

## **Protect Seattle Now's Proposed Substitute Explanatory Statement**

### **Alaskan Way Viaduct replacement agreements referendum measure (Ord. 123542, Section 6)**

#### **1. Ordinance Number 123542, Section 6, and the referendum process**

The Seattle City Council enacted Ordinance 123542 (the Ordinance) on February 28, 2011, accepting three agreements with the Washington State Department of Transportation (the State) regarding replacement of the Alaskan Way Viaduct. The three agreements address preliminary work on the proposed deep-bore tunnel, currently the City's and the State's preferred alternative for replacing the viaduct along Seattle's central waterfront. The three agreements also address how to implement a final decision to build the tunnel.

Article IV Section 1 of the city charter provides for a referendum petition process. This process allows for a public vote on ordinances passed by the City Council before they become law. If the required number of Seattle voters (at least eight percent of the total number of votes cast for the office of mayor in the most recent City election) sign referendum petitions regarding an ordinance, the ordinance does not take effect and instead is placed on the ballot for City voters to approve or reject.

The required number of voters signed a referendum petition to have a public vote, and Section 6 of the Ordinance has been referred to the voters for approval or rejection.

#### **2. The law as it presently exists**

Section 6 of the Ordinance is suspended pending this referendum vote.

The rest of the Ordinance, now in effect, accepts the agreements with the State (Sections 1 and 2); authorizes the Clerk to sign the agreements (Section 3); directs the Mayor to see that the agreements are faithfully kept and performed (Section 4); provides that the agreements may only be amended as authorized by ordinance (Section 5); ratifies and confirms prior consistent acts (Section 7); and provides for an effective date (Section 8).

The three agreements with the State approved by the Ordinance address utility design, utility relocation, property issues, environmental remediation, design review, permitting, and construction coordination. The three agreements are available on the City's website at: <http://www.seattle.gov/leg/clerk/tunnelagreements.pdf>. The three agreements are currently in effect as they relate to preliminary design work on the proposed deep-bore tunnel.

However, Section 2.3 of each agreement limits the work that can currently be done. Section 2.3 of each agreement means that final design work and construction of the deep-bore tunnel is not allowed unless the City Council gives notice to the State, and vice

versa, that it chooses to proceed with final implementation of the agreements. Section 2.3 of each agreement prohibits the City Council from issuing this “notice to proceed” before issuance of the Final Environmental Impact Statement (FEIS) and the federal Record of Decision (ROD). An FEIS analyzes the environmental impacts of a proposed action and reasonable alternatives to the proposed action. The ROD for this project will be issued by the Federal Highway Administration and selects an alternative in the FEIS for purposes of federal funding. After evaluating the FEIS and issuance of the federal ROD, the City Council may consider whether or not to give the “notice to proceed” with these agreements.

### **3. The effect of Ordinance 123542, Section 6, if approved by the voters**

Section 6 of the Ordinance, which will appear on the August primary ballot, would allow the City Council to give the “notice to proceed” referenced in Section 2.3. The language of Section 6 is as follows: “The City Council is authorized to decide whether to issue the notice referenced in Section 2.3 of each Agreement. That decision shall be made at an open public meeting held after issuance of the Final Environmental Impact Statement.”

Section 6, if approved, would give the City Council the sole authority to finally bind the City of Seattle to these agreements by issuing the “notice to proceed” with the agreements beyond the initial design phase. A decision by the City Council to issue the “notice to proceed” would have to be made at an open public meeting after issuance of the FEIS and the FHWA’s federal ROD.