



King County

KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 10, 2007

Ordinance 15990

Proposed No. 2007-0625.1

Sponsors Phillips

1 AN ORDINANCE authorizing the condemnation of a
 2 subsurface easement from the city of Seattle needed for the
 3 conveyance tunnel for the Brightwater regional wastewater
 4 treatment system; and repealing Ordinance 15943, Section
 5 1, Ordinance 15943, Section 2, Ordinance 15943, Section 3
 6 and Ordinance 15943, Section 4.

7

8 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 SECTION 1. Findings:

10 A. By Ordinance 13680, on November 29, 1999, King County adopted the
 11 Regional Wastewater Services Plan ("RWSP"), which set forth treatment plant policies
 12 intended to guide the county in providing wastewater treatment at its existing plants, and
 13 in expanding wastewater treatment capacity through the year 2030. The RWSP calls for
 14 construction of a new wastewater treatment plant in north King County or south
 15 Snohomish county by 2010.

16 B. On December 10, 2001, by Ordinance 14278, the King County council
 17 authorized the preparation of an Environmental Impact Statement ("EIS") on the siting

18 and construction of the north treatment facility project, now known as the Brightwater
19 regional wastewater treatment system. King County issued the final EIS on the
20 Brightwater regional wastewater treatment system in November 2003. In December
21 2003, the King County executive selected the Route 9 – 195th Street system alternative,
22 including a new regional wastewater treatment plant, conveyance facilities, with five
23 primary portals, and an outfall to Puget Sound as the final Brightwater alternative. King
24 County has developed the plans, designs and specifications, obtained all necessary
25 permits and approvals and has awarded construction contracts for construction of the
26 Brightwater regional wastewater treatment system and construction of the Brightwater
27 regional wastewater treatment system is now underway. The Brightwater regional
28 wastewater treatment system is an essential public facility, the siting and construction of
29 which are protected under the Growth Management Act.

30 C. King County has acquired, or has use and possession of, all of the property
31 needed for the Brightwater project, including all subsurface easement areas, except a
32 small subsurface area within the Seattle Public Utilities' Tolt Pipeline right-of-way. This
33 subsurface easement from the city of Seattle is needed for the conveyance tunnel for the
34 Brightwater project. The King County council has approved five condemnation
35 ordinances to enable the county to acquire all of the fee parcels and subsurface easement
36 areas needed for the Brightwater project. However, the subsurface area in the Seattle
37 Public Utilities' Tolt Pipeline right-of-way had not been included in the prior ordinances
38 because county and Seattle Public Utilities ("SPU") staffs were working cooperatively,
39 government to government, and the county did not believe that a condemnation action
40 between the two governments would be needed.

41 D. On October 29, 2007 by Ordinance 15943 the King County council took
42 action authorizing the condemnation of the subsurface easement. Due to administrative
43 error, the notice required by RCW 8.25.290 was not provided prior to the council's final
44 action on Ordinance 15943.

45 E. RCW 8.25.290 requires that the county provide notice before the council
46 takes final action to authorize the condemnation of a specific property. The required
47 notice for final action on this ordinance has been provided.

48 F. The property rights and property interests set forth in this ordinance are
49 necessary for and are part of the conveyance tunnel alignment which has been designed,
50 engineered and will soon be under construction. Timely acquisition of the property
51 interests set forth in this ordinance is critical to maintaining the currently designed tunnel
52 alignment and construction schedule for the Brightwater regional wastewater treatment
53 system and will minimize the risk of a costly work stoppage. This parcel is the last parcel
54 in the tunnel alignment stretching from the city of Bothell to the city of Shoreline, which
55 has not been acquired. A map of the conveyance alignment described in this ordinance is
56 enclosed as Exhibit A to Attachment A to this ordinance.

57 G. In August 2006, SPU notified the county that SPU concurred with the grant of
58 the subsurface easement to King County for the Brightwater Project. The Seattle City
59 law department had approved the wording of the easement. Per SPU, it was expected
60 that an ordinance authorizing the conveyance of the easement would be presented to the
61 Seattle City council within six months, and that SPU would recommend passage of that
62 legislation.

63 H. On April 23, 2007, an ordinance, Seattle Council Bill No. 115874, declaring
64 surplus certain subsurface property rights in SPU's Tolt Pipeline right-of-way and
65 authorizing the conveyance of a subsurface easement for such surplus property rights to
66 King County for the Brightwater project was introduced and assigned to the Seattle City
67 council environment, emergency management and utilities committee ("utilities
68 committee").

69 I. On May 8, 2007, the utilities committee put the legislation on hold. On
70 October 23, 2007, the utilities committee referred the legislation to the council.
71 Subsequent discussions with the chair of the committee led the executive to conclude that
72 the easement would not be approved until sewer contract negotiations were concluded.
73 King County must proceed with condemnation of this subsurface easement or risk
74 significant construction schedule delays for the entire Brightwater project.

75 J. King County is authorized by chapters 8.12 and 36.56 RCW, RCW 35.58.320
76 and 35.58.200, K.C.C. chapter 28.81 and Ordinance 10531 to acquire and condemn real
77 property for public use for sewage treatment and water pollution abatement facilities.

78 K. In order to acquire the property interests and property rights set forth in this
79 ordinance, which are necessary to construct the Brightwater regional wastewater
80 treatment system, including the conveyance facilities, it is necessary for King County to
81 condemn certain lands, property rights and rights in property. The acquisition of such
82 property rights is for a public purpose.

83 L. The King County council finds that public health, safety, necessity,
84 convenience and welfare demand that certain properties and rights in those properties,
85 including those set forth in the ordinance be condemned, appropriated, taken, and

86 damaged for the purpose of construction, operation and maintenance of the Brightwater
87 regional wastewater treatment system, including the conveyance facilities.

88 SECTION 2. The King County council has deemed it necessary, for the proposed
89 public purpose and in the best interest of the ratepayers of the regional wastewater
90 treatment system, that all or any portion of the property described in Attachment A to this
91 ordinance, and other property interests, property rights and rights in property, be
92 condemned, appropriated, taken and damaged in fee and/or in easements for construction,
93 operation and maintenance of the Brightwater wastewater treatment system, including the
94 conveyance facilities, subject to making or paying of just compensation to the owners
95 herein in the manner provided by law.

96 SECTION 3. Condemnation proceedings are hereby authorized to acquire
97 property interests and property rights and rights in property in all or any portion of the
98 property described in Attachment A to this ordinance for the purpose of the Brightwater
99 project.

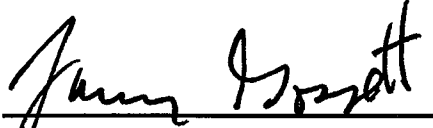
100 SECTION 4. The attorneys for King County are hereby authorized and directed
101 to begin to prosecute the proceedings provided by law to condemn, take and appropriate
102 the land and other property interests, property rights and rights in property necessary to
103 carry out this ordinance.

104 SECTION 5. Ordinance 15943, Section 1, Ordinance 15943, Section 2,
105 Ordinance 15943, Section 3 and Ordinance 15943, Section 4 are each hereby repealed.
106

Ordinance 15990 was introduced on 12/3/2007 and passed by the Metropolitan King
County Council on 12/10/2007, by the following vote:

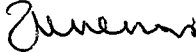
Yes: 8 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr.
Dunn, Mr. Ferguson, Mr. Phillips and Mr. Constantine
No: 0
Excused: 1 - Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



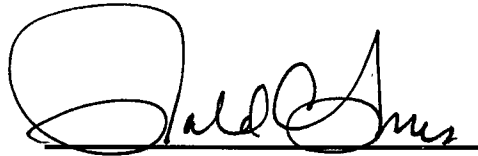
Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of DECEMBER, 2007.



Ron Sims, County Executive

Attachments None

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KING COUNTY COUNCIL