

Ordinance No. 124158

Council Bill No. 117739

AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing the Superintendent or his designee to release a portion of a patrol road easement located in Snohomish County, Washington, within the right of way for the Bothell Substation to Creston Nelson substation transmission corridor, accepting payment for the true and full value of the easement release from SHHC LLC dba D. R. Horton, and ratifying and confirming certain prior acts.

CF No. \_\_\_\_\_

Date Introduced:	<u>3-18-13</u>	
Date 1st Referred:	To: (committee) <u>Energy + Environment</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>8-0</u>	
Date Presented to Mayor:	Date Approved: <u>4/18/13</u>	
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: [Signature]  
Councilmember

## Committee Action:

03-26-13 Public Hearing, No Vote

04-09-13 Pass 2 (MO, SC) - 0 - 0

April 15, 2013 Full Council passed 8-0 (excused: Rasmussen)

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

LAW DEPARTMENT

Law Dept. Review

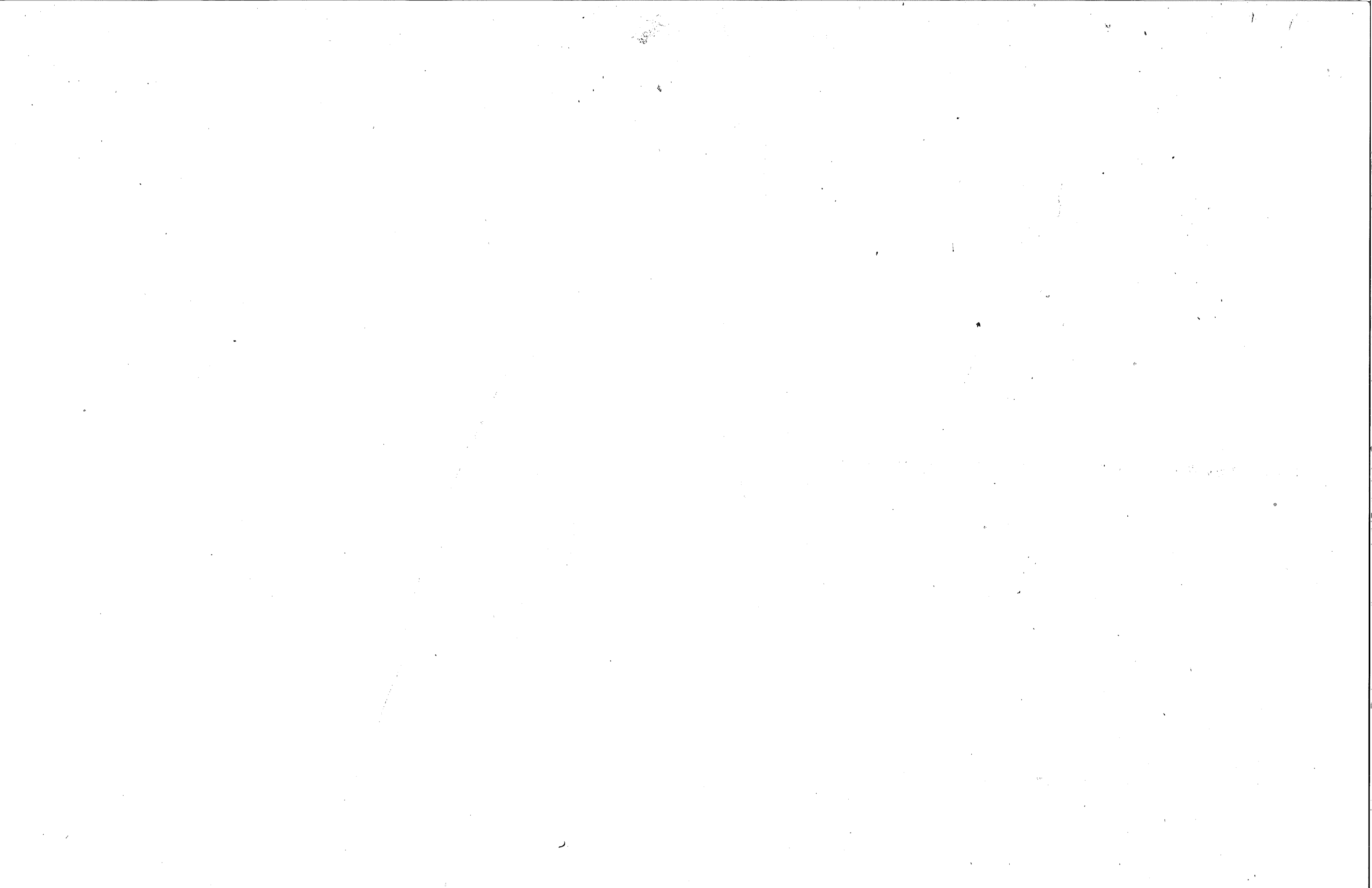
OMP Review

City Clerk Review

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**CITY OF SEATTLE**

**ORDINANCE** 124158

**COUNCIL BILL** 117739

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4 AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing  
5 the Superintendent or his designee to release a portion of a patrol road easement located  
6 in Snohomish County, Washington, within the right of way for the Bothell Substation to  
7 Creston Nelson Substation transmission corridor, accepting payment for the true and full  
8 value of the easement release from SHHC LLC dba D. R. Horton, and ratifying and  
9 confirming certain prior acts.

10 WHEREAS, The City of Seattle has a recorded easement for a patrol road in Section 16,  
11 Township 27 North, Range 5 East, W.M., Snohomish County, Washington, affecting  
12 Snohomish County Tax Parcel Numbers 2705160020200 and 2705160020010, being a  
13 portion of the Bothell Substation to Creston Nelson Substation transmission corridor in  
14 Snohomish County, Washington; and

15 WHEREAS, SHHC LLC dba D.R. Horton (SHHC) owns land encumbered by a portion of the  
16 patrol road easement, and requests that the west 75 feet of said patrol road easement be  
17 released to facilitate the subdivision of its 19.654 acre property into 72 single family  
18 residential lots; and

19 WHEREAS, the westernmost 75 feet of said patrol road easement is no longer required or useful  
20 for City Light Department purposes, and the Superintendent of City Light has  
21 recommended the requested partial release of said easement; and

22 WHEREAS, SHHC has entered into a Purchase and Sale Agreement with the City of Seattle,  
23 whereby subject to approval by the Seattle City Council, SHHC will pay The City of  
24 Seattle the fair market value for the requested easement release, in the amount of  
25 \$520,000; NOW, THEREFORE,

26 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

27 Section 1. Pursuant to the provisions of R.C.W. 35.94.040 and after public hearing,  
28 certain real property rights acquired for an electrical transmission corridor are no longer needed  
by The City of Seattle for providing continued public utility service or other municipal purpose,



1 over, through, and upon the following described property (The "Partial Release of Easement  
2 Area"), and are declared surplus to City needs:

3  
4 **The Partial Release of Easement Area:**

5 The West 75 feet of the East 230 feet of the NE 1/4 of the NW 1/4 of Section 16,  
6 Township 27 North, Range 5 East, W.M.;  
7 Less county road;  
8 Less the North 489 feet of the East 891.03 feet thereof;  
9 Situated in Snohomish County, State of Washington.

10 Section 2. The Superintendent of the City Light Department, or his designee, is  
11 authorized to execute for and on behalf of The City of Seattle, the "Partial Release of Patrol  
12 Road Easement," substantially in the form attached hereto as Attachment 1.

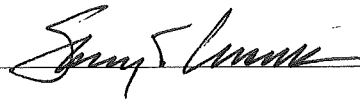
13 Section 3. The City Light Department is authorized to accept payment for the partial  
14 release of easement from SHHC, LLC, dba D.R. Horton, in the amount of \$520,000, and to  
15 deposit the proceeds in the City Light Fund.

16 Section 4. Any act consistent with the authority of this ordinance taken prior to its  
17 effective date is hereby ratified and confirmed.  
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1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.


4 Passed by the City Council the 15<sup>th</sup> day of April, 2013, and  
5 signed by me in open session in authentication of its passage this 15<sup>th</sup> day of  
6 April, 2013.

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9 President \_\_\_\_\_ of the City Council

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11 Approved by me this 18<sup>th</sup> day of April, 2013.

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13   
14 Michael McGinn, Mayor

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16 Filed by me this 19<sup>th</sup> day of APRIL, 2013.

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18   
19 Monica Martinez Simmons, City Clerk

20 (Seal)

21  
22  
23 Attachment 1: Partial Release of Patrol Road Easement



Mary Davis  
SCL Nature's Ridge Part Esmt Rel ORD ATT 1  
February 24, 2013  
Version #1

Attachment 1 Partial Release of Patrol Road Easement

Seattle City Light  
Real Estate Services  
700 Fifth Avenue, 30<sup>th</sup> Floor  
P.O. Box 34023  
Seattle, WA 98124-4023

Release of Easement  
Snohomish County Assessor's Nos. 2705160020200 and 2705160020010

PARTIAL RELEASE OF EASEMENT  
(Seattle City Light P.M. #270516-2-001)

The CITY OF SEATTLE, a municipal corporation of the State of Washington, acting by and through its CITY LIGHT DEPARTMENT ("Grantor"), hereby grants to SHHI LLC, a Delaware Limited Liability Company dba D.R. Horton ("Grantee"), a partial release from that certain patrol road easement dated January 10, 1950, and recorded under Recording No. 940389 in Snohomish County, Washington, lying within that property legally described as follows:

**Partial Release of Easement Area:**

The West 75 feet of the East 230 feet of the NE 1/4 of the NW 1/4 of Section 16,  
Township 27 North, Range 5 East, W.M.;  
Less county road;  
Less the North 489 feet of the East 891.03 feet thereof;  
situated in Snohomish County, State of Washington.

COVENANT REGARDING ENVIRONMENTAL CONDITIONS

The Partial Release of Easement Area ("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 and 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 relating to the Property. Grantee also releases 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, expenses (including but not limited to regulatory agencies, attorneys, contractors and consultants' fees and costs), and liabilities arising out of, or in any way 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 personnel without regard to any fault or responsibility of Grantor or Grantee. The obligation to complete all environmental investigation, removal or remediation of the Property and the acknowledgement, release and indemnification touch and concern the Property, restrict the use of the Property, constitute an assessment against the Property and are intended to run with the land and bind Grantee and Grantee's heirs, successors and assigns, and inure to the benefit of Grantor and its successors and assigns.

For purposes of this COVENANT, the term "Hazardous Substance" shall mean petroleum products and compounds containing them; flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; asbestos or asbestos-containing materials in any friable form; underground or above-ground storage tanks; or any substance or material that is now or hereafter becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to environmental protection, contamination or cleanup.

Grantee's release shall include both claims by Grantee against Grantor and cross-claims against Grantor by Grantee based upon claims made against Grantee by any and all third parties. The obligation to indemnify and defend shall include, but not be limited to, any liability of Grantor to any and all federal, state or local regulatory agencies or other persons or entities for remedial action costs and natural resources damages claims. The obligation to complete all environmental investigation, removal or remediation of the



Mary Davis  
SCL Nature's Ridge Part Esmt Rel ORD ATT 1  
February 24, 2013  
Version #1

Property and the acknowledgement, release and indemnification touch and concern the Property, restrict the use of the Property, constitute an assessment against the Property and are intended to run with the land and bind Grantee and Grantee's heirs, successors and assigns, and inure to the benefit of Grantor and its successors and assigns. This release means that Grantee accepts the Property "as-is, where-is and with-all-faults," and that Grantee assumes all responsibility of Grantor to investigate, remove and remediate any environmental conditions on the Property and has no recourse against Grantor or any of its officers, employees or agents for any claim or liability with respect to the Property.

Grantor shall have the right to defend itself and seek from Grantee recovery of any damages, liabilities, settlement awards and defense costs and expenses incurred by Grantor if Grantee does not accept unconditionally Grantor's tender to Grantee of the duty to investigate, remove and/or remediate environmental conditions on the Property and/or defend and indemnify Grantor against any such claim, suit, demand, penalty, fee, damages, losses, cost or expense. This Covenant shall apply regardless of whether or not Grantee is culpable, negligent or in violation of any law, ordinance, rule or regulation. This Covenant is not intended, 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.

This instrument is given by the CITY OF SEATTLE for the purpose of abandoning the west 75 feet of the patrol road easement aforesaid and releasing its rights thereto to Grantee.







**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone-:</b>
Seattle City Light	Lynn Best 386-4586	Cameron Keyes 684-8048

**Legislation Title:**

AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing the Superintendent or his designee to release a portion of a patrol road easement located in Snohomish County, Washington, within the right of way for the Bothell Substation to Creston Nelson Substation transmission corridor, accepting payment for the true and full value of the easement release from SHHC LLC dba D. R. Horton, and ratifying and confirming certain prior acts.

**Summary of the Legislation:**

This legislation authorizes Seattle City Light to grant a partial release of a patrol road easement to SHHC, LLC, dba D. R. Horton, to allow construction of the Nature's Ridge housing development in unincorporated Snohomish County, and accepts payment for the true and full value of the easement.

**Background:**

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

The City of Seattle has a 155 foot-wide electrical transmission easement which is part of the Bothell to Creston-Nelson transmission corridor, approximately 5 miles north of Woodinville. A 230 foot wide patrol road easement overlays and extends 75 feet west of a portion of the City's transmission line easement.

SHHC, LLC (SHHC), is the fee owner of the underlying land. SHHC has obtained preliminary approval from Snohomish County for the Nature's Ridge housing development, consisting of 72 single family residential lots. SHHC requests release of the west 75 feet of the City's patrol road easement in order to accommodate this development.

The City has never used the west 75 feet of the patrol road easement, has no plans for the area, and the area is not required for maintenance, operation, or future development of the City's transmission line easement. Seattle City Light recommends the release of the west 75 feet of the patrol line easement to the developer in return for payment of fair market value.



184<sup>th</sup> Street SE crosses the City's transmission line easement at the south end of the patrol road easement. The developer's plans will also require City Light to provide consent to Snohomish County for construction of a connection street from 184<sup>th</sup> Street SE, across a portion of the City's transmission line easement, to the Nature's Ridge development. This consent does not require City Council action.

The fair market value of the easement right to be conveyed to SHHC is \$520,000, as determined by appraisal. The property owner has agreed to pay City Light that amount for partial release of the easement.

X  This legislation has financial implications.

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

<b>Fund Name and Number</b>	<b>Department</b>	<b>Revenue Source</b>	<b>2013 Revenue</b>	<b>2014 Revenue</b>
Light Fund 41000	<b>City Light</b>	SHHC, LLC, dba D. R. Horton	\$520,000	
<b>TOTAL</b>			<b>\$520,000</b>	

Revenue/Reimbursement Notes:

Release of easement to be paid for by SHHC, LLC, dba D. R. Horton.

**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?**

The City would forego immediate payment of \$520,000 for the partial release of 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?**

None.

**e) Is a public hearing required for this legislation?**

Yes. A public hearing is required under RCW 35.94.040. These hearings are usually conducted at the start of a regularly scheduled City Council Energy and Environment Committee meeting.

**f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

No.

**g) Does this legislation affect a piece of property?**

Yes, a map is attached.

**h) Other Issues:**

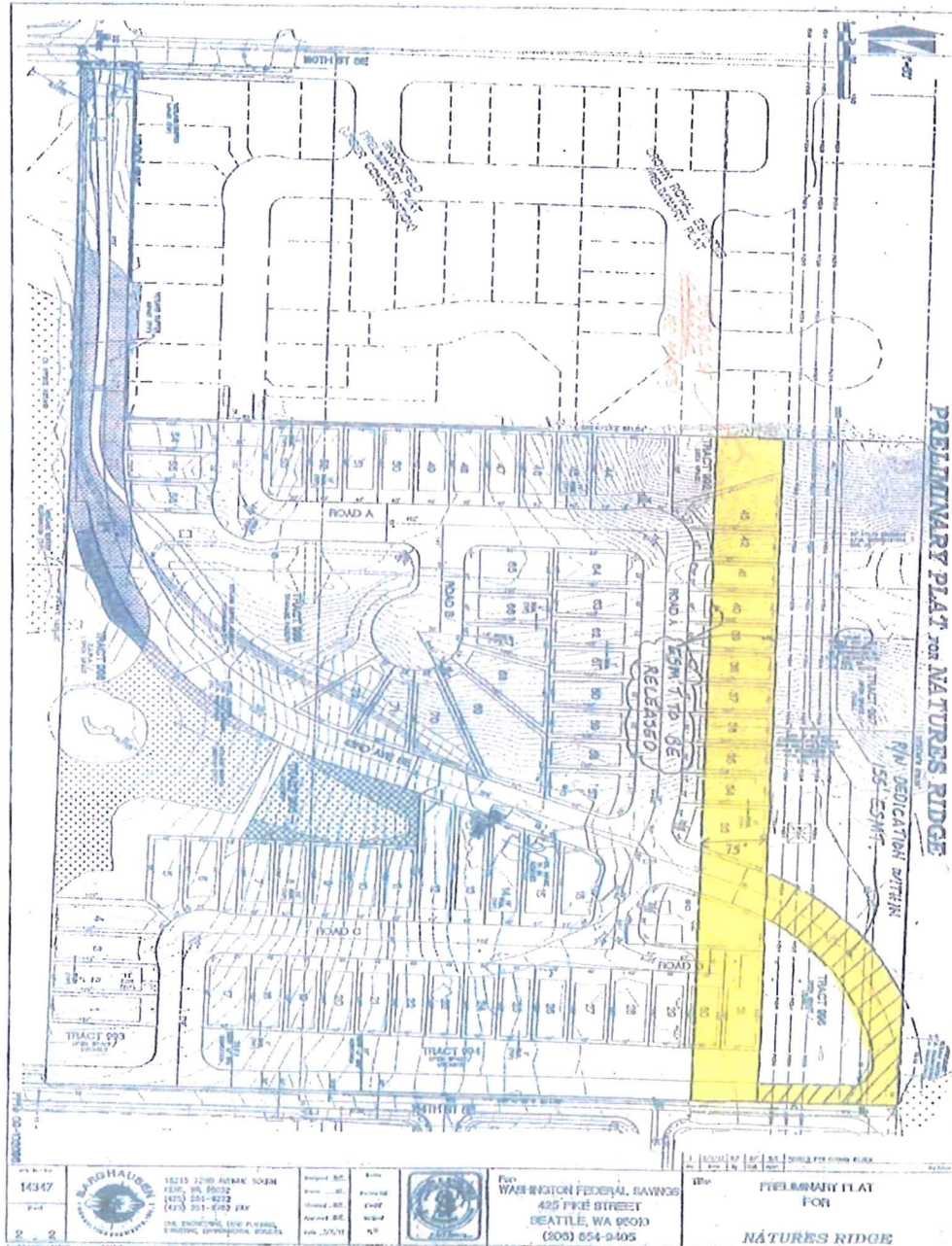
None.

**List attachments to the fiscal note below:**

Exhibit 1- Map of Patrol Road Easement Area to be Released



Exhibit 1  
Map of Patrol Road Easement Area to be Released



Also showing connection to 184<sup>th</sup> Street SE, to be granted to Snohomish County by consent.







City of Seattle  
Office of the Mayor

March 5, 2013

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that will authorize Seattle City Light to release a portion of a patrol road easement in unincorporated Snohomish County to developer SHHC, LLC, dba D. R. Horton (SHHC). The released area of this easement will be used as part of the developer's 72-unit, Nature's Ridge housing development. The developer has agreed to pay City Light \$520,000 for this release.

This portion of the patrol road easement is not being used City Light. The remaining 155-foot wide transmission line easement is fully adequate for the maintenance and operation and any future development of City Light's Bothell to Creston-Nelson transmission line.

The release of this patrol road easement will allow SHHC to complete their Nature's Ridge housing development, and will provide welcome revenue to City Light. Thank you for your consideration of this legislation. Should you have questions, please contact James Baggs at 684-3260.

Sincerely,

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



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STATE OF WASHINGTON -- KING COUNTY

--SS.

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297491  
CITY OF SEATTLE, CLERKS OFFICE

No. 124158,159,160

**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 12<sup>th</sup> 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

05/08/13

The amount of the fee charged for the foregoing publication is the sum of \$74.25 which amount has been paid in full.



Affidavit of Publication

A handwritten signature in cursive script, likely belonging to the newspaper representative mentioned in the affidavit.

Subscribed and sworn to before me on

05/08/2013

A handwritten signature in cursive script, likely belonging to the notary public.

Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle Title Only Ordinances

The full text of the following legislation, passed by the City Council on April 15, 2013, 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. 124158

AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing the Superintendent or his designee to release a portion of a patrol road easement located in Snohomish County, Washington, within the right of way for the Bothell Substation to Creston Nelson Substation transmission corridor, accepting payment for the true and full value of the easement release from SHHC LLC dba D. R. Horton, and ratifying and confirming certain prior acts.

### ORDINANCE NO. 124159

AN ORDINANCE relating to street and sidewalk use; amending portions of Chapters 15.06, 15.08, 15.10, and 15.12 and Sections 15.04.015, 15.04.074, 15.04.100, 15.16.040, 15.48.040 and 15.65.010 of the Seattle Municipal Code; repealing Section 15.10.030; amending the Seattle Department of Transportation Street Use Permit Fee Schedule; to correct typographical errors, correct section references, clarify regulations, and make minor amendments; and ratifying and confirming certain prior acts.

### ORDINANCE NO. 124160

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

Date of publication in the Seattle Daily Journal of Commerce, May 8, 2013.  
5/8(297491)