



Legislation Text

File #: 2015-0038, **Version:** 1

Clerk 01/08/2015

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

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

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

C. The Hanford #1 Project was approved as part of King County's long-term combined sewer overflow control plan under Ordinance 17413, and incorporated in King County's combined sewer overflow Consent Decree approved by the United States Environmental Protection Agency, United States Department of Justice and Washington state Department of Ecology and entered into on July 3, 2013. This project involves the construction of a new sewer pipeline that will be installed near the intersection of Rainier Avenue South and Martin Luther King Jr. Way South to divert flows to an existing pipe with available capacity. Excess flows from this area will be routed to a storage tank at the intersection of South Hanford Street and South 27th Avenue. These new facilities will keep sewage and municipal stormwater from the Mt. Baker and northern Rainier Valley neighborhoods out of the Duwamish river.

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

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

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

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

H. Despite these extensive efforts, the wastewater treatment division has been unable to reach agreement with Mutual Fish to acquire the required temporary surface and permanent subsurface easement so that the project can proceed and be completed on schedule as required by law.

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

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

K. To meet the challenge of controlling combined sewer overflows, and to comply with project

milestones established in the consent decree, including a construction completion date of 2019, a range of options for the Hanford #1 project was considered. The preferred alternative for the Hanford #1 project will achieve the following:

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

L. The capital budget provides for the acquisition of property interests and property rights necessary for the construction of the Hanford #1 project. Acquisition of the property and property rights is required to stay on schedule to meet the deadline in the combined sewer overflows consent decree for the Hanford #1 project.

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

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

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

SECTION 2. The King County council has deemed it necessary for the proposed public purpose and in

the best interest of the residents and wastewater ratepayers of the King County regional wastewater treatment system that all or any portion of the properties identified by tax parcel numbers, identified in Attachment A to this ordinance, and other property interests, property rights or rights in property be condemned, appropriated, taken and damaged for the purpose of the improvements described in this ordinance, subject to the making or paying of just compensation to the owners herein in the manner provided by law.

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

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

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

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