

Clerk
CONTROLLER FILE NO.

299603

INDEMNITY AGREEMENT between the City of Seattle and
Mobil Oil Corporation.

Honorable President:

You

to which are referred the aforesaid _____
would respectfully report that we have considered _____

August 27, 1993

Margaret Carter

ACTION OF THE COUNCIL

Reviewed	To
Approved	To
Revised	Disposition
Revised	To
Reported	Disposition

FILED
CITY OF SEATTLE

CF299603

INDEMNITY AGREEMENT

90 AUG 17 PM 2:44
CITY CLERK
THIS INDEMNITY AGREEMENT is by and between the City of Seattle ("City") and Mobil Oil Corporation ("Mobil Oil"), a California corporation.

RECITALS

1. Under Ordinance 102655, (hereafter "Permit"), Mobil Oil maintained and operated a petroleum pipeline system ("Pipeline") under, across, and along Thirteenth Avenue Southwest and Southwest Florida Street. Mobil Oil's current Permit expired March 31, 1992 and Mobil Oil desires the City to extend or reissue the Permit.

2. The extension or reissuance of Mobil Oil's Permit for the Pipeline is conditioned that Mobil Oil executes this Indemnity Agreement to assure the City that Mobil Oil's Pipeline will not result in the City incurring any liability, environmental or otherwise, as a result of Mobil Oil's Pipeline or operations pursuant to the Permit.

TERMS

1. Consideration: The parties enter into this Indemnity Agreement for good and mutual consideration, including the City's extension or reissuance of Mobil Oil's Permit for its Pipeline, Mobil Oil's execution of this Indemnity Agreement, and the promises herein.

2. Definitions: The following definitions apply throughout this Indemnity Agreement:

A. "Environmental Law" means all statutes, regulations, and common-law causes of action, whether federal, state or local, that apply to any toxic material or hazardous substance, pollutant, contaminant, waste, health and safety of persons, or protection of the environment, including any amendments or supplements to such laws or regulations, including, but not limited to: the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Water Pollution Control Act, 49 U.S.C. § 1801 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") 42 U.S.C. § 9601 et seq., the Washington Model Toxics Control Act ("MTCA"), RCW Ch. 70.105D, the Washington Hazardous Waste Management Act, RCW Ch. 70.105, the Washington Shoreline Management Act, RCW Ch. 90.58, the Washington Water Pollution Control Act, RCW Ch. 90.48, the Seattle Fire Code, SMC 22.600, et seq.; contract, tort, strict liability, express or implied warranty, permit requirements, a Court or administrative order, a consent decree or consent order.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

B. "Hazardous Substance" means petroleum and any material regulated or restricted under any Environmental Law.

C. "Environmental Liability" means any and all claims, lawsuits, demands, administrative proceedings and decisions, arbitration or other alternative dispute resolution proceedings and awards, liens, obligations, costs, expenses, reasonable attorney fees, litigation costs and expenses, expert and consulting fees and costs, fines, judgments, awards, reasonable settlements, penalties, damages, consequential damages, and losses, arising from or related to: (i) the Release or potential Release of any Hazardous Substance associated with the Pipeline or the Permit Activities; (ii) any alleged violation or breach of any Environmental Law if the alleged violation is associated with the Pipeline or Permit Activities; and, (iii) breach of any term of this Indemnity Agreement.

D. "Response Costs" and "Release" or "Released" have the same meanings as they do under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") and the Washington Model Toxics Control Act ("MTCA").

E. "City" includes any of the City's employees, agents, and contractors.

F. "Mobil Oil" includes any of Mobil Oil's employees, agents, and contractors.

G. "Permit Activities" includes any of Mobil Oil's operations on City property covered by the Permit, any operation associated with the Pipeline, and any operation associated with the Permit, whether allowed by the Permit or not.

3. Renewal or Reissuance of Permit: Upon Mobil Oil's execution of this Indemnity Agreement, the City shall process Mobil Oil's application for renewal or reissuance of the permit to operate and maintain the Pipeline.

4. Warranties: Mobil Oil represents, warrants and covenants that: a) Mobil Oil has not received any notice of, and is not aware of, any actual or alleged Release or threatened Release of any Hazardous Substance associated with the Pipeline or Permit Activities; b) Mobil Oil has not received any notice of, and is not aware of, any actual or alleged violation of any Environmental Law associated with the Pipeline or Permit Activities; and, c) Mobil Oil is not aware of any actual or alleged Environmental Liability relating to the Pipeline or Permit Activities.

5. Compliance with Applicable Laws: Mobil Oil shall comply with all Environmental Laws applicable to the Pipeline or to Permit Activities. Mobil Oil shall take all required and all prudent steps to prevent, contain, and report Releases of Hazardous Substances associated with the Pipeline or Permit Activities. In

NOTICE:
IT IS DUE TO THE QUALITY OF THE DOCUMENT.
THIS DOCUMENT IS LESS CLEAR THAN THE ORIGINAL

the event that a Hazardous Substance is Released, Mobil Oil shall take prompt action to remediate any resulting contamination to the applicable clean up standards, and shall not seek any monetary involvement or reimbursement from the City for such remedial action, any Response Costs, or anything else associated with the Release.

6. Indemnification: Mobil Oil shall indemnify, defend, and hold the City harmless from and against any Environmental Liability. Mobil Oil shall also indemnify, defend, and hold the City harmless from and against any other claims, demands, penalties, fees, liens, awards, damages, losses, costs, expenses, reasonable attorney fees, litigation costs, reasonable expert or consulting fees, and reasonable settlements, arising from: (a) any breach of this Indemnity Agreement, including, but not limited to, the warranties set forth in paragraph 4; b) Permit Activities; c) the Pipeline; d) any negligent or otherwise improper act or omission by Mobil Oil. This indemnity shall not apply to damages resulting from the City's sole negligence.

7. Monitoring and Notification of Releases: In addition to any other monitoring and reporting requirements that are required by law or prudent under the circumstances, Mobil Oil shall monitor the Pipeline by making weekly visual inspections and annual pressure tests. Within two hours of Mobil Oil becoming aware that a Release of a Hazardous Substance associated with the Pipeline or the Permit Activities has occurred, or that a threat of such a Release exists, Mobil Oil shall notify the City orally, by telephoning the Seattle Engineering Department's 24-hour number, (206) 386-1218. The oral notice shall be followed within 24-hours with written notice by Mobil Oil to the City, addressed to the Director of the Seattle Engineering Department, 910 Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104-1879. Both the oral and written notices shall specify, to the extent possible: the Hazardous Substances involved; the amount of Hazardous Substance involved; the location of the Release and any resulting contamination; the time and duration of the Release; all action taken or planned to respond in any way to the Release; the identity of persons at other governmental entities which have been notified; and the name and job title of the person completing the notice for Mobil Oil. At any time, the City may amend the provision for who should receive notice on its behalf by providing Mobil Oil with written instructions. Compliance with this provision shall not excuse Mobil Oil from any other monitoring and notification requirements required by law.

8. Notification of Violation: Mobil Oil shall notify the City in writing within 72-hours after Mobil Oil: a) receives any notice of, or otherwise becomes aware of, any actual or alleged Environmental Liability relating to the Pipeline or Permit Activities. Mobil Oil shall, at no expense to the City, comply with all Environmental Laws related to the Pipeline, Permit

Activities, or Hazardous Substances associated with the Pipeline or Permit Activities, including, but not limited to, Environmental Laws applicable to Releases of Hazardous Substances and responses to, or remediation of, resulting contamination. The City may, but has no obligation to, take actions and incur costs and expenses as it deems advisable to comply with applicable Environmental Laws. Mobil Oil shall promptly reimburse the City on demand for the full amount of all costs and expenses the City incurs in connection with such compliance activities.

9. City Orders: In addition to any other rights or remedies the City may have, the City shall have the following rights:

A. Emergency Orders: Mobil Oil shall immediately comply with any emergency order by the City regarding the Pipeline. An emergency order may be issued by the Director of a City Department acting within its authority, or another authorized City representative, when the City, in its sole discretion, considers such an order necessary to address or prevent a present or imminent threat to human health or safety, or the environment.

B. Other Orders: Upon notice and reasonable opportunity for consultation with the City, Mobil Oil shall immediately comply with any reasonable request, or any order by the City, relating to the Pipeline or to Permit Activities, including, but not limited to, suspension or closure of the Pipeline, when the City, in its sole discretion, deems such request or order necessary to protect human health or safety, or the environment.

10. Right-of-Entry: The City is hereby authorized, but not required, to enter the property covered by the Permit, at reasonable times, to inspect the premises, and to ascertain the accuracy of all representations and warranties, and compliance with all terms of this Indemnity Agreement.

11. Survival: The provisions of the Indemnity Agreement shall survive the expiration of the Permit and any renewals or extensions thereof. This Indemnity Agreement is binding upon Mobil Oil's successors and assigns.

12. Waivers: All modifications of this Indemnity Agreement, and any waivers of its terms, shall be in writing. Failure by the City to require compliance with all or part of any term, shall not constitute a waiver of future compliance with that term or any other.

13. Rights Cumulative: The City's rights under this Indemnity Agreement shall be in addition to any and all other rights the City may have, and obligations and liabilities Mobil Oil may have to the City, under any common law, statute, or contract.

14. Insurance: The City shall be named as an additional

IT IS DUE TO THE QUALITY OF THE DOCUMENT

insured on any of Mobil Oil's insurance policies which cover the Pipeline or Permit Activities. Mobil Oil shall provide the City with evidence satisfactory to the City of such insurance prior to execution of this Indemnity Agreement.

15. Severability of Terms: In the event that any term or part of this Indemnity Agreement is adjudicated to be invalid or otherwise unenforceable, the remainder of this Indemnity Agreement shall continue in full force and effect.

16. Intergration: This Indemnity Agreement supersedes any prior written or oral agreements between the parties on the subjects covered herein, and embodies the entire agreement between the parties on the subjects it covers.

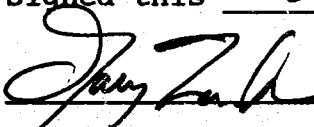
17. Warranty of Authority: Each party warrants that the person signing this Indemnity Agreement on its behalf is authorized to do so and to thereby bind the party he or she represents.

Signed this 5th day of July, 1993.


_____ R.E. LEMAY

The Machine Sales Manager of Mobil Oil Corporation.

Signed this 3 day of August, 1993.



The Director of Engineering
for the City of Seattle