

Ordinance No. 123665

Council Bill No. 117224

AN ORDINANCE relating to leasing excess capacity of City conduit; authorizing the Chief Technology Officer to enter into lease agreements whereby excess inner ducts in City-owned conduit in the Pioneer Square area are leased to private parties for the installation of fiber optic cable to provide broadband internet services to residents and businesses; and ratifying and confirming certain prior acts.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Bruce C. Harrell
Councilmember

Committee Action:

7/20/2011 PASSED BH, RC

CF No. _____

Date Introduced: <u>July 11, 2011</u>		
Date 1st Referred: <u>July 11, 2011</u>	To: (<u>Energy, Technology, and Civil Rights</u>
Date Re- Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>7-25-11</u>	Full Council Vote:	<u>8-0</u>
Date Presented to Mayor: <u>7-25-11</u>	Date Approved:	<u>July 29, 2011</u>
Date Returned to City Clerk: <u>July 29, 2011</u>	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetted by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

Full Council:

7-25-11 Passed 8-0 excused: RC

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

ORDINANCE 123665

AN ORDINANCE relating to leasing excess capacity of City conduit; authorizing the Chief Technology Officer to enter into lease agreements whereby excess inner ducts in City-owned conduit in the Pioneer Square area are leased to private parties for the installation of fiber optic cable to provide broadband internet services to residents and businesses; and ratifying and confirming certain prior acts.

WHEREAS, as part of a City Light construction project, the City installed underground conduit in the Pioneer Square area for use by King County Metro and to ensure future availability for the City; and

WHEREAS, King County Metro plans a future installation of fiber optic cable in the conduit for transportation purposes; and

WHEREAS, it is the Department of Information Technology's customary practice to install the maximum feasible amount of inner duct in conduit when the conduit will be used for fiber installation; and

WHEREAS, at this time, the City and County only require one inner duct in the Pioneer Square conduit to be reserved for governmental use, making two additional inner ducts excess to the City's needs; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. For purposes of this ordinance "Pioneer Square Area" means the area bordered by Alaskan Way and Alaskan Way South on the west, 4th Avenue and 4th Avenue South on the east, South Jackson Street on the south, and Columbia Street on the north.

Section 2. The Chief Technology Officer ("CTO") is authorized to execute, for and on behalf of the City of Seattle, one or more lease agreements with private entities or persons for lease of any inner duct under the management of the Department of Information Technology that is not needed for City use and is within the Pioneer Square Area. The CTO is also authorized to



1 execute agreements that include the lease of excess inner duct within conduit or vaults under the
2 management of any other City department; provided that the CTO shall first obtain the
3 permission of that City department and the CTO shall ensure that the department is reimbursed
4 according to the department's standard rates.

5
6 Section 3. Any lease entered into under the authority of this ordinance shall limit the
7 use of the inner duct to the installation of fiber optic cable only. Any lease that the CTO
8 executes must require that the lessee offer broadband internet services to all residents and
9 businesses in buildings feasibly served by the conduit. The CTO's authority under this
10 ordinance is limited as follows:
11

12 A. The total term of any lease, including any options to extend the lease, shall not
13 exceed ten years; however, this limitation shall not restrict the CTO's authority to
14 negotiate with the same lessee for a subsequent lease of the same inner duct on terms
15 consistent with this ordinance; and
16

17 B. The rental rate payable to the City under the lease shall be an amount determined
18 by the CTO to be reasonable under the circumstances based upon market conditions
19 and the following factors: the cost of the installation of conduit and inner duct; the
20 number of other users contributing to the cost of conduit and inner duct installation;
21 and the lease rates charged by Seattle City Light or Seattle Department of
22 Transportation for use of inner duct within conduit or vault space, subject to
23 adjustment during the lease term; and
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1 C. The CTO shall use a lease form prepared with the assistance and advice of the City
2 Attorney's Office.

3 Section 4. No lease entered into under the authority of this ordinance shall be deemed to
4 grant any franchise rights for cable television or other service to any inner duct lessee, nor shall
5 any lease be deemed to extend, replace, or modify any existing or future franchise agreements
6 between the City and any franchisee.
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8 Section 5. Any act taken after passage of this ordinance but prior to its effective date is
9 ratified and confirmed.
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2 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.
5

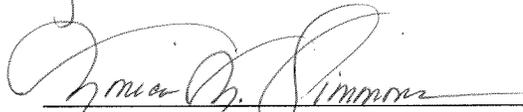
6 Passed by the City Council the 25th day of July, 2011, and
7 signed by me in open session in authentication of its passage this 25th day of
8 July, 2011.
9

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11 
12 President pro tem of the City Council

13 Approved by me this 29th day of July, 2011.
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15 
16 Michael McGinn, Mayor

17 Filed by me this 29th day of July, 2011.
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19 
20 Monica Martinez Simmons, City Clerk
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22 (Seal)
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FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Information Technology	Erin Devoto/3-7937	Jennifer Devore/5-1328

Legislation Title:

AN ORDINANCE relating to leasing excess capacity of City conduit; authorizing the Chief Technology Officer to enter into lease agreements whereby excess inner ducts in City-owned conduit in the Pioneer Square area are leased to private parties for the installation of fiber optic cable to provide broadband internet services to residents and businesses; and ratifying and confirming certain prior acts.

Summary and background of the Legislation:

As part of a City Light construction project in 2011, the City installed underground conduit in the Pioneer Square area for use by King County Metro and to ensure future availability for City use. King County Metro plans a future installation of fiber optic cable in the conduit for transportation purposes. As the City and County only require one inner duct, there are two additional inner ducts excess to the City's needs. The City has conducted a Request for Proposal and is currently negotiating with a provider to lease the excess capacity. The City anticipates finalizing the lease in August of 2011 and installation of the inner duct and fiber will occur sometime in the fall of 2011. Additional fiber and inner duct will be available in the future and the City may conduct additional Request for Proposal processes to lease additional conduit in the area bordered by bordered by Alaskan Way South on the west, 4th Avenue South on the east, South Jackson Street on the south, and Columbia Street on the north.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:
Fiber-Optic Communication Installation and Maintenance	FIBER	Pioneer Square	8/15/11	10/1/11

Please check any of the following that apply:

- This legislation creates, funds, or anticipates a new CIP Project.**
 (Please note whether the current CIP is being amended through this legislation, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)
- 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 detail existing appropriations and reflect appropriations that are a direct result of this legislation.

If this legislation does not directly change an appropriation, but has budget impacts, please explain in the notes section below:

Fund Name and Number	Department	Budget Control Level*	Existing 2011 Appropriation	New 2011 Appropriation (if any)	2012 Anticipated Appropriation
50410	Information Technology	Technology Infrastructure (D3300)	\$2,910,000	\$0	\$2,989,000
TOTAL			\$2,910,000	\$0	\$2,989,000

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

Appropriations Notes: Additional appropriation is not required; this will be covered by existing 2011 appropriation within this existing CIP Project. DoIT's Fiber-Optic Communication Installation and Maintenance Project includes appropriations for installation and maintenance of fiber-optic infrastructure for the City and for external entities/partners. This effort fits within our existing appropriation for the year.

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	2011	2012	2013	2014	2015	2016	Total
Spending Plan	153.5K	10K	10K	10K	10K	10K	203.5K
Current Year Appropriation	0						
Future Appropriations		0	0	0	0	0	0

Spending Plan and Budget Notes: The implementation of the infrastructure for the first identified project will occur this year; the only future costs are those for ongoing O&M (see below). NOTE: this spending plan is for the initial project only; if additional projects are authorized in the future, additional expenditures would need to be added.

Funding Source:

Identify funding sources including revenue generated from the project, and the expected level of funding from each source. When applicable, make a notation indicating the source of funds is paying for debt service.

Funding Source (Fund Name and Number, if applicable)	2011	2012	2013	2014	2015	2016	Total
Comcast Annual Lease Payment (estimate)	132.5K	10K	10K	10K	10K	10K	182.5K
King County Metro	21K	0	0	0	0	0	21K
TOTAL	153.5K	10K	10K	10K	10K	10K	203.5K

Funding Source Notes: *DoIT is negotiating a 10-year lease with Comcast, which will be executed upon passage of this ordinance.*

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					

Bond Notes: N/A

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	2011	2012	2013	2014	2015	2016	Total
Uses							
Initial Construction	151K						151K
Vault/Underground Lease Costs	2.5K	10K	10K	10K	10K	10K	52.5K
Sources (itemize)							
Comcast Annual Lease Payment	132.5K	10K	10K	10K	10K	10K	182.5K
King County Metro	21K						21K

Operation and Maintenance Notes: *Once initial construction is completed, the only anticipated ongoing O&M costs are those incurred for leasing of underground conduit and vault space.*

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
N/A			
TOTAL			

Funding sources for replacement of project: *Fiber infrastructure has a minimum life expectancy of 30+ years. It does not require regular ongoing maintenance or support.*

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 Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2011 Positions	2011 FTE	2012 Positions **	2012 FTE **
TOTAL							

* List each position separately

** 2012 positions and FTE are total 2012 position changes resulting from this legislation, not incremental changes. Therefore, under 2012, please be sure to include any continuing positions from 2011.

Position Notes: N/A

Do positions sunset in the future? N/A

What is the financial cost of not implementing the legislation?

If this legislation is not enacted, rent will not be received for use of the excess capacity.

Does this legislation affect any departments besides the originating department?

SCL and SDOT are providing/leasing the underground and vault space through which this conduit will pass. The appropriate staff who manage those assets within the Departments have been involved.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

None.

Is the legislation subject to public hearing requirements?

No

Other Issues: *None*

List attachments to the fiscal note below: *None*



City of Seattle
Office of the Mayor

July 5, 2011

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

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that authorizes the Chief Technology Officer to enter into lease agreements with private parties to lease excess capacity in the City-owned conduit in the Pioneer Square area. The lease agreements will allow private providers to offer broadband internet services to the residents and businesses in Pioneer Square.

The Pioneer Square neighborhood has traditionally been underserved in the area of broadband internet access and this legislation will open up pathways for private sector providers to offer that service. As similar opportunities arise in the Pioneer Square area for high broadband internet service and excess conduit space is available, the Department of Information Technology (DoIT) will conduct Request for Proposal (RFP) processes to ascertain interest from private providers and solicit proposals. DoIT conducted a RFP process in May 2011 for the area along First Ave South between S. Jackson and Cherry Street and has received a proposal from Comcast to lease excess capacity from the City.

The ability to lease excess conduit space capacity will provide opportunities for businesses and residents of Pioneer Square to obtain broadband internet service. Thank you for your consideration of this legislation. Should you have questions, please contact Erin Devoto, Department of Information Technology at erin.devoto@seattle.gov or 206-233-7937.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Information Technology	Erin Devoto/3-7937	Jennifer Devore/5-1328

Legislation Title:

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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	2011	2012	2013	2014	2015	2016	Total
Spending Plan	152.5k	10K	10K	10K	10K	10K	202.5
Current Year Appropriation	0						
Future Appropriations		0	0	0	0	0	0

Spending Plan and Budget Notes: *The implementation of the infrastructure for the first identified project will occur this year; the only future costs are those for ongoing O&M (see below).NOTE: this spending plan is for the initial project only; if additional projects are authorized in the future, additional expenditures would need to be added.*

Funding Source:

Identify funding sources including revenue generated from the project, and the expected level of funding from each source. When applicable, make a notation indicating the source of funds is paying for debt service.

Funding Source (Fund Name and Number, if applicable)	2011	2012	2013	2014	2015	2016	Total
Comcast Annual Lease Payment (estimate)	132.5K	10K	10K	10K	10K	10K	182.5K
King County Metro	20K	0	0	0	0	0	20K
TOTAL	152.5K	10K	10K	10K	10K	10K	202.5K



Funding Source Notes: *DoIT is negotiating a 10-year lease with Comcast, which will be executed upon passage of this ordinance.*

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					

Bond Notes: N/A

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	2011	2012	2013	2014	2015	2016	Total
Uses							
Initial Construction	150K						150K
Vault/Underground Lease Costs	2.5K	10K	10K	10K	10K	10K	52.5K
Sources (itemize)							
Comcast Annual Lease Payment	132.5K	10K	10K	10K	10K	10K	182.5K
King County Metro	20K						20K

Operation and Maintenance Notes: *Once initial construction is completed, the only anticipated ongoing O&M costs are those incurred for leasing of underground conduit and vault space.*

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
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TOTAL			

Funding sources for replacement of project: *Fiber infrastructure has a minimum life expectancy of 30+ years. It does not require regular ongoing maintenance or support.*



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Position Notes: N/A

Do positions sunset in the future? N/A

What is the financial cost of not implementing the legislation?

If this legislation is not enacted, rent will not be received for use of the excess capacity.

Does this legislation affect any departments besides the originating department?

SCL and SDOT are providing/leasing the underground and vault space through which this conduit will pass. The appropriate staff who manage those assets within the Departments have been involved.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

None.

Is the legislation subject to public hearing requirements?

No

Other Issues: *None*

List attachments to the fiscal note below: *None*



STATE OF WASHINGTON – KING COUNTY

--SS.

274787
CITY OF SEATTLE, CLERKS OFFICE

No. 123663,664,665,666

Affidavit of Publication

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

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

CT:TITLE ONLY ORDINANCE

was published on

08/05/11

The amount of the fee charged for the foregoing publication is the sum of \$ 81.90, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

08/05/11

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle Title Only Ordinance

The full text of the following legislation, passed by the City Council on July 25, 2011, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

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

ORDINANCE NO. 123663

AN ORDINANCE authorizing, in 2011, acceptance of funding from non-City sources; authorizing the heads of the Seattle Fire Department, Seattle Police Department, Department of Planning and Development, Department of Neighborhoods, Department of Finance and Administrative Services, Human Services Department, the Office of Economic Development, Seattle Department of Transportation, and Seattle Public Utilities to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123664

AN ORDINANCE related to the 2011 Budget; amending Ordinance 123442, which adopted the 2011 Budget, including the 2011-2016 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; making cash transfers between various City funds; adding new projects; revising project allocations for certain projects in the 2011-2016 CIP; creating new positions, revising project descriptions; revising budget control level (BCL) purpose statements; amending Ordinance 123637; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

ORDINANCE NO. 123665

AN ORDINANCE relating to leasing excess capacity of City conduit; authorizing the Chief Technology Officer to enter into lease agreements whereby excess inner ducts in City-owned conduit in the Pioneer Square area are leased to private parties for the installation of fiber optic cable to provide broadband internet services to residents and businesses; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123666

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

Date of publication in the Seattle Daily Journal of Commerce, August 5, 2011.

8/5(274787)