

Resolution No. 31381

A RESOLUTION relating to the franchise permit granted to the Seattle Steam Limited Partnership by Ordinance 121067, as amended by Ordinance 122260, to maintain and operate a thermal energy system in and along certain streets, avenues, alleys, and public places in the City of Seattle by establishing the annual fee for the next ten years of the permit.

Related Legislation File: \_\_\_\_\_

Date Introduced and Referred: <u>5/14/2012</u>	To: (committee): <u>Transportation</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>7.16.12</u>	Date Presented to Mayor: <u>7.17.12</u>
Date Signed by Mayor: <u>July 20, 2012</u>	Date Returned to City Clerk: <u>July 20, 2012</u>
Published by Title Only <input checked="" type="checkbox"/>	Date Returned Without Concurrence:
Published in Full Text	

### The City of Seattle – Legislative Department

Resolution sponsored by: *John Remman*

#### Committee Action:

Date	Recommendation	Vote
<u>7/10/12</u>	<u>Adopt</u>	<u>TR. BH JG 3-0</u>

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

#### Full Council Action:

Date	Decision	Vote
<u>7.16.12</u>	<u>Adopt</u>	<u>7-0</u>
	<u>Examined</u>	<u>SE</u>
		<u>MO</u>

*Law Department*

RESOLUTION 31381

A RESOLUTION relating to the franchise permit granted to the Seattle Steam Limited Partnership by Ordinance 121067, as amended by Ordinance 122260, to maintain and operate a thermal energy system in and along certain streets, avenues, alleys, and public places in the City of Seattle by establishing the annual fee for the next ten years of the permit.

WHEREAS by Ordinance 121067, as amended by Ordinance 122260, the City of Seattle (City) authorized a franchise permit for the Seattle Steam Limited Partnership to lay down, replace, renew, maintain, and operate pipes, conduits, and other necessary appurtenances (“a thermal energy system”) in and along certain streets, avenues, alleys, and public places for a term of 50 years beginning on March 15, 2002; and

WHEREAS, Section 7 of the franchise permit authorized by Ordinance 121067, as amended by Ordinance 122260, established the annual fee for the 50-year term of the franchise at \$10,000, subject to adjustment by the City at the end of every tenth year. Any adjustment to the annual fee shall not be increased by more than \$5,000 for any 10-year period; and

WHEREAS, in making this recommendation, the Director of the Seattle Department of Transportation (Director) considered the gross revenues that the Seattle Steam Limited Partnership submitted to the City, and recommends that the annual fee adjustment be granted; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE  
MAYOR CONCURRING, THAT:**

Section 1. Beginning for the 11<sup>th</sup> year of the permission granted in Ordinance 121067, as amended by Ordinance 122260, which year commences on March 15, 2012, the Seattle Steam Limited Partnership shall promptly pay to the City upon statements rendered by the Director a fee of \$13,354 annually until March 14, 2052, subject to adjustment as provided by Section 7 of Ordinance 121067, as amended by Ordinance 122260.



1 Adopted by the City Council the 16<sup>th</sup> day of July, 2012, and signed by  
2 me in open session in authentication of its adoption this 16<sup>th</sup> day  
3 of July, 2012.

4 Sally Bagshaw  
5 President pro tem of the City Council

6  
7 THE MAYOR CONCURRING:

8 Michael McGinn  
9

10 Michael McGinn, Mayor

11  
12 Filed by me this 20<sup>th</sup> day of July, 2012.

13 Monica B. Simmons  
14  
15 Monica Martinez Simmons, City Clerk

16  
17 (Seal)



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

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

**Legislation Title:**

A RESOLUTION relating to the franchise permit granted to the Seattle Steam Limited Partnership by Ordinance 121067, as amended by Ordinance 122260, to maintain and operate a thermal energy system in and along certain streets, avenues, alleys, and public places in the City of Seattle by establishing the annual fee for the next ten years of the permit.

**Summary of the Legislation:**

The legislation establishes the annual fee for the next 40 years of the franchise term permit granted to Seattle Steam Limited Partnership by Ordinance 121067, as amended by Ordinance 122260, to maintain and operate a thermal energy system in and along certain streets, avenues, alleys, and public places in the City of Seattle.

Seattle Steam Limited Partnership is to pay the City of Seattle an annual fee of \$13,354 commencing on March 15, 2012, and annually thereafter. As authorized by Ordinance 121067, adjustments to the annual fee may be made at the end of every tenth year of the franchise term. Approval of any fee decrease or increase shall be by Resolution of the City Council. Such fee shall not be increased by more than \$5,000 for any 10-year period over the preceding 10-year period. All payments shall be credited to the General Fund.

**Background:**

In 1952, by Ordinance 81038, as amended by Ordinance 81177, the City granted Seattle Steam Corporation a 50-year franchise for the right, privilege, and authority to lay down, replace, renew, maintain, and operate pipes, conduits, and other necessary appurtenances in and along certain streets, avenues, alleys, and public places in the City of Seattle and to transmit, sell, and deliver steam for heating purposes and steam power and to charge and collect reasonable rates, tolls, and compensation. The annual fee for the last 25 years of this franchise was in the range of \$7,600-\$7,900 per year and was calculated based on the lineal foot and diameter of the pipe. This ordinance expired on March 14, 2002.

In 2003, by Ordinance 121067, as amended by Ordinance 122260, the City granted the Seattle Steam Limited Partnership a 50-year franchise for similar franchise utility rights as established in Ordinance 81038, as amended by Ordinance 81177. Ordinance 121067 established the annual fee of \$10,000, commencing on March 15, 2002 until March 14, 2052. As noted in the fiscal note for Ordinance 121067, the \$10,000 annual fee was established by making a comparison to the City of San Francisco's possession[sic] tax (2011 rate for 'possessory tax' ~\$23K). Essentially, the \$10,000 annual fee was negotiated between the City and the Seattle Steam Limited Partnership



and was not based on any standardized fee methodology. Other cities base franchise fees on a percentage of gross revenue of the franchisee consistently as an aspect of doing business and collecting revenue in the public right-of-way.

In an effort to establish a standard thermal energy franchise fee methodology that can be used consistently at the end of year 2021, 2031, and 2041, while still keeping with the intent of the authorizing Ordinance 121067, SDOT looked at past practices in establishing the existing \$10K annual fee and attempted to formalize a fee methodology. As noted in the fiscal note for Ordinance 121067, Seattle Steam Limited Partnership paid \$1,054,731 in utility taxes to the City in 2001. This 'utility occupation tax' is based on 6% of the gross revenue of the company. The \$10K annual rate established by Ordinance 121067 in 2003 was 0.95% of the occupation utility tax paid in 2001. Based on this 0.95% adjustment factor, the new annual fee would be adjusted to \$13,354 based on the occupation utility tax paid to the City in 2011.

Going forward, the annual fee would be adjusted at the end of every tenth year by assessing the 0.95% adjustment factor to the occupation utility tax paid for the tenth year. The proposal to amend the annual fee by 0.95% of the occupation utility tax paid is within the intent of the authorizing ordinance, which allowed the City to amend the fee on the 10<sup>th</sup> year of the term, but not to increase by more than \$5,000. The 0.95% methodology establishes a standard fee assessment and is also consistent with how the original \$10K annual fee was established.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

**Appropriations:** N/A

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

<b>Fund Name and Number</b>	<b>Department</b>	<b>Revenue Source</b>	<b>2012 Revenue</b>	<b>2013 Revenue</b>
General Fund 00100	Seattle Department of Transportation	Annual Fee	\$13,354	\$13,354
<b>TOTAL</b>			<b>\$13,354</b>	<b>\$13,354</b>

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 would only be able to assess the \$10,000 annual fee for the next 10 years of the franchise permit. The City will not receive the additional 10-year revenue of \$33,540.
- 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?**  
No
- h) **Other Issues:** N/A

**List attachments to the fiscal note below:** N/A





City of Seattle  
Office of the Mayor

May 1, 2012

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that will establish the annual fee for the next 40 years of the franchise term permit granted to Seattle Steam Limited Partnership by Ordinance 121067, as amended by Ordinance 122260. This franchise ordinance allows the Seattle Steam Limited Partnership to maintain and operate a thermal energy system in and along certain streets, avenues, alleys, and public places in the City of Seattle as a franchise utility.

Ordinance 121067 allows the City to adjust the annual fee at the end of every tenth year of the franchise term. Approval of any fee decrease or increase shall only be by Resolution of the City Council. Any proposed fee increase may not exceed \$5,000 for any 10-year period.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael McGinn".

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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286945  
CITY OF SEATTLE, CLERKS OFFICE

No. 31381,31395

**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 12<sup>th</sup> 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 RESOLUTION

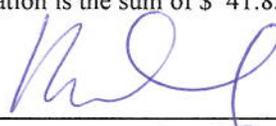
was published on

07/30/12

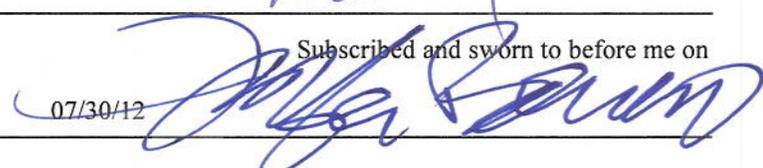
The amount of the fee charged for the foregoing publication is the sum of \$ 41.85, which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on

07/30/12

  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle Title Only Resolution

The full text of the following legislation, passed by the City Council on July 16, 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.

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### RESOLUTION NO. 31395

A RESOLUTION setting the public hearing for the vacation of a portion of Broad Street between Taylor Avenue North and 6th Avenue North in the Uptown neighborhood area of Seattle; pursuant to Chapter 35.79 Revised Code of Washington (RCW) and Seattle Municipal Code (SMC) 15.62 (Clerk File 312319).

Date of publication in the Seattle Daily Journal of Commerce, July 30, 2012.  
7/30(286945)