

Ordinance No. 122790

Council Bill No. 116298

AN ORDINANCE authorizing Seattle Public Utilities to acquire, by negotiation or condemnation, property located at 636 and 640 South Riverside Drive, in the South Park area of Seattle, for storm drainage system, other utility and general municipal purposes.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin

Councilmember

Committee Action:

9/12/08 - substitute ^{new} Attachment 1 for old attachment 1
yes - 20 Conlin, McIver

9/12/08 - ^{ENS} pass as amended 20 yes, Conlin, McIver

9-15-08 Passed 8-0 (Excused: Drago)

CF No. _____

Date Introduced:	August 11, 2008	
Date 1st Referred:	To: (Environment, Emergency Mgmt & Utilities (EEMU))	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
9-15-08	8-0	
Date Presented to Mayor:	Date Approved:	
9-15-08	9.24.08	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/>
9.26.08	3	F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: RC 9/12/08
(initial/date)

LAW DEPARTMENT

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed
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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

July 22, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

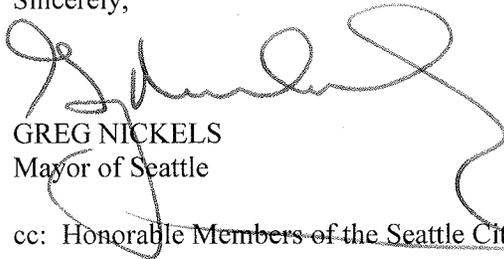
Dear Council President Conlin:

I am transmitting the attached proposed Council Bill authorizing Seattle Public Utilities (SPU) to acquire property in South Park through negotiations or condemnation in order to construct a stormwater pump station and a water quality facility.

The South Park neighborhood experiences chronic flooding problems for several reasons. The existing drainage system cannot drain into the Duwamish River at high tides and, while there are stormwater collection facilities in many parts of the basin, the existing collection system cannot be expanded until it is upgraded so it can drain at high tides. The proposed pump station would enable the existing stormwater collection system to drain under all tidal and storm conditions up to a 25-year storm level. While the pump station will solve only some of the flooding problems initially, it would allow for expansion of the collection system to ultimately provide flood protection to the entire 230 acre basin. The new water quality facility is designed to reduce the pollutant loading to the Duwamish River and provide South Park with a facility equivalent to that serving the north side of Seattle.

These projects, in conjunction with other improvements the City is planning, are critically important for improving the quality of life, promoting economic development, and protecting public health in South Park. Thank you for your consideration of this legislation. Should you have questions, please contact Audrey Hansen at either 684-5877.

Sincerely,



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) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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1 Section 2. The Director of Seattle Public Utilities or his designee is authorized, on
2 behalf of the City of Seattle, to negotiate for and acquire the Properties and all rights and
3 privileges pertaining thereto in fee simple at fair market value, and to execute and accept deeds
4 or other necessary documents for the acquisition of those Properties or to take any other
5 reasonable necessary action to effectuate this section.
6

7 Section 3. The City Attorney is authorized to commence and prosecute proceedings in
8 the manner provided by law to condemn, take, damage, and appropriate in fee simple the
9 Properties and all rights and privileges pertaining thereto, provided said Properties and rights and
10 privileges pertaining thereto are to be appropriated and taken only after just compensation has
11 been made or paid into court for the owners thereof in the manner provided by law, to stipulate
12 for the purpose of minimizing damages and to take any such related actions deemed necessary.
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14 Section 4. The Properties acquired under authority of this ordinance shall be placed
15 under the jurisdiction of Seattle Public Utilities.
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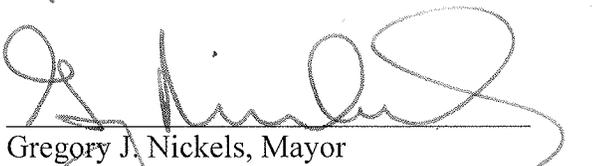


1 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

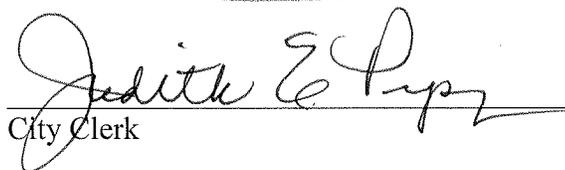
4 Passed by the City Council the 15th day of September, 2008, and
5 signed by me in open session in authentication of its passage this
6 15th day of September, 2008.

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10 President _____ of the City Council

11 Approved by me this 24th day of September, 2008.

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14 Gregory J. Nickels, Mayor

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16 Filed by me this 26th day of September, 2008.

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19 City Clerk

20 (Seal)

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24 Attachment 1: Legal descriptions of 636 and 640 South Riverside Drive
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Attachment 1

Legal Description of 636 and 640 S. Riverside Drive,
King County Parcel Nos. 7327905700 and 7327905710

Lots 1 through 5, inclusive, of Block 45 of Riverside Park, according to the plat thereof recorded in Volume 7 of Plats, page 41, records of King County, Washington, situate in the SW quarter of Section 29, Township 24 North, Range 4 East, W.M., described as follows:

Commencing at the intersection of the centerlines of S Riverside Drive and 7th Avenue S; thence N 35° 21' 19" W along the centerline of S Riverside Drive a distance of 55.15 feet; thence N 54° 38' 41"E a distance of 40.00 feet to the **Point of Beginning** at the intersection of the northeasterly right of way margin of S Riverside Drive with the northwesterly right of way margin of 7th Avenue S; thence N 35° 21' 19" W along the northeasterly margin of S Riverside Drive a distance of 146.12 feet to the property line between Lot 5 and 6 of Block 45 of said plat, Thence N 54° 38' 41"E along said property line a distance of 89.03 feet to the line of Mean High Tide (Elevation 8.15 NAVD88) on the Duwamish Waterway; thence southeasterly along said line of Mean High Tide to the northwesterly right of way margin of 7th Avenue S; thence S 36° 32' 56" W along said margin a distance of 103.93 feet to the **Point of Beginning**.

Containing 13,054 square feet, more or less.



FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Audrey Hansen/684-5877	John McCoy/615-0768

Legislation Title:

AN ORDINANCE authorizing Seattle Public Utilities to acquire, by negotiation or condemnation, property located at 636 and 640 South Riverside Drive, in the South Park area of Seattle, for storm drainage system, other utility and general municipal purposes.

Summary and background of the Legislation:

This legislation would authorize the Director of SPU to acquire two adjacent parcels in the South Park neighborhood by negotiation or eminent domain. Ownership of these properties would allow SPU to construct a new stormwater pump station and water quality facility to reduce flooding in the South Park basin. SPU has been studying solutions to stormwater issues in this area since 2002 and believes this solution has the least risk and delivers the highest appropriate level of service. The new facilities would provide drainage services to approximately 232 acres of the drainage basin.

Project Name:	Project I.D.	Project Location:	Start Date:	End Date
4 th Avenue S/S Trenton St Storm Drain	C353202	636 and 640 South Riverside Drive, Seattle	1 st Quarter 2005	4 th Quarter 2012
Best Management Practice Program	C3313	636 and 640 South Riverside Drive, Seattle	2 nd Quarter 2004	4 th Quarter 2013

The property acquisition costs would be shared equally between two projects in two different BCLs (C332B-Stormwater and Flood Control and C333B-Protection of Beneficial Uses) within the DWF CIP because both projects will utilize the property.

- *Please check any of the following that apply:*

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 projects associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below. If this legislation does not directly change an appropriation, but results in budget authority being moved within a Budget Control Level, or to another Budget Control Level (up to 10%), please*



explain in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL				

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

Notes: The cost of the property acquisition is already included in the project budget in the Adopted 2008-2013 Capital Improvement Program. The 4th Ave S/S Trenton Storm Drain project has \$3.618 million in total 2008 appropriation and the Best Management Practices program has \$1.429 million.

Spending Plan and Future Appropriations for Capital Projects: *Please list the timing of anticipated appropriation authority requests and expected spending plan. In addition, please identify your cost estimate methodology including inflation assumptions, the projected costs of meeting applicable LEED standards, and the percent for art and design as appropriate.*

Spending Plan and Budget	2008	2009	2010	2011	2012	2013	Total

Notes:

Funding source: *Identify funding sources including revenue generated from the project and the expected level of funding from each source.*

Funding Source (Fund Name and Number, if applicable)	2008	2009	2010	2011	2012	2013	Total
DWW Fund							
TOTAL							

Notes:

Bond Financing Required: *If the project or program requires financing, please list type of financing, amount, interest rate, term and annual debt service or payment amount. Please include issuance costs of 3% in listed amount.*



Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL					

Notes: The property acquisition costs, like other projects within the DWF CIP, will be financed with a mixture of cash and long-term debt. Proceeds from the most recent DWF bond issue were received in April 2008.

Uses and Sources for Operation and Maintenance Costs for the Project: Estimate cost of one-time startup, operating and maintaining the project over a six year period and identify each fund source available. Estimate the annual savings of implementing the LEED Silver standard. Identify key assumptions such as staffing required, assumed utility usage and rates and other potential drivers of the facility's cost.

O&M	2008	2009	2010	2011	2012	2013	Total
Uses							
Start Up							
On-going							
Sources (itemize)							

Notes:

Periodic Major Maintenance costs for the project: Estimate capital cost of performing periodic maintenance over life of facility. Please identify major work items, frequency.

Major Maintenance Item	Frequency	Cost	Likely Funding Source
TOTAL			
Dollars in 000s			

Funding sources for replacement of project: Identify possible and/or recommended method of financing the project replacement costs.

N/A

Total Regular Positions Created, Modified, 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	Position # for	Fund	PT/FT	2008	2008	2009	2009



Department*	Existing Positions	Name & #		Positions	FTE	Positions **	FTE **
N/A							
TOTAL							

* List each position separately

** 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.

Notes:

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

If this legislation is not adopted, SPU would be unable to construct the South Park water quality facility or pump station and SPU would likely incur future costs due to stormwater flooding claims.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives** (Include any potential alternatives to the proposed legislation, including using an existing facility to fulfill the uses envisioned by the proposed project, adding components to or subtracting components from the total proposed project, contracting with an outside organization to provide the services the proposed project would fill, or other alternatives):

None of the alternatives studied proved to be feasible. The location of the pump station must be at the very downstream end of the storm drain system. SPU evaluated various technologies, locations, capacities and sizes of the proposed water quality facility, which resulted in the merging of the water quality facility with the pump station project at the current project location.

SPU evaluated two potential project sites, S. Riverside Drive east of 7th Avenue S. and 636 and 640 S Riverside Drive. One alternative was dismissed because it was not feasible to construct here, leaving only one opportunity, the properties known as 636 and 640 S. Riverside Drive.

- **Is the legislation subject to public hearing requirements:** (If yes, what public hearings



Audrey Hansen
SPU SoParkWQF Pump Station FISC
May 12, 2008
Version 1

have been held to date, and/or what plans are in place to hold a public hearing(s) in the future?)

Yes. The Council's EEMU Committee and full Council meetings would fulfill public hearing requirements.

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

N/A

Please list attachments to the fiscal note below:

Attachment 1

Legal Description of 636 and 640 S. Riverside Drive, Seattle Public Utilities
King County Parcel Nos. 7327905700 and 7327905710

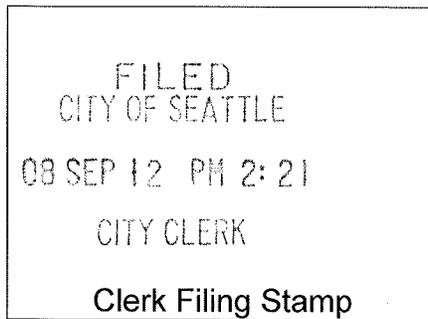
Lots 1 through 5, inclusive, Block 45, River Park, according to the plat thereof recorded in Volume 7 of Plats, page 41, records of King County, Washington.

Situate in the County of King, State of Washington.

Subject to: Any question that may arise due to the shifting and changing in the course of Duwamish River.

Right of the general public to the unrestricted use of all the waters of a navigable body of water not only for the primary purpose of navigation, but also for corollary purposes, including (but not limited to) fishing, boating, bathing, swimming, water skiing and other related recreational purposes, as those waters may affect the tidelands, shorelands, or adjoining uplands and whether the level of the water has been raised naturally or artificially to a maintained or fluctuating level, all as further defined by the decisional law of this State. (affects all of the premises subject to such submergence)





**CERTIFICATE OF MAILING AND PUBLICATION OF NOTICE FOR
Ordinance No. 116298**

I, Audrey Hansen, SPU Manager of Real Property, Claims and Facilities Services, hereby certify as follows:

1. On the 12th day of August, 2008, I mailed via US Postal Service Certified Mail a notice of condemnation

a true and correct representative copy of which is attached and designated as Attachment A, to those persons whose names and addresses appear on the attached list as Attachment B.

2. For condemnation legislation: The notice designated in Attachment A constitutes adequate notice to property owners, pursuant to RCW 8.12 and 8.25, that the City may take final action to authorize condemnation of the subject property.
3. The notice designated in Attachment A was published in the Seattle Times on August 18 and 25, 2008 and the Daily Journal of Commerce on August 18 and 25, 2008.
4. This Certificate of Mailing and Publication and complete Attachments A and B are hereby filed with the City Clerk of the City of Seattle.

Dated this 12th day of September, 2008.

The City of Seattle, Washington

Audrey C. Hansen



(Signature)

Manager, Real Property, Claims and
Facilities Services

Seattle Public Utilities

206-684-5877



City of Seattle

Gregory J. Nickels, Mayor

Seattle Public Utilities

Chuck Clarke, Director

August 11, 2008

Mark N. Hansen
640 South Riverside Drive
Seattle, WA 98108

VIA: Certified Mail, Return Receipt Requested

Dear Mr. Hansen:

Intent to Acquire Ownership of 636 and 640 South Riverside Drive, Seattle
(King County Parcel Nos. 7327905710-02 and 737905700-04)

Seattle Public Utilities intends to acquire ownership of the above property located in Seattle, WA using its power of eminent domain (condemnation) for public use. The proposed ordinance authorizing this acquisition will be presented to the Seattle City Council as follows:

Friday 9/12/2008 9:30 am Environmental, Emergency Management and
Utilities Committee (EEMU)

Monday 9/15/2008 2 pm City Council (final action; adoption)

Both sessions are open to the public and held in Council Chambers in Seattle City Hall, 600 Fourth Avenue, Seattle, on the second floor. Public comments are received by the EEMU Committee at the start of the meeting and are generally limited to a total of ten minutes of comments for each agenda item.

If you have questions about the committee meeting format, the agenda for the meeting, or the public comment section, please contact Phyllis Shulman at 206-684-8805 or go to the EEMU Committee's website at
<http://www.seattle.gov/council/agendasc/environment.pdf>

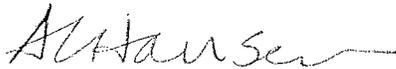
The Council's chambers and offices are physically accessible. Print and communications access are provided on request. You may call 206-684-8888 (TDD 206-233-0025) for further information.

Mark N. Hansen
August 11, 2008
Page 2

The projects for which these properties are needed are the Seattle Public Utilities' Water Quality Facility and Pump Station which will relieve the chronic flooding due to storm water runoff in the South Park area.

If you have any questions about the acquisition process, please contact me at either 206-684-5877, or audrey.hansen@seattle.gov

Sincerely yours,



Audrey C. Hansen
Manager, Real Property, Claims and Facilities Services

cc: Daryl A. Deutsch
Rodgers Deutsch & Turner

Harald Hurlen

Brian J. Dorsey
Julin & McBride

Seattle WA 98124-4018

Mark N. Hansen
640 South Riverside Drive
Seattle, WA 98108

Seattle WA 98124-4018

Daryl A. Deutsch
Rodgers Deutsch & Turner
3 Lake Bellevue Drive, Ste 100
Bellevue, WA 98005

Harald Hurlen
21512 Miller Bay Road
Poulsbo, WA

Brian J. Dorsey
Julin & McBride
16088 NE 85 Street
Redmond, WA 98052

STATE OF WASHINGTON – KING COUNTY

--SS.

229694

No.

CITY OF SEATTLE, CLERKS OFFICE

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.

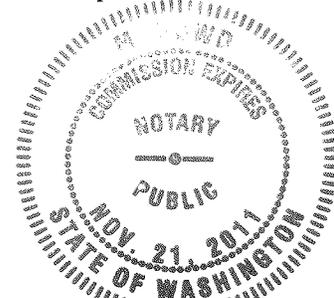
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122790 ORDINANCE

was published on

10/01/08

The amount of the fee charged for the foregoing publication is the sum of \$ 154.55, which amount has been paid in full.



Affidavit of Publication

[Handwritten Signature]

Subscribed and sworn to before me on

10/01/08

[Handwritten Signature]

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County
City of Seattle

ORDINANCE 122790

AN ORDINANCE authorizing Seattle Public Utilities to acquire, by negotiation or condemnation, property located at 636 and 640 South Riverside Drive, in the South Park area of Seattle, for storm drainage system, other utility and general municipal purposes.

WHEREAS, Seattle Public Utilities' ("SPU's") 2002 South Park Drainage Study investigated the frequent flooding problems in the South Park area of Seattle and recommended installation of a new and expanded storm drain system, including a pump station, to reduce future flooding in the area; and

WHEREAS, SPU has identified the need for a water quality facility to meet

the requirements of the City's Stormwater, Grading and Drainage Code for the projects identified in SPU's 2002 South Park Drainage Study; and

WHEREAS, SPU's 2007 preliminary engineering report concluded the properties located at 636 and 640 South Riverside Drive and legally described in Attachment 1 are required for a new stormwater pump station and water quality facility; and

WHEREAS, the City approved a project to address these flooding and water quality issues as part of the Adopted 2008-2013 Capital Improvement Program Budget; and

WHEREAS, RCW 8.12.030 and 35.67.020 authorize the City to purchase or condemn property for stormwater, drainage, other utility or general municipal purposes; and

WHEREAS, the City has provided notice to the relevant property owner that the City may take final action to authorize condemnation of the subject properties as required by RCW 8.12 and 8.25; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Public convenience and necessity require the properties situated in the City of Seattle, County of King, State of Washington and described in Attachment 1, together with all improvements thereon, all rights and privileges pertaining thereto and any adjoining property required by a court of competent jurisdiction to be acquired by the City by operation of law (the "Properties"), be acquired, condemned, appropriated and taken for the public use, for stormwater, drainage, other utility or general municipal purposes.

Section 2. The Director of Seattle Public Utilities or his designee is authorized, on behalf of the City of Seattle, to negotiate for and acquire the Properties and all rights and privileges pertaining thereto in fee simple at fair market value, and to execute and accept deeds or other necessary documents for the acquisition of those Properties or to take any other reasonable necessary action to effectuate this section.

Section 3. The City Attorney is authorized to commence and prosecute proceedings in the manner provided by law to condemn, take, damage, and appropriate in fee simple the Properties and all rights and privileges pertaining thereto, provided said Properties and rights and privileges pertaining thereto are to be appropriated and taken only after just compensation has been made or paid into court for the owners thereof in the manner provided by law, to stipulate for the purpose of minimizing damages and to take any such related actions deemed necessary.

Section 4. The Properties acquired under authority of this ordinance shall be placed under the jurisdiction of Seattle Public Utilities.

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 15th day of September, 2008, and signed by me in open session in authentication of its passage this 15th day of September, 2008.

Richard Conlin
President of the City Council

Approved by me this 24th day of September, 2008.

Gregory J. Nickels, Mayor

Filed by me this 26th day of September, 2008.

(Seal) Judith Pippin
City Clerk

Attachment 1: Legal descriptions of 636 and 640 South Riverside Drive

See City Clerk for Attachment

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily Journal of Commerce, October 1, 2008.

10/1(229694)