

Ordinance No. 123818

Council Bill No. 117388

AN ORDINANCE granting King County Department of Natural Resources and Parks, Wastewater Treatment Division permission to expand, maintain, and operate the pump station located in the Southwest Barton Street shoreline street end, west of Fauntleroy Way Southwest for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Related Legislation File:

Date Introduced and Referred: 1.23.12	To: (committee): Transportation
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: Jan. 30, 2012	Date Presented to Mayor: Jan. 31, 2012
Date Signed by Mayor: 2.3.12	Date Returned to City Clerk: 2.7.12
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

Law Department

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: *Tom Roemer*

Committee Action:

Date	Recommendation	Vote
1-24-12	Pass	TR BH JG 3-0

This file is complete and ready for presentation to Full Council.

Full Council Action:

Date	Decision	Vote
Jan. 30, 2012	Passed	9-0

ORDINANCE 123818

1
2 AN ORDINANCE granting King County Department of Natural Resources and Parks,
3 Wastewater Treatment Division permission to expand, maintain, and operate the pump
4 station located in the Southwest Barton Street shoreline street end, west of Fauntleroy
Way Southwest for an unlimited term; specifying the conditions under which this permit
is granted; and providing for the acceptance of the permit and conditions.

5 WHEREAS, the City of Seattle (City) and the Municipality of Metropolitan Seattle (Metro)
6 entered into an "Agreement for Sewage Disposal" on January 26, 1961 ("the 1961
7 Agreement") as authorized by Ordinance 89363; and

8 WHEREAS, under the 1961 Agreement, the City agreed to transfer sewage facilities, including
9 the pump station located in Southwest Barton Street, west of Fauntleroy Way Southwest
(the "pump station"), from the City to Metro; and Metro agreed to maintain, operate,
10 repair, and replace the pump station; and

11 WHEREAS, this term permit does not alter the rights or duties of the City or King County under
12 the 1961 Agreement; and

13 WHEREAS, in 1994, Metro merged with and became part of King County; and

14 WHEREAS, King County Department of Natural Resources and Parks, Wastewater Treatment
15 Division has applied for permission to expand the building footprint of the pump station
beyond the building footprint that existed in 1961 and including installing other
16 improvements to benefit the public; and

17 WHEREAS, the expansion of the pump station includes constructing an underground generator
18 and underground fuel storage tank, odor control facility, and vault room in order to
provide emergency backup power, increased pumping capacity, and provide odor control;
19 and

20 WHEREAS, by Resolution 31304, the City granted conceptual approval of the expansion of the
21 pump station and public benefit installations as recommended by the Seattle Design
Commission ; and

22 WHEREAS, on July 18, 2011, the City Council approved under Clerk's File 311027, the Council
23 Land Use Action that included a Shoreline Substantial Development Permit approving
features of the expanded facility located in the Shoreline District; and

24 WHEREAS, the adoption of this ordinance is the culmination of the approval process for the
25 pump station expansion, NOW, THEREFORE,

26
27 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**



1 Section 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of
2 Seattle (City) grants permission (also referred to in this ordinance as a permit) to King County
3 Department of Natural Resources and Parks, Wastewater Treatment Division, and its successors
4 and assigns as approved by the Director of the Seattle Department of Transportation (Director)
5 according to Section 14 of this ordinance (the party named above and each approved successor
6 and assign is referred to as "Permittee"); to expand, maintain, and operate the pump station, and
7 construct, maintain, and operate all associated utility, landscaping, and public-benefit
8 installations (collectively the "pump station") that is located in the Southwest Barton Street
9 shoreline street end, west of Fauntleroy Way Southwest. All Southwest Barton Street shoreline
10 street end installations within the boundaries of the southern property line of parcel 3524039112
11 to the north, the Puget Sound shoreline to the west, the Washington State Ferry Terminal to the
12 south, and the back of Fauntleroy Way Southwest to the east shall be the responsibility of the
13 Permittee.
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16 Section 2. **Term.** The permission granted to the Permittee to expand, maintain, and
17 operate the pump station under this Ordinance shall continue for so long as the pump station is
18 used as a waste water pump station facility, subject to the right of the City to require the removal
19 of the pump station or to revise by ordinance any of the terms and conditions of the permission
20 granted by this ordinance.
21

22 Section 3. **Protection of utilities.** The permission granted is subject to the Permittee
23 bearing the expense of any protection, support, or relocation of existing utilities deemed
24 necessary by the owners of the utilities; and the Permittee being responsible for any damage to
25 the utilities due to the construction, repair, reconstruction, maintenance, operation, or removal of
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1 the pump station and for any consequential damages that may result from any damage to utilities
2 or interruption in service caused by any of the foregoing.

3 Section 4. **Removal for transportation purposes.** The permission granted is subject to
4 use of the street right-of-way or other public place (collectively “public place”) by the City and
5 the public for transportation purposes. The City expressly reserves the right to terminate the
6 permission at any time and require the Permittee to remove the pump station, or any part thereof
7 or installation on the public place, at the Permittee’s sole cost and expense in the event that:
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- 9 (a) the City Council determines by ordinance that the space occupied by the pump station
10 is necessary for any city transportation purpose or that the pump station interferes
11 with any city transportation purpose; or
12 (b) the Director determines that use of the pump station has been abandoned; or
13 (c) the Director determines that any term or condition of this ordinance has been violated,
14 and the violation has not been corrected by the Permittee by the compliance date after
15 a written request by the City to correct the violation (unless a notice to correct is not
16 required due to an immediate threat to the health or safety of the public).
17

18 A City Council determination that the space is needed for, or the pump station interferes
19 with a city transportation purpose is conclusive as to the City’s determination that the street is
20 needed for transportation purposes. The City’s power to control Southwest Barton Street for
21 transportation purposes and to terminate the permission to use the right-of-way for the pump
22 station may be subject to the 1961 Agreement if a Court so determines. A Court has not made
23 such a determination and the Council is not, by adopting this ordinance, relinquishing the
24 authority to control Southwest Barton Street for transportation purposes.
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1 Section 5. **Permittee's obligation to remove and restore.** If the City terminates the
2 permission granted, then within a reasonable time stated in the ordinance or order requiring
3 removal of the pump station, the Permittee shall, at its own expense, remove the pump station
4 and all of the Permittee's equipment and property from the public place and replace and restore
5 all portions of the public place that may have been disturbed for any part of the pump station in
6 as good condition for public use as existed prior to construction of the pump station and in at
7 least as good condition in all respects as the abutting portions of the public place as required by
8 SDOT right-of-way restoration standards.
9

10 Failure to remove the pump station as required by this section is a violation of Chapter
11 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of
12 Chapter 15.90 does not eliminate any remedies available to the City under this ordinance or any
13 other authority. If the Permittee does not timely fulfill its obligations under this section, the City
14 may in its sole discretion remove the pump station and restore the public place at the Permittee's
15 expense, and collect such expense in any manner provided by law.
16

17 Upon the Permittee's completion of removal and restoration in accordance with this
18 section, or upon the City's completion of the removal and restoration and the Permittee's
19 payment to the City for the City's removal and restoration costs, the Director shall then issue a
20 certification that the Permittee has fulfilled its removal and restoration obligations under this
21 ordinance. Upon prior notice to the Permittee and entry of written findings that it is in the public
22 interest, the Director may, in the Director's sole discretion, conditionally or absolutely excuse the
23 Permittee from compliance with all or any of the Permittee's obligations under this section.
24

25 Section 6. **Repair or reconstruction.** The pump station shall remain the exclusive
26 responsibility of the Permittee and the Permittee shall maintain the pump station in good and safe
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1 condition for the protection of the public. The Permittee shall not reconstruct or repair the pump
2 station without first obtaining all necessary City permits and approvals. Construction of the
3 pump station shall conform to the plans and specifications approved by the Director. The
4 Director may, in the Director's judgment, order the pump station reconstructed or repaired at the
5 Permittee's cost and expense because of: the deterioration or unsafe condition of the pump
6 station; the installation, construction, reconstruction, maintenance, operation, or repair of any
7 municipally-owned public utilities; or for any other cause that gives rise to public health or
8 safety concerns.
9

10 Section 7. **Failure to correct unsafe condition.** After written notice to the Permittee and
11 failure of the Permittee to correct an unsafe condition within the time stated in the notice, the
12 Director may order the pump station be closed or removed at the Permittee's expense if the
13 Director deems that the pump station has become unsafe or creates a risk of injury to the public.
14 If there is an immediate threat to the health or safety of the public, a notice to correct is not
15 required.
16

17 Section 8. **Continuing obligations.** Notwithstanding termination of the permission
18 granted, or closure or removal of the pump station, the Permittee shall remain bound by all of its
19 obligations under this ordinance until the Director has issued a certification that the Permittee has
20 fulfilled its removal and restoration obligations under Section 5 of this ordinance.
21 Notwithstanding the issuance of that certification, the Permittee shall continue to be bound by
22 the obligations in Section 9 of this ordinance and shall remain liable for any unpaid fees assessed
23 under Section 17 of this ordinance.
24

25 Section 9. **Release, hold harmless, indemnification, and duty to defend.** The
26 Permittee, by accepting the terms of this ordinance, releases the City, its officials, officers,
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1 employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense,
2 attorneys' fees, or damages of every kind and description arising out of or by reason of the pump
3 station or this ordinance, including but not limited to claims resulting from injury, damage, or
4 loss to the Permittee or the Permittee's property.

5 The Permittee agrees to at all times defend, indemnify, and hold harmless the City, its
6 officials, officers, employees, and agents from and against all claims, actions, suits, liability,
7 loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only
8 damages that may result from the sole negligence of the City, that may accrue to, be asserted by,
9 or be suffered by any person or property including, without limitation, damage, death, or injury
10 to members of the public or to the Permittee's officers, agents, employees, contractors, invitees,
11 tenants, tenants' invitees, licensees, or successors and assigns, arising out of or by reason of:
12

13 (a) the existence, condition, construction, reconstruction, modification, maintenance,
14 operation, use, or removal of the pump station or any portion thereof, or the use, occupation, or
15 restoration of the public place or any portion thereof by the Permittee or any other person or
16 entity;
17

18 (b) anything that has been done or may at any time be done by the Permittee by reason of
19 this ordinance; or
20

21 (c) the Permittee failing or refusing to strictly comply with every provision of this
22 ordinance; or arising out of or by reason of the pump station or this ordinance in any other way.

23 If any suit, action, or claim of the nature described above is filed, instituted, or begun
24 against the City, the Permittee shall upon notice from the City defend the City, with counsel
25 acceptable to the City, at the sole cost and expense of the Permittee, and if a judgment is
26 rendered against the City in any suit or action, the Permittee shall fully satisfy the judgment
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1 within 90 days after the action or suit has been finally determined, if determined adversely to the
2 City. If it is determined by a court of competent jurisdiction that Revised Code of Washington
3 (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or
4 result from the concurrent negligence of the City, its agents, contractors, or employees, and the
5 Permittee, its agents, contractors, or employees, this indemnity provision shall be valid and
6 enforceable only to the extent of the negligence of the Permittee or the Permittee's agents,
7 contractors, or employees.
8

9 Section 10. **Insurance.** For as long as the Permittee exercises any permission granted by
10 this ordinance and until the Director has issued a certification that the Permittee has fulfilled its
11 removal and restoration obligations under Section 5 of this ordinance, the Permittee shall obtain
12 and maintain in full force and effect, at its own expense, insurance that protects the City from
13 claims and risks of loss from perils that can be insured against under commercial general liability
14 (CGL) insurance policies in conjunction with:
15

16 (a) construction, reconstruction, modification, operation, maintenance, use, existence,
17 or removal of the pump station or any portion thereof, as well as restoration of any disturbed
18 areas of the public place in connection with removal of the pump station;

19 (b) the Permittee's activity upon or the use or occupation of the public place
20 described in Section 1 of this ordinance; and
21

22 (c) claims and risks in connection with activities performed by the Permittee by
23 virtue of the permission granted by this ordinance.
24

25 Minimum insurance requirements are CGL insurance based on the Insurance Services
26 Office (ISO) form CG 00 01 or equivalent. The City requires insurance coverage to be placed
27 with an insurer admitted and licensed to conduct business in Washington State or with a surplus
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1 lines carrier pursuant to RCW Chapter 48.15, except that if it is infeasible to obtain coverage
2 with the required insurer, the City may approve an alternative insurer.

3 Minimum limits of liability shall be \$2,000,000 each occurrence combined single limit
4 bodily injury and property damage, with \$4,000,000 annual aggregate. Coverage shall name the
5 "City of Seattle, its elected and appointed officers, officials, employees and agents" as additional
6 insureds for primary and non-contributory limits of liability subject to a Separation of Insureds
7 clause.
8

9 Within 60 days after the effective date of this ordinance, the Permittee shall provide to
10 the City, or cause to be provided, certification of insurance coverage consisting of the CGL
11 declarations page, schedule of forms and endorsements, and blanket or additional insured policy
12 provision per the ISO CG 20 12 or equivalent, modified as necessary to conform to the
13 requirements of this ordinance. The insurance coverage certification shall be delivered or sent to
14 the Director or to the Department of Transportation at an address as the Director may specify in
15 writing from time to time. The Permittee shall promptly provide a complete copy of the
16 insurance policy to the City upon request.
17

18 If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager
19 or appropriate Finance Officer may be submitted in lieu of the insurance coverage certification
20 required by this ordinance, if approved in writing by the City Risk Manager. The letter of
21 certification must provide all information required by the City Risk Manager and document, to
22 the satisfaction of the City Risk Manager, that self-insurance equivalent to the insurance
23 requirements of this ordinance is in force. After a self-insurance certification is approved, the
24 City may from time to time subsequently require updated or additional information. The
25 approved self-insured Permittee must provide 30 days' prior notice of any cancellation or
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1 material adverse financial condition of its self-insurance program. The City may at any time
2 revoke approval of self-insurance and require the Permittee to obtain and maintain insurance as
3 specified in this ordinance.

4 In the event that the Permittee assigns or transfers the permission granted by this
5 ordinance, the Permittee shall maintain in effect the insurance required under this section until
6 the Director has approved the assignment or transfer pursuant to Section 14 of this ordinance.

7
8 Section 11. **Contractor insurance.** The Permittee shall contractually require that any
9 and all of its contractors performing work contemplated by this permit name the “City of Seattle,
10 its elected and appointed officers, officials, employees and agents” as additional insureds for
11 primary and non-contributory limits of liability on all CGL, Automobile and Pollution liability
12 insurance and/or self-insurance. The Permittee shall also include in all contract documents with
13 its contractors a third-party beneficiary provision extending to the City construction indemnities
14 granted to the Permittee.
15

16 Section 12. **Performance bond.** In the event that the Permittee seeks to assign or
17 transfer the permission granted by this ordinance, the City’s Risk Manager may determine in his
18 sole discretion that a performance bond is necessary to adequately protect the City’s interests, in
19 which case the successor entity shall deliver to the Director for filing with the City Clerk, as a
20 condition of approval of the assignment or transfer within 60 days of notification of such
21 determination, a sufficient bond executed by a surety company authorized and qualified to do
22 business in the State of Washington that is in the amount determined by the Director in
23 consultation with the City Risk Manager, and conditioned with a requirement that the successor
24 entity shall comply with every provision of this ordinance and with every order the Director
25 issues under this ordinance. The successor entity shall ensure that the bond remains in effect until
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1 the Director has issued a certification that the successor entity has fulfilled its removal and
2 restoration obligations under Section 5. An irrevocable letter of credit approved by the City Risk
3 Manager may be substituted for the bond upon approval of the Director.

4 **Section 13. Adjustment of insurance and bond requirements.** The Director, in
5 consultation with the City Risk Manager, may adjust minimum liability insurance levels and
6 surety bond requirements, if applicable, during the term of this permission. If the Director and
7 City Risk Manager determine that an adjustment is necessary to fully protect the interests of the
8 City, the Director shall notify the Permittee of the new requirements in writing. The Permittee
9 shall, within 60 days of the date of the notice, provide proof of the adjusted insurance and surety
10 bond levels to the Director.
11

12 **Section 14. Consent for and conditions of assignment or transfer.** The permission
13 granted by this ordinance shall not be assignable or transferable by operation of law; nor shall the
14 Permittee transfer, assign, mortgage, pledge or encumber the same without the Director's
15 consent, which the Director shall not unreasonably refuse. The Director may approve assignment
16 or transfer of the permission granted by this ordinance to a successor entity only if the successor
17 or assignee has accepted in writing all of the terms and conditions of the permission granted by
18 this ordinance; has provided, at the time of the acceptance, the bond and certification of
19 insurance coverage required under this ordinance; and has paid any fees due under Section 17 of
20 this ordinance. Any person or entity seeking approval for an assignment or transfer of the
21 permission granted by this ordinance shall provide the Director with a description of the current
22 and anticipated use of the pump station.
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25 **Section 15. Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or
26 successor provision, pay the City the amounts that may be charged by the City to inspect the
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1 pump station during construction, reconstruction, repair, safety inspections, and at other times
2 deemed necessary by the City. No inspection or approval by the City shall be construed as a
3 representation, warranty or assurance to the Permittee or any other person as to the safety or
4 soundness of any structure or condition, nor as to compliance with this ordinance or any agreement
5 or standard. Any failure by the City to require correction of any defect or condition shall not in any
6 way limit the responsibility or liability of the Permittee.
7

8 Section 16. **Inspection reports.** The Permittee shall submit to the Director, or to the
9 Department of Transportation at an address specified by the Director, an inspection report that:

- 10 (a) describes the physical dimensions and condition of all load-bearing elements;
11 (b) describes any damages or possible repairs to any element of the pump station;
12 (c) prioritizes all repairs and establishes a timeframe for making repairs; and
13 (d) is stamped by a professional structural engineer licensed in the State of Washington.
14

15 The report meeting the foregoing requirements shall be submitted in the event of a natural
16 disaster or other event that may have damaged the pump station, and shall be submitted by the
17 date established by the Director. The Permittee has the duty of inspecting and maintaining the
18 pump station, and the responsibility to submit structural inspection reports as required by the
19 Director does not waive or alter any of the Permittee's other obligations under this ordinance.
20

21 The receipt of any reports by the Director shall not create any duties on the part of the Director.
22 Any failure by the Director to require a report, or to require action after receipt of any report,
23 shall not waive or limit the obligations of the Permittee.
24

25 Section 17. **Annual fee.** Beginning on the effective date of this ordinance, and annually
26 thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the
27 Director, an annual fee of \$84,387 based on the 13,800 square feet of construction use area in the
28



1 Southwest Barton Street Shoreline Street End. This construction use area does not include the
2 abutting sidewalk or vehicle travel lanes. If the construction use area expands into these abutting
3 areas and there are mobility impacts, additional permitting from the Street Use Division of the
4 Seattle Department of Transportation shall be required. The term permit annual fee shall be
5 renewed annually on the effective date of this ordinance based on the construction use area until
6 the construction of the pump station is complete. When all work associated with the pump
7 station is complete, and the only remaining incomplete work involves on-site improvements that
8 are the subject of a Type 45 permit as identified in the Street Use Fee Schedule; the annual fee
9 shall be adjusted on the next upcoming renewal date and shall be based on the pump station's
10 3,645 square-foot footprint. The annual fee shall be adjusted annually thereafter for the
11 privileges granted by this ordinance.
12

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14 Adjustments to the annual fee shall be made in accordance with a term permit fee
15 schedule adopted by the City Council and may be made every year. In the absence of a schedule,
16 the Director may only increase or decrease the previous year's fee to reflect any inflationary
17 changes so as to charge the fee in constant dollar terms. This adjustment will be calculated by
18 adjusting the previous year's fee by the percentage change between the two most recent year-end
19 values available for the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All
20 Urban Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the
21 City Finance Director for credit to the Transportation Operating Fund.
22

23 Section 18. **Compliance with other laws.** The Permittee shall construct, maintain and
24 operate the pump station in compliance, as applicable, with the 1961 Agreement; and with all
25 applicable federal, state, County, and City laws and regulations. Without limitation, in all matters
26 pertaining to the pump station, the Permittee shall comply with the City's laws prohibiting
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1 discrimination in employment and contracting including Seattle's Fair Employment Practices
2 Ordinance, Chapter 14.04, and Fair Contracting Practices code, Chapter 14.10 (or successor
3 provisions).

4 Section 19. **Acceptance of terms and conditions.** The Permittee shall deliver to the
5 Director its written signed acceptance of the terms of this ordinance within 60 days after the
6 effective date of this ordinance. The Director shall file the written acceptance with the City
7 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
8 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
9 and forfeited. The Permittee shall not commence construction of the pump station prior to the
10 Permittee delivering its written signed acceptance of the terms of this ordinance and providing
11 the certification of insurance coverage required by this ordinance.
12

13 Section 20. **Obligations of successors and assigns.** The obligations and conditions
14 imposed on the Permittee by and through this ordinance are also imposed on the Permittee's
15 successors and/or assigns regardless of whether the Director has approved assignment or transfer
16 of the permission granted by this ordinance to such successors and/or assigns. All references in
17 this ordinance to obligations or conditions imposed on the "Permittee" shall also be deemed to
18 refer to the successors and assigns of the Permittee.
19

20 Section 21. **Mitigation installations.** As required mitigation for the documented impacts
21 of the expansion of the pump station, the Permittee shall construct the following public benefit
22 mitigation concurrent to, or immediately upon completion of pump station construction
23 activities:
24

25 (a) Landscaping, rain garden (bio-retention facility), wet well, and associated
26 utilities;
27



1 (b) Interpretive signage, paving design elements, railing, and public access to pump
2 station rooftop; and

3 (c) Rockery, firewall, seat wall, artwork, benches, boat tie-up, transformer gate,
4 driveway/'stream echo', perimeter fencing, bollards, kiosk, and all other hardscape and paving
5 elements.

6 Prior to constructing these elements, the Permittee shall obtain the required permits from
7 the appropriate City departments. Following construction, Permittee shall maintain these
8 elements in good and safe condition.
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10 Section 22. **Section titles.** Section titles are for convenient reference only and do not
11 modify or limit the text of a section.
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1 Section 23. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

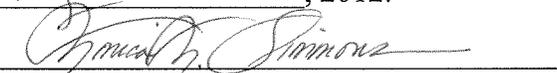
4 Passed by the City Council the 30th day of January, 2012, and
5 signed by me in open session in authentication of its passage this
6 30th day of January, 2012.

7
8 
9 President _____ of the City Council

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11 Approved by me this 3rd day of February, 2012.

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13 
14 Michael McGinn, Mayor

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16 Filed by me this 7th day of February, 2012.

17 
18 Monica Martinez Simmons, City Clerk

19 (Seal)
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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Rebecca Guerra/684-5339

Legislation Title:

AN ORDINANCE granting King County Department of Natural Resources and Parks, Wastewater Treatment Division permission to expand, maintain, and operate the pump station located in the Southwest Barton Street shoreline street end, west of Fauntleroy Way Southwest for an unlimited term; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Summary of the Legislation:

This legislation grants the King County Department of Natural Resources and Parks (King County) permission to expand, operate, and maintain an existing pump station located in the Southwest Barton Street shoreline street end, located west of Fauntleroy Avenue Southwest. An area map is attached for reference.

This permit is for an unlimited term for so long as the pump station is used as a waste water pump facility, subject to the right of the City to require the removal of the pump station or to revise any of the terms and conditions of the permission granted by this permit. The legislation has an insurance provision as recommended by the City Risk Manager, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires King County to pay the City an annual fee of \$84,387 based on the 13,800 square feet of construction use area in the Southwest Barton Street Shoreline Street End. The term permit fee shall be renewed annually on the effective date of this ordinance based on the construction use area until the construction of the pump station is complete. When all work associated with the pump station is complete, and the only remaining incomplete work involves on-site improvements that are the subject of a Type 45 permit as identified in the Street Use Fee Schedule; the annual fee shall be adjusted on the next upcoming renewal date and shall be based on the pump station's 3,645 square-foot footprint. Adjustments to the annual fee may be made every year and if so made shall be calculated in accordance with a term permit fee schedule adopted by the City Council by Ordinance 123485. An Annual Fee Appraisal Summary is attached for reference.

To complete the upgrade of the facility, Council must also approve a separate Council Land Use Action under Clerk's File 311027 to allow the use of a parcel located immediately to the north of the project site as well as landscape enhancements within the City's Shoreline Overlay zone.



Background:

By Ordinance 86931, the land where the existing pump station is located was acquired by condemnation for the purpose of widening Southwest Barton Street and building the pump station and ferry facilities.

The City and the Municipality of Metropolitan Seattle (Metro) entered into an "Agreement for Sewage Disposal" on January 26, 1961 (the 1961 Agreement) as authorized by Ordinance 89363. Under the 1961 Agreement, the City agreed to transfer sewage facilities, including the pump station, from the City to Metro. In 1994, Metro merged with and became part of King County.

By Resolution 31304, the City Council granted conceptual approval of the pump station expansion project.

 x This legislation has financial implications.

Appropriations: N/A

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee –	\$84,387	\$84,387
TOTAL			\$84,387	\$84,387

Revenue/Reimbursement Notes: N/A

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact: N/A

Do positions sunset in the future? No

Spending/Cash Flow: N/A

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No

b) **What is the financial cost of not implementing the legislation?**

If the legislation is not enacted by the City Council, the City of Seattle will not receive the annual fee of \$84,387 during the anticipated 2.5 years of the construction project. As



previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis.

- c) **Does this legislation affect any departments besides the originating department?**
No
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None
- e) **Is a public hearing required for this legislation?**
No
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No
- g) **Does this legislation affect a piece of property?**
Yes, an area map is attached for reference.
- h) **Other Issues:** N/A

List attachments to the fiscal note below:

- Attachment A – King County SW Barton Street Pump Station Area Map
- Attachment B – Annual Fee Assessment Summary

Attachment A – King County SW Barton Street Pump Station Area Map



Map is for informational purposes only and is not intended to modify or supplement the legal description(s) in the Ordinance.

Attachment B - Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 12/14/11

<p>Summary: Land Value: \$95.55/SF First Year Permit Fee: \$84,387</p>

I. Property Description:

Expansion of the existing wastewater pump station in the Southwest Barton Street shoreline street end, west of Fauntleroy Way Southwest. Adjacent tax parcel is listed below. The project construction area in SW Barton Street is 13,800 square feet.

Applicant:

King County Department of Natural Resources and Parks, Wastewater Treatment Division

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 3524039112; 5,390 SF

Tax year 2012 Appraised Land Value \$515,000
Assessed at \$95.55/SF

2012 tax assessed land value: \$95.55/SF

II. Annual Fee Assessment:

The 2012 permit fee is calculated as follows: $(\$95.55/\text{SF}) \times (13,800 \text{ SF}) \times (80\%) \times (8\%) =$ \$84,387.38, where 80% is the degree of alienation for at-grade restricted access and 8% is the estimated annual rate of return. When the construction of the pump station project is complete, the use area and degree of alienation factors of the annual fee will be adjusted accordingly: 3,645 SF pump station building and 30% degree of alienation for sub-surface utility structures.

Fee methodology authorized under Ordinance 123485.





City of Seattle
Office of the Mayor

January 10, 2012

Honorable Sally Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council bill that will grant to the King County Department of Natural Resources and Parks (King County) permission to expand, operate, and maintain an existing pump station located in the Southwest Barton Street shoreline street end right-of-way, west of Fauntleroy Avenue Southwest. This permit will be for an unlimited term for so long as the pump station is used as a waste water pump facility.

As part of the pump station expansion project, King County is proposing to upgrade the pump station in order to provide emergency backup power and odor control, and also increase pumping capacity. King County will also install several public amenities in the Shoreline Street End in order to maintain and enhance public access to the shoreline as a condition of the permit.

Thank you for your consideration of this legislation. Should you have questions, please contact Angela Steel at 684-5967.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

280979
CITY OF SEATTLE, CLERKS OFFICE

No. 123820,819,818,817,816

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCE

was published on

02/15/12

The amount of the fee charged for the foregoing publication is the sum of \$ 83.70, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

02/15/12

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on January 30, 2012, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City

Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123820

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 123819

AN ORDINANCE relating to Federal/State Transportation Demand Management Program, authorizing execution of an Agreement between the Washington State Department of Transportation and the City of Seattle, authorizing the City of Seattle to indemnify the Washington State Department of Transportation, and ratifying and confirming prior acts.

ORDINANCE NO. 123818

AN ORDINANCE granting King County Department of Natural Resources and Parks, Wastewater Treatment Division permission to expand, maintain, and operate the pump station located in the Southwest Barton Street shoreline street end, west of Fauntleroy Way Southwest for an unlimited term; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

ORDINANCE NO. 123817

AN ORDINANCE relating to a pedestrian skybridge over and across East Cherry Street, near vacated 11th Avenue, amending Ordinance 120393, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to Seattle University; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123816

AN ORDINANCE relating to land use and zoning, establishing a new Station Area Overlay District, amending general locational criteria for single family zones, expanding an existing pedestrian zoning designation, amending Seattle Municipal Code sections 23.34.010, 23.47A.005, and 23.47A.009, and amending the Official Land Use Map, Chapter 23.32, at pages 43 and 60 to rezone areas within the Roosevelt Residential Urban Village.

Date of publication in the Seattle Daily Journal of Commerce, February 15, 2012.

2/15(280979)



King County

Wastewater Treatment Division
Department of Natural Resources and Parks
King Street Center
201 South Jackson Street
Seattle, WA 98104-3855

FILED
CITY OF SEATTLE
12 MAR 29 AM 11:53
CITY CLERK

March 15, 2012

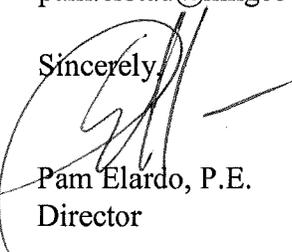
Angela Steel
Strategic Advisor, Street Use Division
Department of Transportation
City of Seattle
P.O. Box 34996
Seattle, Washington 98124-4996

Dear Ms. Steel:

The purpose of this letter is to communicate acceptance of the terms and conditions of Ordinance Number 123818. This acceptance is given on behalf of King County Department of Natural Resources and Parks, Wastewater Treatment Division.

We look forward to working collaboratively with you in the future on wastewater capital improvement projects located within the City of Seattle public right-of-way. If you have further questions regarding the project, please contact Pam Erstad at (206) 684-1480 or pam.erstad@kingcounty.gov.

Sincerely,



Pam Elardo, P.E.
Director

Cc: Verna Bromley, Prosecuting Attorney, King County Office of the Prosecuting Attorney
Greg Bush, Manager, Environmental and Community Services Section (E&CS),
Wastewater Treatment Division (WTD), King County Department of Natural
Resources and Parks (DNRP)
Pamela Erstad, Real Property Agent, Regulatory Compliance and Land Acquisition
Services (RC&LAS), E&CS, WTD, DNRP
Bill Wilbert, Supervisor, RC&LAS, E&CS, WTD, DNRP