

Ordinance No. 122570

Council Bill No. 116017

AN ORDINANCE relating to Seattle Public Utilities; declaring an airspace corridor over the Cedar River pipeline #4 water transmission pipeline right-of-way, located in the City of Tukwila in the vicinity of Southcenter Shopping Mall in the S 1/2 of the SE 1/4 of Section 23, Township 23 North, Range 4 East, W.M., in King County, Washington, surplus to the City's needs and not required for continued utility service, and authorizing sale of that airspace corridor to the Washington State Department of Transportation under the threat of condemnation.

CF No. _____

Date Introduced: <u>9-17-07</u>		
Date 1st Referred: <u>9-17-07</u>	To: (committee) <u>Environment, Emergency mgmt and Utilities</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>9-24-07</u>	Full Council Vote: <u>7-0</u>	
Date Presented to Mayor: <u>9-25-07</u>	Date Approved: <u>10-3-07</u>	
Date Returned to City Clerk: <u>10-4-07</u>	Date Published: <u>3</u>	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin
Councilmember

Committee Action:

9/21/07 2-0 ye Conlin, Clark

9-24-07 Passed 7-0 (Excused: Licata, McIver)

This file is complete and ready for presentation to Full Council. Committee: RC 9/21/07
(initial/date)

LAW DEPARTMENT

Law Dept. Review

OMP
Review

City Clerk
Review

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ORDINANCE 122510

AN ORDINANCE relating to Seattle Public Utilities; declaring an airspace corridor over the Cedar River pipeline #4 water transmission pipeline right-of-way, located in the City of Tukwila in the vicinity of Southcenter Shopping Mall in the S 1/2 of the SE 1/4 of Section 23, Township 23 North, Range 4 East, W.M., in King County, Washington, surplus to the City's needs and not required for continued utility service, and authorizing sale of that airspace corridor to the Washington State Department of Transportation under the threat of condemnation.

WHEREAS, the City of Seattle (the "City") owns and operates the 60-inch Cedar River pipeline #4 water transmission pipeline within a 30-foot wide right-of-way in the City of Tukwila adjacent to Interstate 405; and

WHEREAS, the state, which owns and operates Interstate 405 adjacent to the City's pipeline right-of-way, desires to acquire an airspace corridor over the City's pipeline right-of-way to widen Interstate 405; and

WHEREAS, the state, in addition to purchasing the airspace corridor, shall replace the pipeline by installing a new pipeline within the existing pipeline for the full length of the obtained airspace right; and

WHEREAS, the City has determined the sale of the airspace corridor is in the best interest of the City, its water system, and its ratepayers; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Pursuant to the provisions of R.C.W. 35.94.040 and after public hearing, the airspace corridor upon and above a plane of elevation 25.00 feet based on N.A.V.D. 1988, as legally described in Exhibit A of Attachment 1 to this Ordinance, over, upon and across a portion of the City's Cedar River pipeline #4 right-of-way, is hereby found and declared to be no longer required for providing public utility service and to be surplus to the City's needs.



1
2 Section 2. In consideration of the state's payment of One Million Fifty-three Thousand
3 Dollars (\$1,053,000), the Director of Seattle Public Utilities is hereby authorized to execute the
4 Quit Claim Deed for the Airspace Corridor Agreement in substantially the same form as
5 Attachment 1 to this Ordinance.

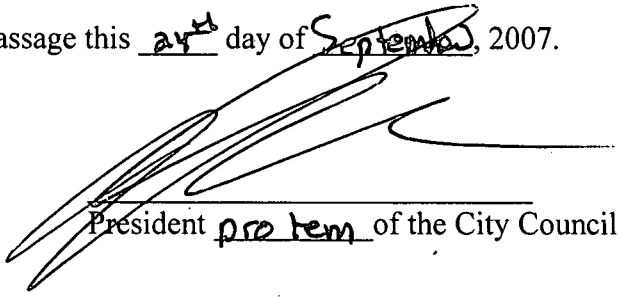
6 Section 3. Payment received for the grant of said Airspace Corridor shall be deposited in
7 the Water Fund (43000).
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Section 4. Any act pursuant to the authority of this ordinance taken after its passage and prior to its effective date is hereby ratified and confirmed.

Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 24th day of September, 2007, and signed by me in open session in authentication of its passage this 24th day of September, 2007.

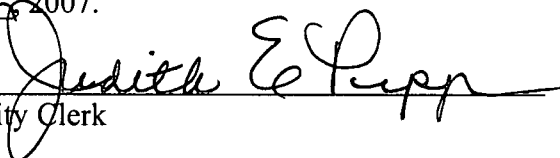

President pro tem of the City Council

Approved by me this 3rd day of October, 2007.


Gregory I. Nickels, Mayor

Nick Cicata, Acting Mayor

Filed by me this 4th day of October, 2007.


City Clerk

(Seal)

Attachment 1: Quit Claim Deed for Airspace Corridor Agreement



After recording return document to:
State of Washington
Department of Transportation
Real Estate Services Office
P O Box 47338
Olympia, WA 98504-7338

Document Title: Quit Claim Deed Airspace Corridor

Reference Number of Related Document: N/A

Grantor(s): The City of Seattle

Grantee: State of Washington, Department of Transportation

Legal Description: Ptn WH Gilliam DLC # 40 lying in the S½ of Section 23, T23N, R4E, WM; ptn Lots 13 & 14, Interurban Add, Vol 10 of Plats, page 55; ptn Lot 9, 28, 29 & 32, Brookvale Garden Trs, Vol 10 of Plats, pg 47

Additional Legal Description is on Pages) 11, 12 and 13 of Document

Assessor's Tax Parcel Number(s): 000320-0021-08

QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

State Route 405, SR 5 Interchange Vic.

The Grantor, THE CITY OF SEATTLE, a municipal corporation (hereinafter "CITY") for and in consideration of the sum of ONE MILLION FIFTY THREE THOUSAND AND NO/100 (\$1,053,000.00) DOLLARS, the mutual promises set forth herein, and other valuable consideration, hereby conveys and quit claims to the **State of Washington, Department of Transportation** (hereinafter "WSDOT"), the following described real property situated in King County, State of Washington, under the imminent threat of the Grantee's exercise of its rights of Eminent Domain: fee title to an airspace corridor over, upon and across the hereinafter described lands, upon and above a plane of elevation 25.00 feet based on N.A.V.D. 1988, hereinafter referred to as elevation 25.00, for the purpose of constructing, reconstructing, operating, removing, inspecting, maintaining and/or repairing a limited access facility commonly known as SR 405 and

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Parcel No. 1-19479

Attachment 1 to SPU I-405 Airspace Ord



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

any related improvements, if any (hereinafter the "WSDOT's Facilities"), located wholly or partially within the airspace corridor herein conveyed.

Said airspace corridor being situated in King County, State of Washington, and legally described as follows:

For legal description and additional conditions,
see Exhibit A attached hereto and made a part hereof.

SUBJECT HOWEVER, to the following reservations, terms and conditions:

The land herein acquired is restricted to a plane of elevation 25.00 feet and on and above based on N.A.V.D. 1988.

Also, the Grantor herein conveys and grants to the State of Washington all rights of ingress and egress to, from and between SR 405, SR 5 Interchange Vic. and the remainder of said PARCEL "A", as defined in Exhibit A.

TOGETHER WITH the right of reasonable access to enter upon the Grantor's lands directly below the airspace corridor where necessary to establish, maintain and repair the ground at a minimum elevation of 26.00, based on N.A.V.D. 1988.

Notwithstanding the above, the Grantor herein reserves for itself, its successors or assigns, the right of reasonable access via two access approach locations to said Highway, one approach at or near Highway Engineer's Station 232+20 and one approach at or near Highway Engineer's Station 240+01, for maintenance of Grantor's facilities below a plane of elevation 25.00 feet, based on N.A.V.D. 1988. These approaches shall be gated and locked when not in use.



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

The CITY further expressly reserves for itself fee title in and the right to use the land and airspace lying below the airspace corridor in Exhibit A hereinbefore described, subject only to the fee title airspace corridor and rights herein conveyed to the State.

ADDITIONAL TERMS AND CONDITIONS RELATING TO CITY

1. Upon final acceptance by the CITY of the improvements to the CITY'S facilities provided for in Construction Agreement Number UT 01223, the CITY shall be responsible for costs of construction, operation, maintenance and repair of its waterline and future utility facilities within CITY'S property below elevation 25.00 feet within the limited access area.

2. The CITY covenants and agrees that any improvements hereafter constructed by CITY on the premises beneath the conveyed airspace corridor, lying below a plane of elevation 25.00 feet, will be designed and constructed in a manner that does not during, or after construction, damage or unreasonably adversely affect in any way any part or element of the SR 405 highway or the operation and maintenance thereof. The CITY shall furnish the WSDOT State Design Engineer, or other such person as may be designated by the WSDOT, with two copies of all plans and specifications for any new proposed improvements on said lands lying beneath the conveyed airspace corridor. The plans and specifications shall be prepared, stamped and signed by a professional engineer registered in the State of Washington. No work shall be done without the WSDOT having approved in writing such plans and specifications and WSDOT's approval of such plans and specifications shall constitute compliance with the requirements set forth above, except to the extent any damage or adverse effect occurs during construction. The WSDOT covenants and agrees that its approval of the plans and specifications shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the above, nothing in this section, including any approval provided by WSDOT, shall be interpreted in a manner that relieves any design or construction agents or contractors of any liability or obligation to comply with any applicable laws, codes, or statutes, including any design and professional standards. The WSDOT reserves the right of entry upon the premises



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located below the conveyed airspace corridor for the purpose of inspecting any excavation and/or construction work as it progresses. The WSDOT shall contact the CITY's engineer prior to entry upon the premises. If WSDOT determines that the work is not being performed in compliance with the approved plans and specifications, WSDOT shall notify the CITY of the noncompliance, and the CITY will take appropriate corrective action. The CITY will have the ability to stop said work pending compliance with the approved plans and specifications.

3. In the event that any CITY facilities suffer damages caused by WSDOT, or its assigns, agents or contractors, WSDOT agrees to pay for the reasonable cost of repair for such damage. In such cases, WSDOT may either (1) have the CITY repair such damages itself, and the WSDOT shall reimburse the CITY for the reasonable costs for such repair; or (2) WSDOT may elect to repair such damage caused by the WSDOT itself, subject to the CITY'S approval.

4. If a third party causes damages to WSDOT property or facilities while using the CITY property, the CITY covenants and agrees to pursue payment for those repairs from the third party. The WSDOT may request the CITY to perform the repairs to the facility. A third party shall mean a party not including the CITY, the WSDOT, their agents or contractors. It is not anticipated that unauthorized third parties will access the CITY's property below grade.

5. The CITY covenants and agrees to be responsible for obtaining reasonable indemnification, insurance and/or exercise reasonable control of the CITY'S contractors and agents for all activities related to the construction, operation and maintenance of CITY's facilities.

6. In the event of an emergency, natural disaster or catastrophic facility failure located within or affecting the lands and airspace corridor identified herein, the Parties will immediately notify the CITY'S Emergency Dispatch Center at 206-386-1800 and WSDOT's Northwest Region Dispatch Center at 206-440-4490, or other such contacts as may be designated in writing by the Parties. The CITY covenants and agrees to bear its own costs related to water shutoff and repair of its facilities as a result of any



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

such emergency, natural disaster or catastrophic facility failure, provided, however, if such emergency or catastrophic failure results from the acts or omissions of WSDOT, or its contractors or agents, the CITY shall be able to recover those costs from WSDOT as outlined in this Agreement.

7. The CITY covenants and agrees to provide written notification at least thirty (30) days prior to initiating normally scheduled maintenance activities that will affect highway facilities or require additional temporary access from the State highway not already in place. Notification shall be provided to the WSDOT'S Northwest Region Maintenance Office, 15700 Dayton Avenue North PO Box 330310, Seattle, WA 98133-9710, or any other such office or address that may be designated in writing by the WSDOT. In the event of an emergency condition, the CITY may take whatever remedial steps it deems reasonably necessary to protect its facilities without liability or prior notice to WSDOT, provided that such remedial actions do not unreasonably undermine the then current condition of the WSDOT Facilities. As soon as reasonably possible thereafter, the CITY shall provide notification to WSDOT of the condition and any remedial actions taken. The Parties agree to meet in the future to review and clarify these notification requirements.

8. The CITY covenants and agrees to work in good faith with the WSDOT as necessary to reach mutually beneficial solutions to future improvements that may be proposed by either Party over, under, or above their respective facilities.

9. (1) To the extent authorized by law, the CITY agrees to protect, defend, indemnify and hold harmless WSDOT from any and all costs (including reasonable attorneys' fees and costs, claims, judgments, and/or awards of damages (both to persons and property), arising out of, or in any way resulting from the CITY, or its employees, negligent acts, omissions or intentional misconduct taken pursuant to the CITY'S responsibilities outlined in this QUIT CLAIM DEED AGREEMENT, to the extent allowed by RCW 4.24.115. The CITY shall not be required to indemnify, defend, or save harmless WSDOT if the claim, suit, or action for injuries, death, or damages (both to person and property) is caused by the WSDOT, its employees', contractors', subcontractors', or authorized agents' negligent acts, omissions, or intentional misconduct; Provided that if such claims, suits or actions result from the concurrent negligence of the Parties, or involve those actions covered by RCW 4.24.115, the



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the CITY, or its employees.

(2) The CITY specifically and expressly agrees to waive the CITY'S immunity under industrial insurance, Title 51 of the Revised Code of Washington, to the extent necessary to provide WSDOT with a full and complete indemnity from claims made by employees of CITY. The CITY specifically and expressly agrees that such waiver of immunity was mutually negotiated by the parties.

ADDITIONAL TERMS AND CONDITIONS RELATING TO WSDOT:

1. The WSDOT shall be responsible for all costs of construction, operation, maintenance and repair of WSDOT Facilities, including installation of roadside planting, drainage facilities and maintenance thereof. Roadside plantings shall be in conformance with the CITY'S approved planting list for CITY Utility Facilities.

2. The WSDOT covenants and agrees that WSDOT Facilities and any improvements hereafter constructed by WSDOT on the premises within the airspace corridor, lying above a plane of elevation 25.00 feet, will be designed and constructed in such a manner that does not during, or after construction, damage or adversely affect in any way any part or element of the CITY'S facility or the operation thereof. The WSDOT shall furnish the CITY'S Water Utility Engineering Division with two copies of all plans and specifications for any new proposed improvements on the lands lying within the conveyed airspace corridor. The plans and specifications shall be prepared, stamped and signed by a professional engineer registered in the State of Washington. No work shall be done without the CITY having approved in writing such plans and specifications and the City's approval of such plans and specifications shall constitute compliance with the requirements set forth above, except to the extent any damage or adverse effect occurs during construction. The CITY covenants and agrees that its approval of the plans and specifications shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the above, nothing in this section, including any approval provided by the CITY, shall be interpreted in a manner that relieves any design or construction agents or contractors of any liability or obligation to comply with any applicable laws, codes, or statutes, including any design and professional standards. The CITY reserves the right of



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

entry upon the premises located within the conveyed airspace corridor for the purpose of inspecting any excavation and/or construction work as it progresses. The CITY shall contact the WSDOT'S engineer prior to entry upon the premises. If the CITY determines that the work is not being performed in compliance with the approved plans and specifications, the CITY shall notify the WSDOT of the noncompliance, and the WSDOT will take appropriate corrective action. The WSDOT will have the ability to stop said work pending compliance with the approved plans and specifications.

3. In the event that any WSDOT facilities suffer damages caused by the CITY its assigns, agents or contractors, the CITY agrees to pay for the reasonable cost of repair for such damage. In such cases, the CITY may either (1) have WSDOT repair such damages itself, and the CITY shall reimburse the WSDOT for the reasonable costs for such repair; or (2) the CITY may elect to repair such damage caused by the CITY itself, subject to WSDOT approval.

4. If a third party causes damages to CITY property or facilities while using the WSDOT Facilities, the WSDOT covenants and agrees to pursue payment for those repairs from the third party. The CITY may request the WSDOT to perform the repairs to its property or facility. A third party shall mean a party not including the CITY, the WSDOT, their agents or contractors.

5. WSDOT covenants and agrees to be responsible for obtaining reasonable indemnification, insurance and/or exercise reasonable control of WSDOT'S contractors and agents and for all activities related to the construction, operation and maintenance of WSDOT's facilities.

6. In the event of an emergency, natural disaster or catastrophic facility failure located within or affecting the airspace corridor, the Parties will immediately notify the CITY'S Emergency Dispatch Center at 206-386-1800 and WSDOT's Northwest Region Dispatch Center at 206-440-4490, or other such contacts as may be designated in writing by the Parties. The WSDOT covenants and agrees to bear its own costs related to traffic control, flagging and repair of its facilities, provided, however, if such emergency or catastrophic failure results from the acts or omissions of the CITY, or its contractors or agents, the WSDOT shall be able to recover those costs from the CITY as outlined in this Agreement.



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

7. WSDOT covenants and agrees to provide written notification at least thirty (30) days prior to initiating normally scheduled maintenance activities that may affect CITY facilities or require additional temporary access to the area described in Exhibit A. Notification shall be provided to the CITY'S Water Utility Engineering Division, or any other such office or address that may be designated in writing by the CITY. In the event of an emergency condition, the WSDOT may take whatever remedial steps it deems reasonably necessary to protect its facilities without liability or prior notice to CITY, provided such remedial actions do not unreasonably undermine the then current condition of any CITY property or facilities. As soon as reasonably possible thereafter, the WSDOT shall provide notification to the CITY of the condition and any remedial actions taken. The Parties agree to meet in the future to review and clarify these notification requirements.

8. The WSDOT covenants and agrees to work in good faith with the CITY as necessary to reach mutually beneficial solutions to future improvements that may be proposed by either Party over, under, or above their respective facilities.

9. (1) To the extent authorized by law, the WSDOT agrees to protect, defend, indemnify and hold harmless the CITY from any and all costs (including reasonable attorneys' fees and costs, claims, judgments, and/or awards of damages (both to persons and property), arising out of, or in any way resulting from WSDOT'S, or its employees, negligent acts, omissions or intentional misconduct taken pursuant to the WSDOT'S responsibilities outlined in this QUIT CLAIM DEED AGREEMENT, including the operation of SR 405, to the extent allowed by RCW 4.24.115. WSDOT shall not be required to indemnify, defend, or save harmless the CITY if the claim, suit, or action for injuries, death, or damages (both to person and property) is caused by the CITY, its employees', contractors', subcontractors', or authorized agents' negligent acts, omissions, or intentional misconduct; Provided that if such claims, suits or actions result from the concurrent negligence of the Parties, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of WSDOT, or its employees .

(2) WSDOT specifically and expressly agrees to waive the WSDOT's immunity under industrial insurance, Title 51 of the Revised Code of Washington, to the



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

extent necessary to provide the CITY with a full and complete indemnity from claims made by employees of WSDOT. WSDOT specifically and expressly agrees that such waiver of immunity was mutually negotiated by the parties.

10. The WSDOT has obtained approval of a corridor wide FEIS and has developed conceptual plans for future (Master Plan) highway and utility construction over the CITY's property. This construction is illustrated on the I-405/I-5 to SR 169 Widening Project drawing numbers FC2 and FC3, dated February 6, 2007. Copies of these drawings are available from the CITY Water Utility Engineering Division. The CITY, in recognition of WSDOT's Master Plan for the I-405 corridor, covenants and agrees to review and approve the final design of the proposed improvements to ensure that the proposed highway features shall not impact operation or maintenance of CITY's facilities. The WSDOT covenants and agrees to work towards providing written notification to the CITY Utility Engineering Division, at least one (1) year prior to initiating construction.

11. In the event there are future utility installations on the CITY'S property, WSDOT will review and has the right of approval of the design of said new facility to ensure that the proposed installations shall not impact construction, reconstruction, operation or maintenance of the highway facility above elevation 25.00. WSDOT shall not unreasonably withhold, condition or delay such approval.

12. The WSDOT will maintain the surface of its property at not less than a plane of elevation lying upon and above 26.00 feet, based on N.A.V.D. 1988, and will provide erosion control and drainage for runoff.

13. The WSDOT covenants and agrees to develop a highway maintenance and drainage plan for review and approval by the CITY. The CITY shall have the authority to establish weight limits for construction and maintenance equipment used over the CITY'S Utility facilities and WSDOT covenants and agrees to comply with such limits. The WSDOT covenants and agrees to provide written notification at least thirty (30) days prior to initiating maintenance activities not covered by the maintenance and drainage plan to the CITY'S Water Utility Engineering Division, or any other such office or address that may be designated in writing by the CITY. The Parties agree to meet as necessary to review and clarify these notification requirements.



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

GENERAL COVENANTS

It is expressly intended that the covenants, burdens and restrictions contained herein shall run with the described land and shall forever bind the CITY, its, successors and assigns and the WSDOT, its, successors and assigns.

It is understood and agreed that delivery of this airspace corridor quit claim deed is hereby tendered and that the terms and obligations hereof shall not become binding upon either party unless and until accepted and approved hereon in writing for the State of Washington, Department of Transportation, by the Director of Real Estate Services, and accepted and approved by the Seattle City Council through a lawfully enacted ordinance.

Date: _____, 2007

THE CITY OF SEATTLE,

a municipal corporation

By: _____

Chuck Clarke

Director, Seattle Public Utilities

Pursuant to Ordinance _____

Accepted and Approved

STATE OF WASHINGTON,

Department of Transportation

By: _____

Gerald L. Gallinger

Director, Real Estate Services

Date: _____

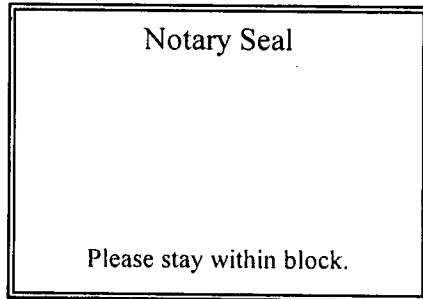


QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

STATE OF WASHINGTON)
 : ss.
County of King)

I certify that I know or have satisfactory evidence that CHUCK CLARKE is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the DIRECTOR, SEATTLE PUBLIC UTILITIES, of the City of Seattle, a municipal corporation of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____, 2007



Notary Public in and for the State of Washington,
residing at _____
My Appointment expires _____



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

EXHIBIT A

Fee title to an airspace corridor lying upon and above a plane of elevation 25.00 feet, based on N.A.V.D. 1988, on the SR 405, SR 5 Interchange Vic. Survey for that area described as follows:

All that portion of the following described PARCEL "A" lying northerly of a line beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 232+17.10 on the SR 405 line survey of SR 405, SR 5 Interchange Vic., and 100.05 feet southerly therefrom; thence southerly to a point opposite HES 232+22.14 on said line survey and 129.57 feet southerly therefrom; thence easterly to a point opposite HES 238+11.62 on said line survey and 114.26 feet southerly therefrom; thence easterly to a point opposite HES 239+98.65 on said line survey and 136.26 feet southerly therefrom; thence northerly to a point opposite HES 240+03.15 on said line survey and 106.56 feet southerly therefrom and the end of this line description.

PARCEL "A"

A 30 foot strip of land across portions of the following described parcel of land:

Portion of W.H. Gilliam Donation Claim No. 40, along 67th Avenue South and across South 158th Street of Andover Industrial Park No. 1, according to the plat thereof, recorded in Volume 66 of Plats, page 36, in King County, Washington; portion of the northeast quarter of the northeast quarter of Section 26, Township 23 North, Range 4 East, W.M., in King County, Washington, and Lot 28 and the north 68 feet of Lot 29, Brookvale Gardens Tracts, according to the plat thereof, recorded in Volume 10 of Plats, page 47, in King County, Washington;

Together with portion of W.H. Gilliam Donation Land Claim No. 40; Lots 13 and 14, Interurban Addition, according to the plat thereof, recorded in Volume 10 of Plats, page 55, in King County, Washington; Lot 9, Lot 29, Except the north 68 feet and Lot 32, all in Brookvale Gardens Tracts, according to the plat thereof, recorded in Volume 10 of Plats, page 47, in King County, Washington; portion of the south half of Section 23, Township 23 North, Range 4 East, W.M., in King County, Washington, lying between the east line of said Brookvale Garden Tracts and west line of said Interurban Addition.



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

EXHIBIT A (continued)

The centerline of said 30 foot strip of land is more particularly described as follows:

Beginning at the Section corner common to Sections 23, 24, 25 and 26, Township 23 North, Range 4 East, W.M., in King County, Washington; thence South $00^{\circ} 19' 19''$ East along the east line of said Section 26, 152.37 feet to the centerline of existing City of Seattle Pipe Line Right of Way; thence along said right of way centerline, North $63^{\circ} 59' 24''$ West, 176.44 feet to an existing point of curve and the True Point of Beginning of the following described right of way centerline; thence North $63^{\circ} 59' 24''$ West, 23.05 feet to a point of curve; thence on a curve to the right with a radius of 103.94 feet, an arc distance of 83.35 feet to a point on the curve whose radius bears North $71^{\circ} 57' 13''$ East; thence North $00^{\circ} 12' 09''$ West, 4.99 feet to a point on the north line of said Section 26, also being the south line of said Andover Industrial Park No. 1; thence continue North $00^{\circ} 12' 09''$ West, 795.33 feet to an angle point; thence North $44^{\circ} 11' 45''$ West 33.46 feet to a point of curve; thence on a curve to the left with a radius of 65 feet, an arc distance of 57.94 feet to a point of tangency; thence South $84^{\circ} 44' 00''$ West, 553.63 feet to an angle point; thence South $88^{\circ} 40' 00''$ West, 883.05 feet to a point of curve; thence on a curve to the right with a radius of 1381.52 feet, an arc distance of 397.24 feet to a point of tangency; thence North $74^{\circ} 51' 31''$ West, 462.06 feet to a point of curve; thence on a curve to the left with a radius of 747.01 feet, an arc distance of 881.24 feet to a point of tangency; thence South $37^{\circ} 32' 58''$ West, 42.21 feet to a point of curve; thence on a curve to the right with a radius of 700 feet, an arc distance of 154.94 feet to a point of tangency; thence South $50^{\circ} 13' 54''$ West, 601.03 feet to a point of curve; thence on a curve to the right with a radius of 425.74 feet, an arc distance of 299.06 feet to a point of tangency with the centerline of the existing City of Seattle Pipe Line Right of Way and terminal point of said line, said terminal point lies North $00^{\circ} 28' 47''$ West, 15 feet and North $89^{\circ} 31' 13''$ West, 1574.52 feet from the north quarter corner of Section 26, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT that portion thereof lying within streets, roads;



QUIT CLAIM DEED FOR AIRSPACE CORRIDOR

AND EXCEPT that portion thereof lying south of Tukwila Parkway;

AND EXCEPTING therefrom any portion lying within that certain tract conveyed in quit Claim Deed recorded under Recording Number 8312080424.

Also, the Grantor herein conveys and grants to the State of Washington all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) to, from and between SR 405, SR 5 Interchange Vic. and the remainder of said PARCEL "A."

EXCEPT the Grantor herein reserves for itself, its successors or assigns, the right of reasonable access via two access approach locations to said Highway, one approach at or near Highway Engineer's Station 232+20 and one approach at or near Highway Engineer's Station 240+01, for maintenance of Grantor's facilities below a plane of elevation 25.00 feet, based on N.A.V.D. 1988. These approaches shall be gated and locked when not in use.

The land herein acquired is restricted to a plane of elevation 25.00 feet and on and above based on N.A.V.D. 1988.

TOGETHER WITH the right of reasonable access to enter upon the Grantor's lands directly below the airspace corridor where necessary to establish, maintain and repair the ground at a minimum elevation of 26.00, based on N.A.V.D. 1988.

The lands herein described contain an area of 24,727 square feet, more or less, the specific details concerning all of which are to be found in that certain map of definite location now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval September 16, 2005, revised _____.

Grantor's Initials

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Parcel No. 1-19479

Attachment 1 to SPU I-405 Airspace Ord



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Bob Gambill 684-5969	John McCoy 615-1281

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities; declaring an airspace corridor over the Cedar River pipeline #4 water transmission pipeline right-of-way, located in the City of Tukwila in the vicinity of Southcenter Shopping Mall in the S 1/2 of the SE 1/4 of Section 23, Township 23 North, Range 4 East, W.M., in King County, Washington, surplus to the City's needs and not required for continued utility service, and authorizing sale of that airspace corridor to the Washington State Department of Transportation under the threat of condemnation.

• **Summary of the Legislation:**

This legislation authorizes the sale of a surplus airspace right to the Washington State Department of Transportation (WSDOT) over a Seattle Public Utilities water transmission pipeline right-of-way for \$1,053,000.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

WSDOT would like to purchase an unused airspace right from Seattle Public Utilities to widen Interstate 405 in the City of Tukwila. In addition to the fee for this right, WSDOT would mitigate the impacts to SPU's 60-inch water pipeline by installing a new pipeline inside of the existing pipeline for approximately 900 feet or, at a minimum, 10 feet beyond the full airspace right WSDOT would acquire. This so-called "slip-lining" would have an estimated service life of more than 150 years.

- *Please check one of the following:*

☐ **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

☒ **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have*



appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2007 Appropriation	2008 Anticipated Appropriation
N/A				
TOTAL			N/A	N/A

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes:

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2007 Revenue	2008 Revenue
43000 Water Fund	Seattle Public Utilities	State of Washington Dept of Transportation	\$1,053,000	
TOTAL			\$1,053,000	

Notes:

The additional revenue will help the Water Fund meet financial performance and could slightly reduce pressure on future water rates.



Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE

Impact: This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/ Full Time	2007 Positions	2007 FTE	2008 Positions**	2008 FTE**
N/A							
TOTAL	N/A						

* List each position separately

** 2008 positions and FTE are total 2008 position changes resulting from this legislation, not incremental changes. Therefore, under 2008, please be sure to include any continuing positions from 2007.

Notes:

- **Do positions sunset in the future?** (If yes, identify sunset date):

N/A

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2007 Expenditures	2008 Anticipated Expenditures
N/A				
TOTAL	N/A			

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

The financial cost of not implementing this legislation would be in excess of \$1,053,000, the amount SPU would forego by not selling this property right. The State and SPU entered into a preliminary engineering agreement to help mitigate financial impacts to SPU from the project and to facilitate State payment for labor costs of the property rights negotiation. To date this total is approximately \$51,000. This \$51,000 of reimbursable labor costs already incurred would be lost if this legislation is not passed. Also, without this legislation, SPU would not be receiving approximately 900 feet of 60-inch pipeline paid for at State expense.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

None.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

Yes. The public hearing requirement will be met through the Environment, Emergency Management and Utilities Committee Meeting.

- **Other Issues** *(including long-term implications of the legislation):*

None.

Please list attachments to the fiscal note below:



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 4, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill authorizing Seattle Public Utilities (SPU) to sell an airspace corridor over a water transmission pipeline in Tukwila to the Washington State Department of Transportation (WSDOT).

WSDOT plans to address congestion on Interstate 405 by adding a lane in each direction between Interstate 5 and State Route 167, as it is one of the most congested sections of interstate freeway in the state. This road project is part of a master plan that includes transit and High Occupancy Vehicle improvements, along with new freeway lanes. The master plan was approved five years ago by the Federal Highway Administration, Federal Transit Administration, WSDOT, King County Metro, Sound Transit, and cities along the corridor.

In exchange for airspace rights over its water transmission pipeline, SPU will receive more than \$1 million. Additionally, WSDOT will replace at its expense the portion of SPU's pipeline in the affected area with a superior pipeline, prolonging the life of the facility for many decades. This agreement benefits both the state's taxpayers and SPU's water ratepayers.

Thank you for your consideration of this legislation. Should you have questions, please contact Bob Gambill at 684-5969.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Greg Nickels', written over the printed name and title.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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STATE OF WASHINGTON – KING COUNTY

--SS.

216164
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

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.

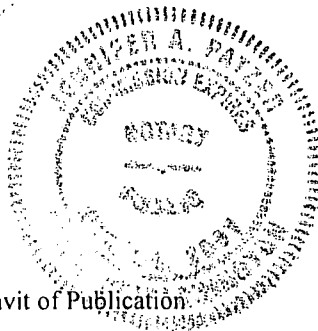
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122502,04,06-09-10,12

was published on

10/08/07

The amount of the fee charged for the foregoing publication is the sum of \$ 118.58, which amount has been paid in full.



Affidavit of Publication

Samela Clesky

Subscribed and sworn to before me on

10/08/07

[Signature]
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances passed by the City Council on September 24, 2007, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122512

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

ORDINANCE NO. 122510

AN ORDINANCE relating to Seattle Public Utilities; declaring an airspace corridor over the Cedar River pipeline, #4 water transmission pipeline right-of-way, located in the City of Tukwila in the vicinity of Southcenter Shopping Mall in the SE 1/2 of the SE 1/4 of Section 23, Township 23 North, Range 4 East, W.M., in King County, Washington, surplus to the City's needs and not required for continued utility service, and authorizing sale of that airspace corridor to the Washington State Department of Transportation under the threat of condemnation.

ORDINANCE NO. 122509

AN ORDINANCE relating to City employment, authorizing execution of a collective bargaining agreement effective January 24, 2007 through December 31, 2007, between the City of Seattle and the Washington State Council of County and City Employees, AFSCME, Local 212, and ratifying and confirming prior acts.

ORDINANCE NO. 122507

AN ORDINANCE related to the Municipal Court Day Reporting program, increasing an appropriation to the Municipal Court in the 2007 Budget, and creating a new position in the Municipal Court, all by three-fourths vote of the City Council.

ORDINANCE NO. 122506

AN ORDINANCE relating to the Seattle Department of Parks and Recreation, authorizing the Superintendent to amend the existing ten-year lease with Seattle Children's PlayGarden for use of the Colman Playfield, including the renovation of the Shelter House and construction of a new recreational facility.

ORDINANCE NO. 122504

AN ORDINANCE related to the Central Puget Sound Regional Transit Authority ("Sound Transit"); authorizing the Director of the Seattle Department of Transportation to execute an amendment to the "Agreement Between the City of Seattle and Sound Transit for Grant of Non-Exclusive Use of a Light Rail Transit Way as Related to the Central Link Light Rail Transit Project" to reflect the revised approved alignment for the Central Link Light Rail Project, including the University Link and North Link extensions; and establishing the process for Council review of pedestrian bridges connected to Light Rail Transit Stations.

ORDINANCE NO. 122502

AN ORDINANCE relating to Discovery Park; authorizing acquisition of real property and acceptance of deeds; authorizing acceptance of certain utility infrastructure and associated easements; clarification of certain existing utility easements and termination of certain private utility easements; and increasing appropriations to the Department of Parks and Recreation in the 2007 Budget, all by a three-fourths vote of the City Council.

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
October 8, 2007.