yoshimura (dba Mutual Fish Company).

28 E. The wastewater treatment division of the department of natural resources and  
29 parks has had extensive discussions with property owners in order to understand the  
30 needs of the property owners and to voluntarily acquire this private property at a fair  
31 price, consistent with applicable legal requirements.

32 F. Since 2012, the wastewater treatment division has contacted the owners of  
33 Mutual Fish Company approximately thirty times to negotiate the purchase of temporary  
34 surface and permanent subsurface easements on property where a storage shed is  
35 currently located.

36 G. In addition to paying Mutual Fish fair market value for the easements, the  
37 wastewater treatment division has proposed a variety of options for temporary storage  
38 and to provide new permanent replacement storage following completion of the project as  
39 well as covering other costs to fully compensate the property owners.

40 H. Despite these extensive efforts, the wastewater treatment division has been  
41 unable to reach agreement with Mutual Fish to acquire the required temporary surface

42 and permanent subsurface easement so that the project can proceed and be completed on  
43 schedule as required by law.

44 I. The wastewater treatment division has also made multiple contacts with  
45 Worthington Real Estate LLC and has been unable to reach agreement on an easement to  
46 utilize a pipe abandoned by the city of Seattle, which is located underneath property  
47 owned by Worthington.

48 J. If a property owner and the wastewater treatment division cannot reach  
49 agreement on a voluntary sale, condemnation proceedings will be necessary to gain right  
50 of entry and possession soon thereafter in order stay in compliance with the combined  
51 sewer overflow consent decree.

52 K. To meet the challenge of controlling combined sewer overflows, and to  
53 comply with project milestones established in the consent decree, including a  
54 construction completion date of 2019, a range of options for the Hanford #1 project was  
55 considered. The preferred alternative for the Hanford #1 project will achieve the  
56 following:

- 57 1. Meet the consent decree requirements by preventing combined sewer  
58 overflows from occurring no more than once per year at each location over a twenty-year  
59 moving average;
- 60 2. Reduce potential project risks and impacts;
- 61 3. Maintain operations during construction; and
- 62 4. Ensure safe, reliable wastewater conveyance.

63 L. The capital budget provides for the acquisition of property interests and  
64 property rights necessary for the construction of the Hanford #1 project. Acquisition of

65 the property and property rights is required to stay on schedule to meet the deadline in the  
66 combined sewer overflows consent decree for the Hanford #1 project.

67 M. King County is authorized, by chapters 8.12 and 36.56 RCW and RCW  
68 35.58.320 and 35.58.200, to acquire, damage and condemn real property for public use  
69 for sewage treatment and water pollution abatement facilities.

70 N. In order to acquire the property interests and property rights for the  
71 construction, operation and maintenance of the project, it is necessary for King County to  
72 condemn and damage certain lands and property rights and rights in property. The  
73 acquisition of the property rights and rights in property is for a public purpose.

74 O. The King County council finds that public health, safety, necessity and  
75 convenience require construction of structures under the project, including, but not  
76 limited to, a storage tank, conveyance pipelines, and odor control and operations  
77 facilities. In addition, certain property interests, property rights and rights in property in  
78 the parcels listed in Attachment A to this ordinance shall be condemned, appropriated,  
79 taken and damaged for the purposes of the project described in this ordinance.

80 SECTION 2. The King County council has deemed it necessary for the proposed  
81 public purpose and in the best interest of the residents and wastewater ratepayers of the  
82 King County regional wastewater treatment system that all or any portion of the  
83 properties identified by tax parcel numbers, identified in Attachment A to this ordinance,  
84 and other property interests, property rights or rights in property be condemned,  
85 appropriated, taken and damaged for the purpose of the improvements described in this  
86 ordinance, subject to the making or paying of just compensation to the owners herein in  
87 the manner provided by law.

88           SECTION 3. In order to ensure that the county can meet its legal obligation to  
89 complete construction of the Hanford #1 combined sewer overflow control project on  
90 schedule, condemnation proceedings are hereby authorized to acquire property interests  
91 and property rights and rights in property in all or any portion of the properties described  
92 in Attachment A to this ordinance.

93           SECTION 4. The attorneys of King County are hereby authorized to begin to  
94 prosecute the proceedings provided by law to condemn, take, damage and appropriate the  
95 land and other property interests, property rights and rights in property necessary to carry  
96 out this ordinance.

97           SECTION 5. Before filing a petition for condemnation, the wastewater treatment  
98 division shall seek to mediate a resolution with the property owners. The wastewater  
99 treatment division may file a petition for condemnation if the property owners have not  
100 agreed to mediate within thirty days after the effective date of this ordinance or if

- 101 mediation has not been concluded within sixty days after the effective date of this
- 102 ordinance.
- 103 Advertise in legal paper with largest circulation where property is located
- 104 Newspaper: Seattle Times
- 105 Publish: two consecutive weeks: February 4, 11, 2015
- 106 Public Hearing: Tuesday, February 17, 2015
- 107

Ordinance 17976 was introduced on 1/12/2015 and passed by the Metropolitan King County Council on 2/17/2015, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,  
Mr. Dunn, Mr. McDermott, Mr. Dembowski and Mr. Upthegrove  
No: 0  
Excused: 1 - Ms. Lambert

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 25 day of FEBRUARY 2015.



Dow Constantine, County Executive

Attachments: A. Easement Locations

RECEIVED  
2015 FEB 27 PM 3:56  
KING COUNTY COUNCIL CLERK

Attachment A: Easement Locations

