

Ordinance No. ~~124070~~ 124070

Council Bill No. 117581

AN ORDINANCE relating to Seattle Public Utilities' property on the northeast corner of North 140th Street and Lenora Place North, Seattle, Washington; declaring fee ownership of this property to be surplus to the City of Seattle's utility needs; authorizing Seattle Public Utilities to sell the surplus property and to execute documents and agreements necessary to complete the sale; and ratifying and confirming certain prior acts.

CF No. _____

Date Introduced:	9/10/12	
Date 1st Referred:	To: (committee) Libraries, Utilities, and Center	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 8-0	
Date Presented to Mayor:	Date Approved: 12/17/12	
Date Returned to City Clerk:	Date Published:	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: John Pedersen

Councilmember

Committee Action:

12/4/12 Pass JG, RL, SB

12.10.12 Passed 8-0 excused TR

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

CITY OF SEATTLE

ORDINANCE 124070

COUNCIL BILL 117581

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4 AN ORDINANCE relating to Seattle Public Utilities' property on the northeast corner of
5 North 140th Street and Lenora Place North, Seattle, Washington; declaring fee ownership
6 of this property to be surplus to the City of Seattle's utility needs; authorizing Seattle
7 Public Utilities to sell the surplus property and to execute documents and agreements
8 necessary to complete the sale; and ratifying and confirming certain prior acts.

9 WHEREAS, the City of Seattle acquired King County Parcel Number 645030-4545 in 1958 in
10 connection with the North 128th Street Sanitary Sewer Project, as accepted by Ordinance
11 87863; and

12 WHEREAS, the property was acquired in fee because the owner was unwilling to grant an
13 easement for the sanitary sewer mainline; and

14 WHEREAS, an easement for the sewer across the east twelve feet of the lot would provide
15 Seattle Public Utilities all the rights necessary for the use, maintenance, repair, and
16 replacement of the sanitary sewer mainline; and

17 WHEREAS, fee ownership of the 2,040 square foot parcel is excess to Seattle's current and
18 future needs; and

19 WHEREAS, the City's Real Estate Oversight Committee recommends selling the property; and

20 WHEREAS, Victor Fleming, the owner of the adjacent property to the north wishes to buy this
21 lot subject to Seattle Public Utilities' reservation of an easement for the sanitary sewer
22 mainline; and

23 WHEREAS, Seattle Public Utilities and Victor Fleming have negotiated the sale of the 2,040
24 square foot lot to Victor Fleming (documented by a Purchase and Sale Agreement with
25 closing subject to Council approval), including the fair market value to be paid to Seattle
26 Public Utilities, and subject to a reserved easement for a sanitary sewer mainline and a
27 covenant releasing the City from liability resulting from the condition of the property;
28 NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:



1 Section 1. Under RCW 35.94.040 and after public hearing, fee ownership of the real
2 property legally described as Lot 26, Block 22, Plat of Overland Park, according to plat thereof
3 recorded in Volume 26 of Plats, page 44, Records of King County, Washington (the "Property")
4 is hereby found and declared to be no longer required for providing municipal utility service and
5 to be surplus to the City of Seattle's needs.

6 Section 2. The Director of Seattle Public Utilities, or his designee, is hereby authorized
7 to convey the Property to Victor Fleming upon payment of \$26,100 to Seattle Public Utilities,
8 subject to a reserved easement and environmental covenant, release and indemnity. The Director
9 is authorized to convey the Property by deed substantially in the form of the Quitclaim Deed
10 Subject to Reserved Easement and Environmental Release and Indemnity attached hereto as
11 Attachment 1. The Director's authority in this section includes the authority to execute and
12 record any additional agreements and documents necessary for such conveyance consistent with
13 the terms of this ordinance.



1 Section 3. Any act consistent with the authority in this ordinance taken prior to its
2 effective date is hereby ratified and confirmed.

3 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
4 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
5 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

6 Passed by the City Council the 10th day of December, 2012, and
7 signed by me in open session in authentication of its passage this
8 10th day of December, 2012.

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10 

11 President _____ of the City Council

12
13 Approved by me this 10th day of December, 2012.

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15 

16 Michael McGinn, Mayor

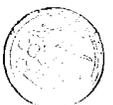
17
18 Filed by me this 19th day of December, 2012.

19
20 

21 Monica Martinez Simmons, City Clerk

22 (Seal)

23
24
25 Attachment 1: Form of Quitclaim Deed Subject to Reserved Easement and Environmental
26 Release and Indemnity



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SPU 140th & Lenora Sale ORD ATT 1
June 5, 2012
Version #3

Attachment 1

Recording Requested By And
When Recorded Mail To:

Attention: Free Carpenter
City of Seattle
Seattle Public Utilities
PO Box 34018
700 Fifth Avenue
Seattle, WA 98124-4018

**Form of
QUIT CLAIM DEED**

**SUBJECT TO RESERVED EASEMENT AND ENVIRONMENTAL RELEASE AND
INDEMNITY**

Reference #s of Document Released or Assigned: 4990861

Grantor: The City of Seattle, Seattle Public Utilities

Grantee: Victor A. Fleming

Legal Description: Lot 26, Block 22, Plat of Overland Park, according to plat thereof
recorded in Volume 26 of Plats, page 44, Records of King County,
Washington.

Assessor's
Tax Parcel ID#: No. 645030-4545

QUITCLAIM DEED

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Attachment 1 to SPU 140th & Lenora Sale ORD



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SPU 140th & Lenora Sale ORD ATT 1
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Version #3

THE CITY OF SEATTLE (“Grantor”), acting by and through its **SEATTLE PUBLIC UTILITIES** (“SPU”), for Ten Dollars (\$10.00) and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby conveys and quitclaims to **VICTOR A. FLEMING**, a single person, (“Grantee”) all right, title and interest, if any, in the following real property:

Lot 26, Block 22, Plat of Overland Park, according to plat thereof recorded in Volume 26 of Plats, page 44, Records of King County, Washington (the “Property”).

The Property is granted expressly subject to Grantor’s reservations and conditions herein. Grantor makes no warranties of any kind as to the title or condition of said lands.

Reserved Easement

1. Grantor reserves unto the City of Seattle and SPU, and its successors and assigns, an exclusive easement for utility purposes (the “Easement”) over, under, across and through a portion of the Property, as depicted on Exhibit A and described as follows:

the east 12 feet of Lot 26, Block 22, Plat of Overland Park, according to plat thereof recorded in Volume 26, page 44, records of King County, Washington.

(the “Easement Area”).

2. Grantor reserves the Easement on the following terms and conditions:

- A. Grantee shall not construct or place any building, structure, tree or obstruction of any kind within the boundaries of the Easement Area without prior written permission of the Director of SPU or said official’s successor, which permission may be withheld, conditioned or delayed in that official’s discretion.
- B. Grantee shall not excavate in the Easement Area without the prior written permission of the Director of SPU or said official’s successor, which permission may be withheld, conditioned, or delayed in that officials’ discretion.
- C. Grantee shall not install or allow to be installed any other utility facilities, such as conduits, cables, pipelines, vaults, poles or posts, whether public or private, within three (3) horizontal feet of SPU’s Utilities. All utility crossings must maintain a minimum vertical clearance of twelve (12) inches from Grantor’s utility pipes and infrastructure in the Easement Area.

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SPU 140th & Lenora Sale ORD ATT 1
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- D. Grantor's reserved Easement includes the right to enter upon the Easement Area at all reasonable times for purposes of maintenance, repair and replacement of utility infrastructure.

COVENANT, RELEASE and INDEMNITY REGARDING PROPERTY CONDITIONS AND HAZARDOUS SUBSTANCES

The Property described herein is conveyed AS-IS, WHERE-IS, WITH-ALL-FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR THE GRANTEE'S INTENDED USES AND PURPOSES. Grantee acknowledges that adverse physical, economic or other conditions (including without limitation, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the Property. By acceptance of this deed, Grantee assumes Grantor's responsibility for all environmental conditions of the Property, known or unknown, including but not limited to responsibility, if any, for investigation, removal or remediation actions relating to the presence, release or threatened release of any Hazardous Substance or other environmental contamination on, under, emanating from, or otherwise relating to the Property. Grantee also releases, covenants not to sue, and shall indemnify, defend, and hold Grantor and its past, present and future officials, employees, and agents, harmless from and against any and all claims, demands, penalties, fees, damages, losses, liabilities, and expenses (including but not limited to fees and costs of regulatory agencies, attorneys, contractors and consultants) arising out of or connected with the condition of the Property, including but not limited to any alleged or actual past, present or future presence, release or threatened release of any Hazardous Substance in, on, under or emanating from the Property, or any portion thereof or improvement thereon, from any cause whatsoever; it being intended that Grantee shall so indemnify Grantor and such persons without regard to any fault or responsibility of Grantor, Grantee or such other persons. Grantee is aware of the rights it might otherwise have to seek recovery from Grantor for costs of remediation and cleanup of Hazardous Substances under applicable law, including without limitation the Washington Model Toxics Control Act ("MTCA") and the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), and Grantee hereby knowingly waives all such rights, now existing or hereafter arising, and voluntarily relinquishes those rights and forever releases the Grantor from any such obligation.

For purposes of this Covenant, the term "Hazardous Substance" shall mean any substance subject to regulation under the Washington Hazardous Waste Management Act (Ch. 70.105 RCW), as amended from time to time and regulations promulgated thereunder; any "hazardous substance" under MTCA as amended from time to time and regulations promulgated thereunder;



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any "hazardous substance" or "hazardous waste" as defined by CERCLA as amended from time to time and regulations promulgated thereunder; any underground or above-ground storage tanks; and any substance the presence of which is prohibited by any federal, state, or local government statute, regulation, ordinance, rule or resolution; any substance deemed hazardous, toxic, a pollutant, or contaminant, which by any federal, state, or local statute, regulation, ordinance, rule or resolution requires special handling or notification in its collection, storage, treatment or disposal, and any substance or material that is now or hereafter becomes otherwise regulated under any federal, state, or local statute, ordinance, rule, regulation, resolution or other law relating to environmental protection, contamination or cleanup.

The obligations of Grantee stated above and the acknowledgement, release and indemnification touch and concern the Property, restrict the use of the Property, and are intended to run with the land and bind Grantee and Grantee's heirs, successors in interest and assigns, and inure to the benefit of Grantor and its successors and assigns, but the rights of Grantor are not for the benefit of or appurtenant to any property of Grantor. No transfer of the Property by Grantee or any successor in interest of Grantee shall relieve such party from any obligations under this Covenant or any liability for any breach of this Covenant, whether or not then accrued, nor shall any such transfer impair the effectiveness of the release or indemnity herein as to any party. This Covenant is not intended to, nor shall it, release, discharge or affect any rights or causes of action that Grantor or Grantee may have against any other person or entity, except as otherwise expressly stated herein, and each of the parties reserves all such rights including, but not limited to, claims for contribution or cost recovery relating to any Hazardous Substance in, on, under or emanating from the Property.

Grantee's foregoing covenant, release, indemnity and obligations with respect to the condition of the Property and Hazardous Substances are referred to as the "Covenant". Notwithstanding the foregoing, Grantee's Covenant shall not apply to any claims, demands, penalties, fees, damages, losses, liabilities, and expenses (including but not limited to fees and costs of regulatory agencies, attorneys, contractors and consultants) that are solely attributable to Grantor's use of the Easement Area.

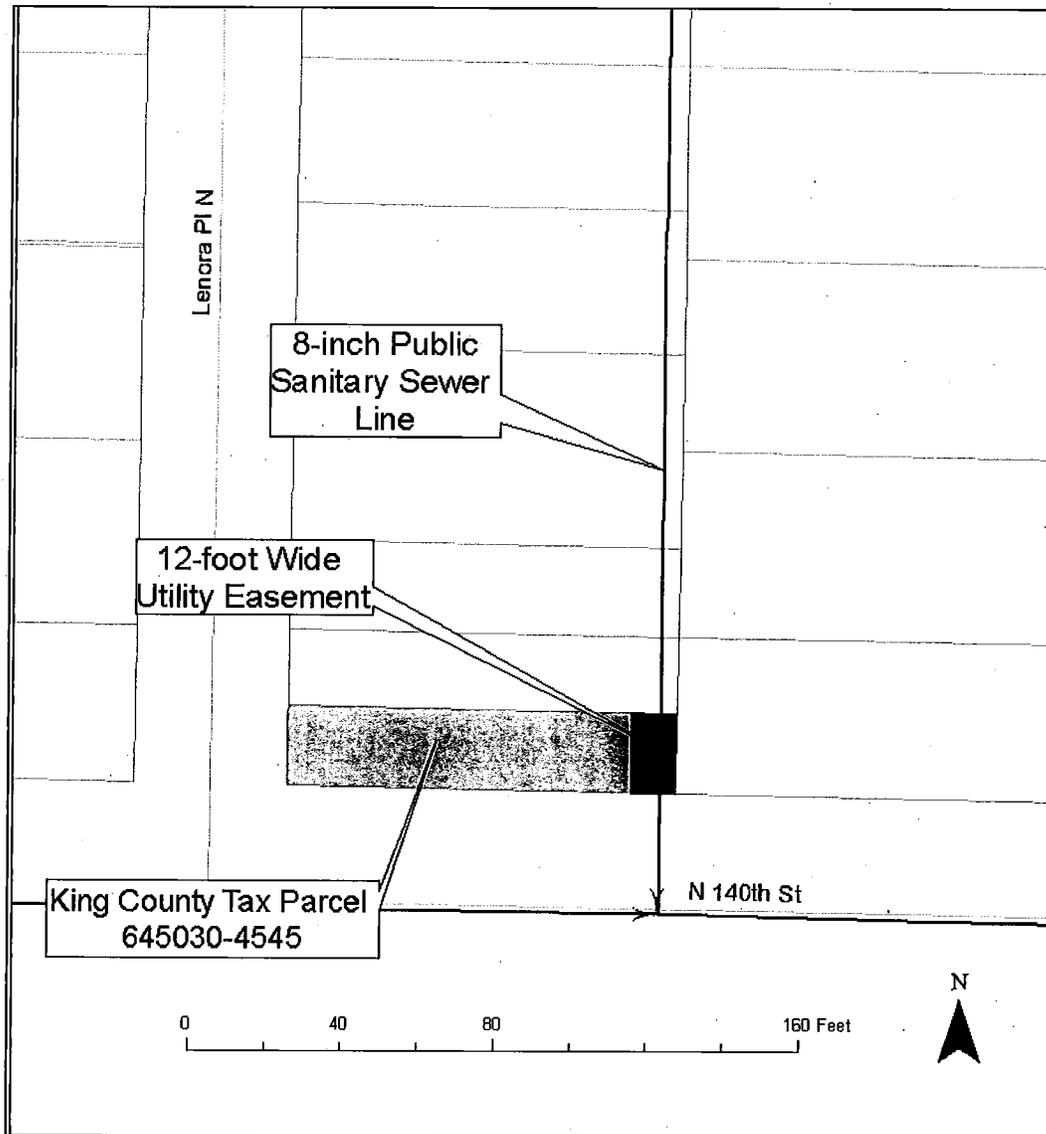
IN WITNESS WHEREOF, the parties have caused this instrument to be executed.

//next page for signatures



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Exhibit A
Quitclaim Deed
Subject to Reserved Easement and Condition Subsequent



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Prece Carpenter/6-9754	Karl Stickel/4-8085

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities' property on the northeast corner of North 140th Street and Lenora Place North, Seattle, Washington; declaring fee ownership of this property to be surplus to the City of Seattle's utility needs; authorizing Seattle Public Utilities to sell the surplus property and to execute documents and agreements necessary to complete the sale; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation declares as surplus the property in north Seattle and authorizes its sale to Victor Fleming, the owner of the adjacent property, subject to a payment to SPU for the fair market value of the property and to a reserved easement permitting access by SPU to a City sewer line which crosses a portion of the property.

Background:

A 20-foot wide lot on the northeast corner of North 140th Street and Lenora Place North was acquired in 1958 in connection with North 128th Street Sanitary Sewer. The City acquired easements across the properties to the north and only needed an easement across this property. The owner of this property refused to grant an easement. The City paid \$1.00 for the lot and \$8.91 in delinquent back taxes. The property was accepted by Ordinance 87863.

A sanitary sewer was constructed in the eastern portion of the parcel. In 2007, a geographic information system inventory of Seattle Public Utilities' property uncovered encroachment by a neighboring property owner. As an alternative to taking legal action to remove the encroachment, SPU determined that the property could be surplus so long as SPU received an easement and release from any environmental liability. Beginning in 2008, the City entered into negotiations with Victor Fleming, the adjoining neighbor to the north. Victor Fleming has now agreed to purchase the property for a fair market value price of \$26,100, subject to the conditions that SPU will reserve an easement for the sewer line and SPU will obtain an environmental release.

This legislation includes a ratified and confirmed clause at the Law Department's recommendation because SPU has signed a purchase and sale agreement and accepted a deposit for the transaction.

Please check one of the following:

 X This legislation has financial implications.



Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Drainage and Wastewater Fund (44010)	Seattle Public Utilities	Other Non-operating revenue	\$26,100	
TOTAL			\$26,100	

Revenue/Reimbursement Notes:

Revenue from sale of property

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
No.
- b) **What is the financial cost of not implementing the legislation?**
City would not receive \$26,100 for sale of property and would have continued legal obligations and risk as owner of the entire parcel when the City's needs are met through an easement.
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** Seattle Public Utilities could consider selling this property on the open market through a bidding system and receive potentially less return for the property sale.
- e) **Is a public hearing required for this legislation?**
Yes. Ordinance process includes the necessary public hearing for sale of surplus utility property. Also, the neighbors within 1,000 feet of the property were notified as part of FAS' process for disposition of simple property.
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Yes.
- g) **Does this legislation affect a piece of property?**
Yes. A map is included as Exhibit A of Attachment 1 (the quit claim deed) to the ordinance.
- h) **Other Issues:**
N/A

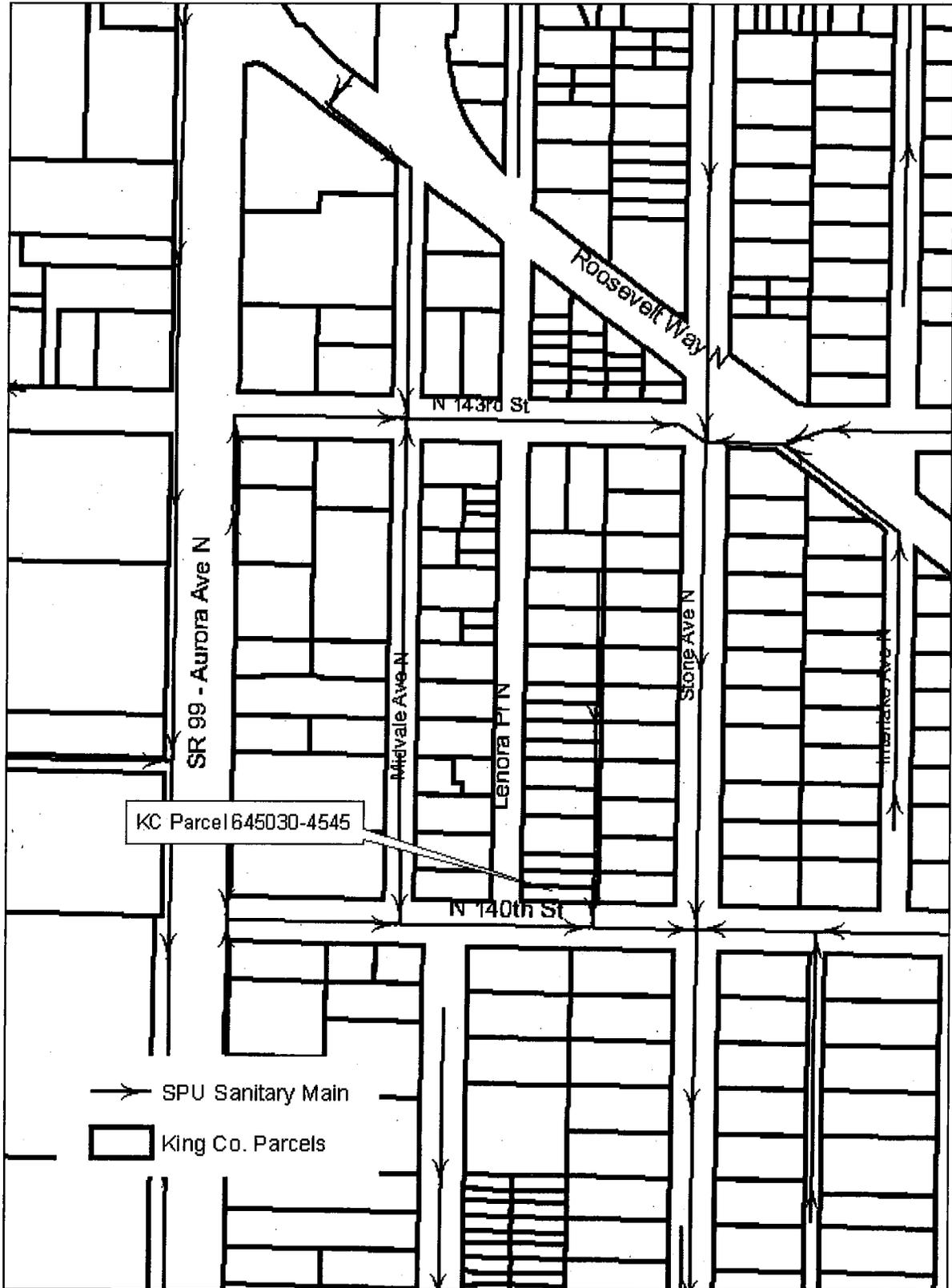


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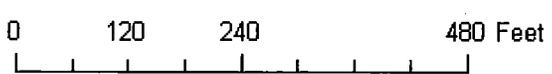
List attachments to the fiscal note below:
Exhibit A – Vicinity Map



Exhibit A
King County Parcel 645030-4545



→ SPU Sanitary Main
□ King Co. Parcels



This map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.





City of Seattle
Office of the Mayor

July 31, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill authorizing the sale of a narrow lot located at Lenora Place North and North 140th Street in northwest Seattle. While Seattle Public Utilities needs an easement for a sewer line across part of the parcel, the utility does not need fee ownership of the property.

The City bought the 20-foot wide corner lot in 1958 after the owner refused to grant an easement for a sewer line across the eastern edge of the property. Since that time, the City has used the property for a sewer line but an easement will meet Seattle Public Utilities' ongoing needs. In 2008, negotiations to sell the property began with the adjoining property owner to the north. That neighbor would like to buy the property. Seattle Public Utilities will reserve an easement for the sewer line.

Approving this legislation and selling this parcel will protect City infrastructure, remove an encroachment, and return this property to the tax rolls. Thank you for your consideration of this legislation. Should you have questions, please contact Pree Carpenter at 386-9754.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

292029
CITY OF SEATTLE, CLERKS OFFICE

No. 124068,069,070,071,072

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.

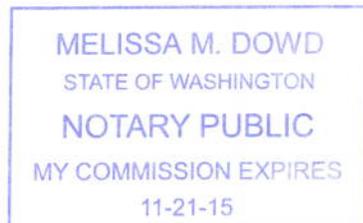
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

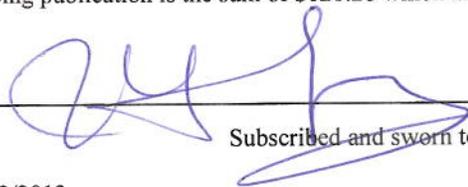
CT:TITLE ONLY ORDINANCE

was published on

01/02/13

The amount of the fee charged for the foregoing publication is the sum of \$121.28 which amount has been paid in full.




Subscribed and sworn to before me on

01/02/2013


Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle Title Only Ordinances

The full text of the following legislation, passed by the City Council on December 10, 2012, 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. 124068

AN ORDINANCE relating to the Cedar River Watershed; authorizing five years of ecological thinning, in accordance with the Cedar River Watershed Habitat Conservation Plan, in Sections 8, 9, 13, 21, 22, 23, and 28, Township 22, North, Range 7, East, W.M., Sections 26, 27, 34, and 35, Township 22, North, Range 8, East, W.M., Sections 29, 30, 31, and 32, Township 22, North, Range 9, East, W.M., and Sections 10, 11, 14, and 15, Township 21, North, Range 10, East, W.M.; declaring the logs resulting from ecological thinning to be surplus to the City's needs; authorizing the sale of such logs pursuant to applicable City contracting and surplus property sale procedures; and directing deposit of the proceeds therefrom to the Water Fund for the purposes of the Habitat Conservation Plan implementation.

ORDINANCE NO. 124069

AN ORDINANCE relating to Seattle Public Utilities; declaring property interests that may have been acquired by Seattle Public Utilities surplus to utility needs; and authorizing the exchange of quitclaim deeds between the City of Seattle and King County to clarify the northern boundary line of a portion of Seattle Public Utilities' Lake Youngs Supplyline right-of way in the Southwest Quarter of Section 5, Township 22 North, Range 6 East, W.M., and in the Southeast Quarter of Section 6, Township 22 North, Range 6 East, W.M., in King County, Washington.

ORDINANCE NO. 124070

AN ORDINANCE relating to Seattle Public Utilities' property on the northeast corner of North 140th Street and Lenora Place North, Seattle, Washington; declaring fee ownership of this property to be surplus to the City of Seattle's utility needs; authorizing Seattle Public Utilities to sell the surplus property and to execute documents and agreements necessary to complete the sale; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124071

AN ORDINANCE relating to Seattle Public Utilities; adopting the 2013 Water System Plan.

ORDINANCE NO. 124072

AN ORDINANCE relating to land use and zoning, amending Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the current Seattle Land Use Code (SMC, Title 23) of the Seattle Municipal Code, to correct omissions from previous amendments and facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

Date of publication in the Seattle Daily Journal of Commerce, January 2, 2013.

1/2(292029)