



Legislation Text

File #: 2007-0433, **Version:** 1

Clerk 08/16/2007

AN ORDINANCE authorizing the executive to implement the terms of a mitigation agreement with the city of Kenmore through an intergovernmental land transfer agreement with the city of Kenmore and other appropriate measures.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. In December 2003, after an extensive siting and environmental review process, King County approved and selected the Route 9 - 195th Street system for design, permitting and construction of the Brightwater regional wastewater treatment system.

B. The Brightwater regional wastewater treatment system includes the construction of a new regional wastewater treatment plant in unincorporated Snohomish county, deep tunnel conveyance facilities through several jurisdictions; a marine outfall in unincorporated Snohomish county and five primary portal sites in the cities of Bothell, Kenmore and Shoreline and in unincorporated Snohomish county. One of the primary portals is the north Kenmore portal, also known as Portal 44, located within the city of Kenmore.

C. King County has been working with host jurisdictions and affected communities to develop mitigation measures for the environmental impacts created by the construction, maintenance and operation of the Brightwater facilities.

D. In conjunction with the permitting process for the north Kenmore portal, King County negotiated a mitigation agreement with the city of Kenmore to address the potential significant environmental impacts of the Brightwater project on the city of Kenmore and its residents. As part of the negotiated mitigation agreement

King County agreed, subject to council approval, that real property acquired for the north Kenmore portal that is not needed by King County for the maintenance and operation of any portal conveyance or utility structures and facilities would be considered “surplus property” and would be transferred to the city of Kenmore after completion of the Brightwater construction. As part of the negotiated mitigation agreement, the wetland areas on the north Kenmore portal property would also be transferred to the city for ongoing use and maintenance consistent with federal and state laws and regulations and the federal and state permit conditions governing the Brightwater project.

E. On September 26, 2005, the Kenmore city council approved execution of the mitigation agreement with King County. The mitigation agreement was executed by the city of Kenmore on September 26, 2005, and by King County on October 31, 2005, before King County had acquired the real property needed for the north Kenmore portal.

F. The mitigation agreement is consistent with the county's environmental mitigation policies set forth in K.C.C. 28.86.140, the state Environmental Policy Act and the Growth Management Act; it provides mitigation of the adverse environmental impacts identified in the Brightwater environmental review documents and complies with the various city of Kenmore permitting requirements for the north Kenmore portal.

G. On June 9, 2006, after a one-month condemnation trial, King County acquired the property for the north Kenmore portal for approximately \$7.61 million.

SECTION 2. The executive is authorized to implement the terms of the mitigation agreement through execution of a property transfer agreement with the city of Kenmore in substantially the form of Attachment A to this ordinance and through other measures necessary to implement the terms of the mitigation agreement. Any property transfer or other agreement with the city of Kenmore shall meet the following requirements:

A. The future use of the wetland properties being transferred shall remain consistent with the uses designated by federal and state law and by the federal and state permit conditions governing the Brightwater project at those wetland properties;

B. The future use of the surplus nonwetland property being transferred shall be open space, park or recreational uses, or any combination thereof;

C. Transfer of the wetland properties and surplus nonwetland property shall occur after the final construction of the Brightwater project;

D. The property transfer agreement will reserve to the county the rights and property interests needed to maintain, operate and access the north Kenmore portal facilities and structures and certain other needed or planned utility facilities, including, but not limited to, the wastewater conveyance tunnel, chemical injection and reclaimed water facilities and structures; and

E. The property transfer agreement shall not require the county to incur any unreimbursed expenditures above those provided for in the mitigation agreement.

10 days prior

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