Ordinance No. 123691

Council Bill No. 117248

AN ORDINANCE relating to the City Light Department; authorizing the Superintendent to grant, under threat of condemnation, an easement in City Light's fee owned transmission line right-of-way in the Southeast Quarter of the Northwest Quarter, Section 1, Township 29 North, Range 5 East, W.M., in Snohomish County, Washington, to Northwest Pipeline GP, for the continued operation and maintenance of a gas pipeline and appurtenances of its Everett Delta Lateral Project, and ratifying and confirming certain prior acts.

CF No. _____

Date Introduced: Aug. 8, 2011	
Date 1st Referred:	To: (c Energy, Technology, and Civil Rights
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 9.6.11	Full Council Vote: 9-0
Date Presented to Mayor: 9.7.11	Date Approved: Sept. 12, 2011
Date Returned to City Clerk: Sept. 13, 2011	Date Published: T.O. ✓ F.T. ___
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

5

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Bruce A. Harrell

Councilmember

Committee Action:

8/17/2011 PASSED BH, RC

9.6.11 Passed Full Council 9-0

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

GregAramaki/GA
SCL Northwest Pipeline Esmt ORD
July 21, 2011
Version #3a

ORDINANCE 123691

AN ORDINANCE relating to the City Light Department; authorizing the Superintendent to grant, under threat of condemnation, an easement in City Light's fee owned transmission line right-of-way in the Southeast Quarter of the Northwest Quarter, Section 1, Township 29 North, Range 5 East, W.M., in Snohomish County, Washington, to Northwest Pipeline GP, for the continued operation and maintenance of a gas pipeline and appurtenances of its Everett Delta Lateral Project, and ratifying and confirming certain prior acts.

WHEREAS, on July 26, 2001, the Federal Energy Regulatory Commission (FERC) issued a preliminary determination that the Everett Delta Lateral Project proposed by the Northwest Pipeline Corporation (predecessor to Northwest Pipeline GP) was required by the public convenience and necessity (FERC Docket Nos. CP01-49-000 and CP01-49-001); and

WHEREAS, the Everett Delta Lateral Project provided for the construction of a 9-mile, 20-inch gas pipeline from a Northwest Pipeline Corporation mainline near Lake Stevens to North Everett, to supply a 248-MW gas fired generator and the local gas distribution system; and

WHEREAS, the 20-inch gas pipeline would necessarily cross the City Light Bothell to Newhalem transmission line near the junction of SR 9 and SR 92 in Snohomish County, Washington; and

WHEREAS, City Light, under threat of condemnation, granted a permit to the Northwest Pipeline Corporation to construct the Project, and the Project has been completed and is now in operation; and

WHEREAS, the Seattle City Council has not previously authorized the grant of easement required by the FERC licensing, and Northwest Pipeline GP, has agreed to pay the fair market value of $11,200 (less certain rent credits) upon receipt of such authorization; 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, certain property rights required for the operation and maintenance of a gas transmission pipeline and appurtenances, and more specifically identified in Attachment 1, are no longer needed

exclusively for the City of Seattle's utility purposes over, under, and upon the following described property:

That portion of the Southeast Quarter of the Northwest Quarter of Section 1, Township 29 North, Range 5 East, W.M., Snohomish County, Washington being a strip of land 50 feet wide having 10 feet westerly, and 40 feet easterly of an existing 16 inch natural gas pipeline, sidelines extending or subtending at the beginning and end to intersect the boundaries of the main parcel and more particularly described as follows:

Commencing at the southeast corner of the aforementioned Section 1; thence N 44° 20'W, a distance of 3,876 feet more or less to the center line of said pipeline, and the True Point of Beginning; thence along said pipeline N 05°57'40" E a distance of 322.3 feet more or less.

The sidelines of said right of way shall be extended or subtended as required at the beginning and end to intersect the boundary of the herein described main parcel. Containing .37 acres more or less.

Section 2. The Superintendent of City Light, or his designee, is authorized to execute for and on behalf of the City of Seattle, an Easement Agreement substantially in the form attached hereto as Attachment 1.

Section 3. Seattle City Light is authorized to accept payment for the easement from Northwest Pipeline GP in the amount of $7,306 and to deposit the proceeds in the City Light Fund.

Section 4. Any act pursuant to the authority of and prior to the effective date of this ordinance is hereby ratified and confirmed.

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

Passed by the City Council the 6th day of September, 2011, and signed by me in open session in authentication of its passage this 6th day of September, 2011.

President _____ of the City Council

Approved by me this 12th day of September, 2011.

Michael McGinn, Mayor

Filed by me this 13th day of September, 2011.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1: Easement Agreement

GregAramaki/ga
SCL Northwest Pipeline Esmt ORD ATT 1
June 30, 2011
Version #2

Attachment 1

EASEMENT AGREEMENT
P.M. 290501-2-003

THIS AGREEMENT made this _____day of_____, 2011, between the CITY OF SEATTLE, a Washington municipal corporation, acting by and through its CITY LIGHT DEPARTMENT, hereinafter called the "City," and NORTHWEST PIPELINE GP, a Delaware general partnership, hereinafter called the "Grantee."

The City, under threat of condemnation and in consideration of ELEVEN THOUSAND TWO HUNDRED DOLLARS ($11,200.00) and of the terms and conditions hereinafter contained, hereby grants to Northwest Pipeline GP, its successors and assigns, an easement for operation and maintenance of a gas pipeline and appurtenances over, upon, under and across the following described property:

That portion of the Southeast Quarter of the Northwest Quarter of Section 1, Township 29 North, Range 5 East, W.M., Tax Parcel ID 00-5907-000-257-00, in Snohomish County, Washington, being more particularly described as follows: being a strip of land 50 feet wide, having 40 feet westerly and 10 feet easterly of an existing 16 inch natural gas pipeline, being more particularly described as follows:

Commencing at the southeast corner of the aforementioned Section 1; thence N 44°20' W a distance of 3,876 feet more or less to the centerline of said pipeline and the True Point of Beginning; thence along said pipeline N 05°57'40" E a distance of 322.3 feet more or less. The sidelines of said right of way shall be extended or subtended as required at the beginning and end to intersect the boundary of the herein described main parcel.

Containing 0.37 acres more or less, hereinafter called the "Easement Area".

ALL RIGHTS, PRIVILEGES AND AUTHORITY HEREBY GRANTED ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. No above ground building or structure shall be erected or placed upon the City's property or within the Easement Area.

2. Grantee shall not at any time interfere with the City's access to and over the City's property, including without limitation the Easement Area.

3. No ponds, ditches, or open water retention facilities of any kind shall be constructed upon the City's property or within the Easement Area.

4. Grantee agrees that the City shall not be liable for any damage to Grantee's facilities within the City's property by reason of any construction, alterations, maintenance or improvements performed on said property by the City, its agents or representatives, except for damages the City is responsible for as provided by law.

5. Grantee agrees to assume all risk of loss, damage or injury, which may result from Grantee's use of the City's property. It is understood that any damage to the City's property or transmission line facilities or appurtenances caused by or resulting from Grantee's use of the City's property may be repaired by the City and the actual cost of such repair shall be charged against and be paid by Grantee.

6. Grantee agrees to indemnify and hold harmless the City from all claims, actions or damages of every kind and description, including all claims, actions or damages brought by Grantee's employees, agents or representatives, which may accrue from or be suffered by reason of Grantee's use of the City's property, the easement rights granted under this Agreement, or the performance of any work in connection with such use. In case of any suit or action brought against the City arising out of or by reason of any of the above causes, Grantee shall, upon notice to it of the commencement of such action, defend the same at no cost or expense to the City, and Grantee will fully satisfy any judgment rendered adversely to the City, except to the extent of the concurrent negligence or willful misconduct of the City, its agents or representatives. By this indemnity provision, Grantee expressly waives any immunity it may have under any workers' compensation or industrial insurance law from claims by its employees arising out of workplace injuries in connection with Grantee's use of the City's property. Said express waiver was mutually negotiated between the City and Grantee.

7. Grantee understands that scientific studies concerning potential health effects of power frequency electric and magnetic fields (EMF) have been and are being conducted. Grantee assumes responsibility for all potential risks, actions or damages related to exposure to EMF, and/or radio frequency radiation, connected with Grantee's easement rights granted under this Agreement and/or its use of the City's property. The indemnification and hold harmless provisions of this Agreement apply to all claims, actions or damages related to EMF, and/or radio frequency radiation, in the same manner and to the same extent as they apply to all claims, actions or damages of every other kind and description.

8. Grantee covenants and agrees that neither it, nor its contractors or agents, will store, dump, bury or transfer any hazardous substances, flammable materials, inoperable vehicles, chemicals, oils, fuels, or containers for such substances, chemicals, oils, fuels, etc., on or in the Easement Area; and Grantee further agrees to observe all Federal, State and local environmental laws and regulations regarding the same.

9. The rights, privileges and authority hereby granted shall continue and be in force until such time as Grantee, its successors and assigns, shall permanently abandon said easement, at which time all such rights, privileges and authority hereby granted shall terminate.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

CITY OF SEATTLE SEATTLE CITY LIGHT	ACCEPTED NORTHWEST PIPELINE GP
By: _____	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

STATE OF WASHINGTON)
) ss.
County of King)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the _____ of the City Light Department of the City of Seattle, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date_____

_____
NOTARY PUBLIC in and for the State of Washington,

Residing at_____.

My commission expires:
_____.

STATE OF WASHINGTON)
)ss.
County of _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, and on oath stated that he was authorized to execute this instrument and acknowledged it as an authorized agent of the Northwest Pipeline GP, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date_____

_____
NOTARY PUBLIC in and for the State of Washington,

Residing at_____.

My commission expires:_____.

Greg Aramaki/GA
SCL Northwest Pipeline Esmt FISC
June 30, 2011
Version #3

Form revised: December 14, 2010

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle City Light	Dave Barber 684-0400	Calvin Chow 684-4652

Legislation Title:

AN ORDINANCE relating to the City Light Department; authorizing the Superintendent to grant, under threat of condemnation, an easement in City Light's fee owned transmission line right-of-way in the Southeast Quarter of the Northwest Quarter, Section 1, Township 29 North, Range 5 East, W.M., in Snohomish County, Washington, to Northwest Pipeline GP, for the continued operation and maintenance of a gas pipeline and appurtenances of its Everett Delta Lateral Project, and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation authorizes the Superintendent of Seattle City Light to grant an easement to Northwest Pipeline GP, to construct, operate, and maintain a 20-inch gas pipeline on a portion of City Light's fee-owned transmission right-of-way. Northwest Pipeline GP has agreed to pay City Light $11,200 for the easement rights, and will receive a credit of $3,893.53 paid as rent.

Background:

This legislation will declare surplus and authorize the sale of a utility property right under the jursisdiction of Seattle City Light. **A public hearing is required** pursuant to RCW 35.94.040.

On July 26, 2001, the Federal Energy Regulatory Commission (FERC) issued a preliminary determination that the Everett Delta Lateral Project proposed by the Northwest Pipeline Corporation (predecessor to Northwest Pipeline GP) was required by the public convenience and necessity (FERC Docket Nos. CP01-49-000 and CP01-49-001). The Everett Delta Lateral Project provided for the construction of a 9-mile, 20-inch gas pipeline from a Northwest Pipeline Corporation mainline near Lake Stevens to North Everett, to supply a 248-MW gas fired generator and the local gas distribution system in Everett.

The route of the 20-inch gas pipeline would necessarily cross the City Light Bothell to Newhalem transmission line near the junction of SR 9 and SR 92 in Snohomish County, Washington. Under threat of condemnation, City Light granted a Temporary Permit to the Northwest Pipeline Corporation in April, 2004, to construct the pipeline; the terms of the Temporary Permit provided that subject to City Council approval of a permanent easement, 66.67% of the rent paid under the Permit would apply to the purchase price of the easement.

In June, 2006, City Light and the Northwest Pipeline Corporation agreed that subject to City Council approval of a permanent easement, the fair market purchase price would be $11,200. As of the date of this Fiscal Note, Northwest Pipeline GP has paid rent of $3,893.53 applicable to the purchase price. The balance of the purchase price now due to City Light is $7,306.47.

The pipeline has been constructed and is now in operation. Northwest Pipeline GP (successor to the Northwest Pipeline Corporation) now wishes to obtain City Council approval of a permanent easement to secure their utility infrastructure, and is prepared to pay City Light the balance of the fair market price now due.

__X__ This legislation has financial implications.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2011 Revenue	2012 Revenue
City Light Fund (41000)	Seattle City Light	Sale of Easement	$7,306	
TOTAL			**$7,306**	

What is the financial cost of not implementing the legislation?

City Light would not be paid the balance due of $7,306. The balance due is only payable upon City Council approval of a permanent easement.

Does this legislation affect any departments besides the originating department? No.

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?

Yes. A public hearing is required by RCW 35.94.040. These hearings are usually conducted at the start of a regularly scheduled meeting of the City Council Energy, Technology, and Civil Rights Committee.

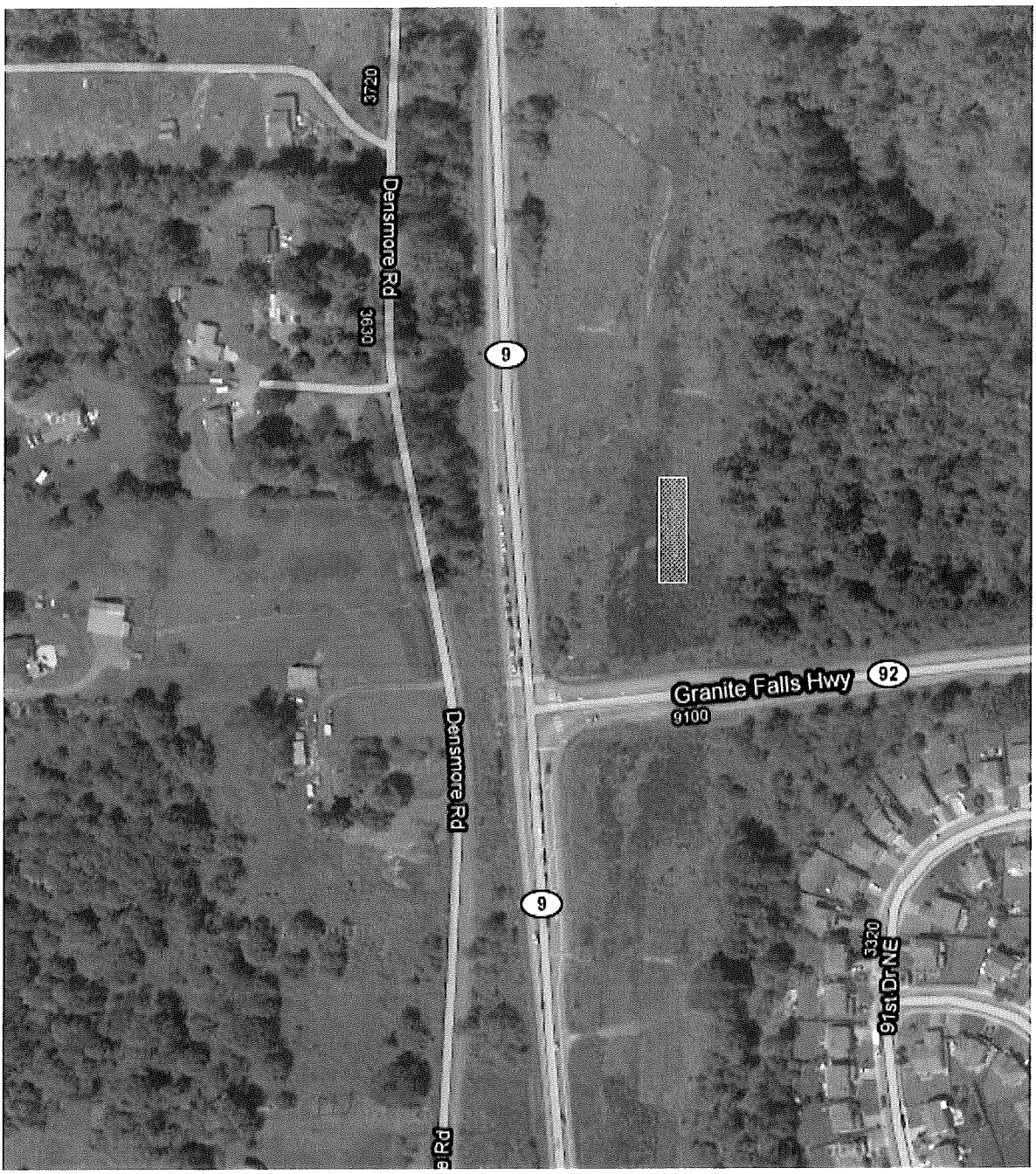
Other Issues: None.

List attachments to the fiscal note below:

Exhibit 1: Vicinity Map

Greg Aramaki/GA
SCL Northwest Pipeline Esmt FISK EXH 1
June 30, 2011
Version #1

Exhibit 1
Vicinity Map



Northwest Pipeline GP Easement
Bothell to Newhalem Transmission Line

Exhibit 1 to Fiscal Note
Northwest Pipeline Easement Ordinance

City of Seattle
Office of the Mayor

July 26, 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 Seattle City Light to grant an easement to Northwest Pipeline GP for the continued operation and maintenance of a 20-inch gas pipeline on the Bothell to Newhalem transmission line right-of-way in Snohomish County, Washington.

This legislation will declare surplus and authorize the sale of a utility property right under the jursisdiction of Seattle City Light. A public hearing is required pursuant to RCW 35.94.040.

This pipeline was constructed in 2004 under a Federal Energy Regulatory Commission (FERC) determination of public convenience and necessity. The pipeline connects from a Northwest Pipeline mainline near Lake Stevens to North Everett, where it supplies a 248 MW gas fired generator and the local gas distribution system. The pipeline crosses City Light's transmission corridor near the intersection of SR 9 and SR 92 east of Everett.

The ownership of this pipeline recently changed hands. The new owners, Northwest Pipeline GP, are requesting approval of a permanent easement to secure their utility infrastructure. Thank you for your consideration of this legislation. Should you have questions, please contact Dave Barber at 684-0400.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcginn@seattle.gov

STATE OF WASHINGTON – KING COUNTY

--ss.

276477 No. TITLE ONLY

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:123686,88-123697

was published on

09/21/11

The amount of the fee charged for the foregoing publication is the sum of $ 150.15, which amount has been paid in full.

Subscribed and sworn to before me on

09/21/11

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. PATZER
NOTARY PUBLIC
COMMISSION EXPIRES

Affidavit of Publication

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on September 6, 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. 123686

AN ORDINANCE relating to jail services; authorizing the Mayor to execute an Interlocal Agreement with King County for the Provision of Jail Services.

ORDINANCE NO. 123688

AN ORDINANCE relating to the Department of Parks and Recreation; accepting deeds for the donation of real property in Taylor Creek green space and for the donation of an addition to Fauntleroy Park, all for open space, park, and recreation purposes; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123689

AN ORDINANCE declaring the former Fire Station 37 surplus to the City's needs, and authorizing the Director of the Department of Finance and Administrative Services to sell the site and building through an open competitive process.

ORDINANCE NO. 123690

AN ORDINANCE declaring the former Fire Station 38 surplus to the City's needs, and authorizing the Director of the Department of Finance and Administrative Services to sell the site and building through an open competitive process.

ORDINANCE NO. 123691

AN ORDINANCE relating to the City Light Department; authorizing the Superintendent to grant, under threat of condemnation, an easement in City Light's fee owned transmission line right-of-way in the Southeast Quarter of the Northwest Quarter, Section 1, Township 29 North, Range 5 East, W.M., in Snohomish County, Washington, to Northwest Pipeline GP, for the continued operation and maintenance of a gas pipeline and appurtenances of its Everett Delta Lateral Project, and ratifying and confirming certain prior acts.

ORDINANCE NO. 123692

AN ORDINANCE relating to funding for housing and community development programs; authorizing acceptance of grant funds from the United States Department of Housing and Urban Development for programs included in the City's Consolidated Plan for Housing and Community Development; decreasing appropriations in the 2011 Adopted Budget of funds available for activities under the Community Development Block Grant ("CDBG") Program, the Housing Opportunities for Persons with AIDS program, the Emergency Shelter Grant program and the HOME program; amending the 2011 Annual Allocation Plan component of the 2011 Update to the Consolidated Plan; reallocating unexpended funds from prior years; amending the housing policies section of the Consolidated Plan; authorizing a change to the schedule of CDBG payments in Section 4.2.3 of the Substitute Community Development Fund Agreement Executed By Central Puget Sound Regional Transit Authority and the City Of Seattle To Establish, Oversee, And Fund The City Of Seattle's Portion Of The Transit Oriented Community Development Fund, made pursuant to Ordinance 121763; and ratifying and confirming prior acts.

ORDINANCE NO. 123693

AN ORDINANCE relating to City employment commonly referred to as the Second Quarter 2011 Employment Ordinance; designating positions as exempt from Civil Service status and amending the Seattle Municipal Code (SMC) 4.13.010, Subsections 11 and 22; returning positions to Civil Service status; and ratifying and confirming prior acts; all by a 2/3 vote of the City Council.

ORDINANCE NO. 123694

AN ORDINANCE relating to the Pacific Place Garage; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Downtown Parking Garage Fund; providing for repayment; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123695

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

ORDINANCE NO. 123696

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

ORDINANCE NO. 123697

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

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, September 21, 2011.
9/21(276477)