Ordinance No. 124396

Council Bill No. 118000

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing execution of a lease agreement with the Washington State Department of Transportation for a portion of the highway right of way of State Route 90 located at Airport Way South and South Royal Brougham Way; and ratifying and confirming prior acts.

Related Legislation File:

Date Introduced and Referred: 12.9.13	To: (committee): Government Performance and Finance
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 12.16.13	Date Presented to Mayor: 12.18.13
Date Signed by Mayor: 12.23.13	Date Returned to City Clerk: 12.23.13
Published by Title Only X Published in Full Text	Date Vetoed by Mayor:
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: TB

Committee Action:

Date	Recommendation	Vote
12/12/2013	PASS	3-0 TB, NL, SC

This file is complete and ready for presentation to Full Council.

Full Council Action:

Date	Decision	Vote
12.16.13	passed	9-0

Law Department

Daniel Bretzke
FAS WSDOT 6th Ave Lease SDOT ORD
November 7, 2013
Version #3

CITY OF SEATTLE

ORDINANCE 124396

COUNCIL BILL 118000

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing execution of a lease agreement with the Washington State Department of Transportation for a portion of the highway right of way of State Route 90 located at Airport Way South and South Royal Brougham Way; and ratifying and confirming prior acts.

WHEREAS, since May 23, 2012, the City, under permit, has used approximately 36,159 square feet of the highway right of way of Washington State Route 90 to support the operational requirements of the Seattle Department of Transportation, including use of the area to accommodate the First Hill Street Car Maintenance Facility at Charles Street Campus; and

WHEREAS, the City has entered into negotiations with the Washington State Department of Transportation for a lease agreement providing continued month-to-month use of the State right of way over the permit area; and

WHEREAS, because Seattle Municipal Code Section 3.127.020.C.3 limits the authority of the Director of the Department of Finance and Administrative Services when executing leases of unimproved real estate or land used for parking or open storage, by requiring that such space not exceed 18,000 square feet, City Council approval of this month-to-month lease is required; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of the Department of Finance and Administrative Services or his designee is authorized to execute for and on behalf of The City of Seattle a lease agreement with the Washington State Department of Transportation, substantially in the form attached hereto as Attachment 1, providing for occupancy by The City of Seattle of approximately 36,159 square feet of the highway right of way of State Route 90 described as follows:

The premises located in the Southeast Quarter of the Southwest Quarter of Section 5, Township 24 North, Range 4 East, W.M., in King County and known to be a portion of the

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highway right of way of State Route 90, 4th Avenue South to Airport Way South, sheet 4 of 6, approved May 27, 2005 and as shown cross hatched on Exhibit A of Attachment 1.

Section 2. The rental payments contemplated by the terms of the lease agreement authorized in Section 1 shall be charged to the appropriate expenditure allowance or allowances in the budget of the Department of Finance and Administrative Services.

Section 3. The term of the new lease agreement begins retroactively on May 23, 2012. Accordingly, any act consistent with the authority of this ordinance and taken prior to its effective date is ratified and confirmed.

Section 4. 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 16th day of December, 2013, and signed by me in open session in authentication of its passage this 16th day of December, 2013.

President _____ of the City Council

Approved by me this 23rd day of December, 2013.

Michael McGinn, Mayor

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Filed by me this 23rd day of December, 2013.

Monica M. Simmons

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1 -- Lease Agreement entitled "Airspace Lease"

Exhibit A to Attachment 1 – Map of Leased Area

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Revised 11/2012
RES 420

AA 1-12923
IC 1-17-09251
Parcel 1-12142, 1-12147
Fed. Aid No. I-90-1-(184)0
SR 90, 4th Ave. S. to Airport Way S.

A I R S P A C E L E A S E

THIS IS AN AIRSPACE LEASE (**Lease**) made and entered into between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, (**WSDOT**), and the CITY OF SEATTLE, acting by and through its Finance and Administration Services Department, (**TENANT**), a Municipal Corporation of the State of Washington.

RECITALS

A. The land and premises to be leased are not presently needed for highway purposes.

B. WSDOT is granted authority to lease property under RCW 47.12.120, and WSDOT deems it to be in the public interest to enter into this Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, IT IS MUTUALLY AGREED THAT:

1. PREMISES.

A. WSDOT does hereby lease to the TENANT, and the TENANT does hereby lease from WSDOT, the premises located in the Southeast Quarter of the Southwest Quarter of Section 5, Township 24 North, Range 4 East, W.M., in King County and known to be a portion of the highway right of way of SR 90, 4th Ave. S. to Airport Way S., sheet 4 of 6, approved May 27, 2005 and as shown cross hachured on **EXHIBIT A**, attached hereto and by this reference incorporated herein (**Premises**).

B. The Premises contains approximately 36,159 square feet, of which 1,422 square feet is deducted to account for bridge deck support piers, utility boxes, and a 4-foot setback for pier and utility box protection. This results in a net useable area of approximately

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34,737 square feet. Approximately 601 square feet of the net usable area in the northeast corner of the Premises is shared with the Premises described in Lease AA-01-13100 for access purposes only, as delineated on **Exhibit A**. The vertical limit of the Premises is a plane Twelve (12) feet below and parallel to the underside of the SR 90 bridge deck. The TENANT shall have no other rights to use the space above the vertical limit of the Premises without WSDOT's prior written approval.

2. TERM. This Lease shall have a retroactive commencement date of May 23, 2012 (Commencement Date) and shall be a month to month tenancy. This Lease shall automatically renew each month until the Lease is terminated by either party as allowed hereunder.

3. RENT. The TENANT covenants and agrees to pay rent for the Premises to WSDOT in advance on or before the 1st day of each calendar month (**Due Date**) during the entire term of this Lease. Beginning on the Commencement Date stipulated herein, rent shall be paid at the initial rate, subject to adjustment as hereinafter provided, of Four Thousand Three Hundred Twelve and 87/100 Dollars ($4,312.87) per month for rent payable at the address designated under **Section 5.** In no event shall the rent be less than this initial amount.

4. RENT ADJUSTMENTS. WSDOT may, at its option, adjust the monthly rent every year by either (A.) the percentage change that occurred during the preceding calendar year in the U.S. Consumer Price Index for All Urban Consumers (U.S. CPI-U), using the data as published by the United States Department of Labor's Bureau of Labor Statistics, or its successor; provided, that in the event such index is discontinued the parties hereto shall select and use for such adjustment purpose, a similar index that reflects consumer price changes generally recognized as an authority by financial and insurance institutions (By way of illustration only, if the Base CPI is 190 and the CPI figure for the fourth calendar month before the adjustment year is 195, then the rent for that year shall be increased by 2.63 percent); or (B.) in an amount that reflects changes in comparable rents as identified in an appraisal/market evaluation conducted by WSDOT. WSDOT shall give not less than Thirty (30) calendar days prior written notice to TENANT that a Rent Adjustment has been made. This notice shall include the amount of the adjusted Rent and the date the new Rent is to become effective. Failure or refusal by the TENANT to pay the adjusted rental rate shall constitute a default of this Lease for which WSDOT may terminate with not less than Five (5) calendar days prior written notice.

5. RENT PAYMENTS PAYABLE TO: Washington State Department of Transportation. Mail payments to:

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DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P.O. Box 47338
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Program Manager
7345 Linderson Way SW
Tumwater, WA 98501

6. CHARGE FOR LATE PAYMENT, NSF CHECKS.

A. If any sums payable to WSDOT under this Lease are not received by the Fifth (5th) calendar day following its Due Date, TENANT shall pay WSDOT, in addition to the amount due, for the cost of collecting and handling such payment, an amount equal to the greater of Twenty-five and no/100 Dollars ($25.00) or One Percent (1%) of the delinquent amount. In addition, all delinquent sums payable by TENANT to WSDOT and not paid within Five (5) calendar days of the due date shall, at WSDOT's option, bear interest at the rate of Twelve Percent (12%) per annum, or the highest rate of interest allowable by law, whichever is greater; provided that if the highest rate allowable by law is less than Twelve Percent (12%), interest charged hereunder shall not exceed that amount. Interest on all delinquent amounts shall be calculated from the original Due Date to the date of payment. Also there shall be a charge for any check returned uncollectable in accordance with WAC 468-20-900. WSDOT and TENANT agree that such charges represent a fair and reasonable estimate of the costs incurred by WSDOT by reason of late payments and uncollectable checks.

B. WSDOT's acceptance of late payment charges and/or any portion of the overdue payment shall in no event constitute an accord and satisfaction, compromise of such payment, or a waiver of TENANT's default with respect to such overdue payment, nor prevent WSDOT from exercising any other rights and remedies granted in this Lease.

C. When a delinquency exists, any payments received will be applied first to the late payment charge and late payment fees, next to delinquent rent, and any balance remaining to the current month's rent and LET, if applicable.

7. TERMINATION BY WSDOT.

A. WSDOT may terminate this Lease, without penalty or further liability as follows:

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(1) Upon not less than Five (5) calendar days prior written notice to TENANT, if TENANT fails to cure a default for payment of amounts due under this Lease within that Five (5) calendar day period;

(2) Upon not less than Thirty (30) calendar days prior written notice to TENANT, if TENANT defaults, other than for nonpayment of rent, and fails to cure such default within that Thirty (30) calendar day period, or such longer period, as may be reasonably determined by WSDOT, if TENANT is diligently working to cure the default;

(3) Immediately, upon written notice, if WSDOT is required by court order, by legislative action, or by a governmental agency having jurisdiction to take some action, which would effectively prohibit TENANT's use of the Premises;

(4) Immediately, upon written notice, if a receiver is appointed to take possession of TENANT's assets, the TENANT makes a general assignment for the benefit of creditors, or the TENANT becomes insolvent or takes or suffers action under the Bankruptcy Act;

(5) Upon not less than Thirty (30) calendar days prior written notice for any reason, unless an emergency exists, as determined by WSDOT, then immediately, if WSDOT determines that it is in the best interest of WSDOT to terminate this Lease; or

(6) Upon not less than Thirty (30) calendar days prior written notice if the Premises has been abandoned, in WSDOT's sole judgment, for a continuous period of Ninety (90) calendar days.

B. Waiver or acceptance of any default of the terms of this Lease by WSDOT shall not operate as a release of the TENANT's responsibility for any prior or subsequent default.

C. If TENANT defaults on any provision in this Lease, such as, but not limited to, the timely payment of rent, Three (3) times within a Twelve (12) month period, the third default shall be deemed "non-curable" and this Lease may be terminated by WSDOT on not less than Thirty (30) calendar days written notice.

8. TERMINATION BY TENANT. TENANT may terminate this Lease without penalty or further liability as follows:

A. Upon not less than Thirty (30) calendar days prior written notice for any reason;

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B. Upon not less than Thirty (30) calendar days prior written notice, if WSDOT defaults and fails to cure such default within that Thirty (30) calendar day period, or such longer period, as may be reasonably determined by TENANT, if WSDOT is diligently working to cure the default; or

C. Immediately, upon written notice, if in TENANT's judgment the Premises is destroyed or damaged so as to substantially and adversely affect TENANT's authorized use of the Premises.

9. REIMBURSEMENT OF PREPAID RENT. All rent for the Premises prepaid beyond the effective termination date will be retained by WSDOT; Except, that if WSDOT terminates this Lease as provided in **Section 7.A.(5)** above, or if TENANT terminates pursuant to **Section 8.B.** or **C.** above, TENANT shall be entitled to a pro rata refund of any rent prepaid beyond the effective termination date.

10. NONAPPLICABILITY OF RELOCATION ASSISTANCE. The TENANT acknowledges that this Lease does not at any time entitle the TENANT to assistance under the Uniform Relocation and Real Property Acquisition Policy (Ch. 8.26 RCW).

11. ENCUMBRANCES.

A. It is expressly understood that the TENANT shall not encumber the Premises. The TENANT and WSDOT acknowledge and agree that the TENANT may encumber the TENANT's leasehold interest and/or the TENANT improvements to be constructed upon the Premises by TENANT (but not WSDOT's real property or improvements attached thereto) for financing purposes. Any encumbrance is void without the prior written consent of WSDOT. If the TENANT intends to secure financing, the TENANT must secure the financing from a legal source (hereinafter called the **Lender**) and must provide WSDOT with written notice of the Lender's name and address within Thirty (30) calendar days of obtaining financing. As a prerequisite to obtaining the written consent of WSDOT to allow the Lender to assume the interest of the TENANT in this Lease, the Lender must agree to provide WSDOT not less than Thirty (30) calendar days prior written notice in the event of a TENANT default on the loan.

B. In the event the TENANT defaults in performance of any obligation under this Lease and the Lender requirements in **Section 15.A.** have been complied with, WSDOT will not terminate the Lease because of such default unless and until WSDOT gives not less than Thirty (30) calendar days prior written notice of the default to the Lender. Upon the giving of such notice of default and where the default is curable by payment of money, the Lease shall terminate if the Lender fails to cure the default within the time period provided in the notice. If the default is not curable by money, Lender must (1) cause the commencement of and thereafter

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diligently pursue to completion steps and proceedings for the exercise of power of sale in the manner provided by law (foreclosure) and (2) cause and perform all of the covenants and conditions of this Lease requiring the expenditure of money by the TENANT until such time as the improvements on the Premises shall be sold in the manner provided by law (foreclosed). If the Lender fails or refuses to comply with any and all of the conditions in this section, WSDOT shall be released from the covenant of forbearance and this Lease shall terminate without further notice.

C. In the event of a foreclosure or trustee's sale of the Lender's security interest pursuant to the laws of the State of Washington, the purchaser at said sale, be it the Lender or another, shall succeed to all of the right, title and interest of the secured party. The Lender may, with WSDOT's consent, receive a deed (a quitclaim deed of all interest of the TENANT) or assignment of the TENANT's interest in lieu of a foreclosure.

12. USE OF PREMISES.

A. TENANT's use of the Premises is limited to the parking of operable vehicles, including the parking of TENANT's business vehicles, TENANT's employee's vehicles, and vehicles of TENANT invitees, working in or on official TENANT business on the Premises. For the purpose of this Lease, the term "operable vehicles" is defined as vehicles capable of being driven from the Premises under their own power on Ten (10) minutes notice. No other use shall be permitted without the prior written approval of WSDOT. Parking of the general public is prohibited on the Premises. TENANT's occupancy or use of the Premises and improvements, if any, shall not interfere with the use, safety, appearance, or the enjoyment of the highway facility.

B. In using the Premises, the TENANT shall comply with all policies and regulations, including, but not limited to Chapter 47.42 RCW et seq. and WAC 468-66 et seq., heretofore adopted or hereafter promulgated by WSDOT relative to the location, operation, and maintenance of improvements located on the Premises.

C. In using the Premises, it is expressly agreed that TENANT shall (1) comply with all applicable federal, state and local laws, ordinances, and regulations, including environmental requirements that are in force or which may hereafter be in force, and (2) secure all necessary permits and licenses for the uses of the Premises authorized in this Lease.

D. Access to the Premises is from South Royal Brougham Way, Airport Way South and 6th Avenue South. Further, direct access to ramps or traveled lanes of limited access highways is not permitted.

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E. TENANT shall not commit or allow to be committed any waste upon the Premises nor allow any public or private nuisance.

13. SIGNS, DISPLAY, OR ADVERTISING DEVICES. Signs, display, or advertising devices are not permitted on the Premises unless they comply with Ch. 47.42 RCW and Ch. 468-66 WAC. Such advertising shall only indicate ownership and type of on-Premises activities.

14. FENCES. Any WSDOT-owned fences in place at the time of execution of this Lease or relocated to separate the Premises from the traveled roadway will be maintained by WSDOT for the duration of the Lease. Nothing is to be attached to WSDOT's fence without WSDOT's prior written approval. If any fence is damaged as a result of the TENANT's activities, the TENANT will immediately repair such damage at its cost and to the WSDOT's satisfaction; Provided, that if TENANT fails to complete said repair immediately WSDOT may complete the repair and the TENANT agrees to reimburse WSDOT for the cost of said repair within Thirty (30) calendar days of the date of WSDOT's invoice.

15. CONDITION OF THE PROPERTY. WSDOT and TENANT acknowledge that they have jointly examined the Premises and the TENANT accepts said Premises in its present condition as of the Commencement Date of this Lease. WSDOT does not warrant the use of the Premises for any particular purpose.

16. MAINTENANCE. The TENANT shall perform or cause to be performed at its expense all maintenance of the Premises, including improvements thereon, if any. Such maintenance will include, but not be limited to, keeping the Premises in good condition, both as to safety and appearance, and in a manner so as to assure the improvements and condition of the Premises do not adversely affect the highway safety and appearance and that such maintenance will cause no interference with the highway use, all to the satisfaction of WSDOT.

17. ENVIRONMENTAL REQUIREMENTS.

A. TENANT represents, warrants and agrees that it will conduct its activities on and off the Premises in compliance with all applicable Environmental Laws. As used in this Lease, the term "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et

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seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and Washington or any other comparable local, state, or federal statute or ordinance pertaining to the environment or natural resources and all regulations pertaining thereto, including all amendments and/or revisions to said laws and regulations.

B. Toxic or hazardous substances are not allowed on the Premises without the express written permission of WSDOT and under such terms and conditions as may be specified by WSDOT. For the purposes of this Lease, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., and the Washington Model Toxics Control Act, RCW 70.105D et seq., including all amendments and/or revisions to said laws and regulations, and shall include gasoline and other petroleum products. In the event such permission is granted, the use and disposal of such materials must be done in a legal manner by the TENANT.

C. TENANT agrees to cooperate in any environmental investigations conducted by WSDOT staff or independent third parties where there is evidence of contamination on the Premises, or where WSDOT is directed to conduct such audit by an agency having jurisdiction. TENANT will reimburse WSDOT within Thirty (30) calendar days of the date of WSDOT's invoice for the cost of such investigations, where the need for said investigation is determined to be caused by the TENANT's operations. TENANT will promptly provide WSDOT with notice of any inspections of the Premises, notices of violations, and orders to clean up contamination. TENANT will permit WSDOT to participate in all settlement or abatement discussions. In the event the TENANT fails to take remedial measures as duly directed by a state, federal, or local regulatory agency within Ninety (90) calendar days of such notice, WSDOT may elect to perform such work, and the TENANT covenants and agrees to reimburse WSDOT for all direct and indirect costs associated with WSDOT's work, within Thirty (30) calendar days of the date of WSDOT's invoice, where those costs are determined to have resulted from the TENANT's use of the Premises.

D. For the purposes of this Lease, "Costs" shall include, but not be limited to, all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties, and attorney fees and other litigation costs incurred in complying with state or federal environmental laws, which shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Clean Water Act, 33 U.S.C. § 1251; the Clean Air Act, 42 U.S.C. § 7401; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901; and the Washington Model Toxics Control Act, Ch. 70.105D RCW, et seq., including all amendments and/or revisions to said laws and regulations.

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E. TENANT agrees to defend, indemnify and hold harmless WSDOT from and against any and all claims, causes of action, demands and liability including, but not limited to, any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees associated with the removal or remediation of any Hazardous Substances that have been released, or otherwise come to be located on the Premises, including those that may have migrated from the Premises through water or soil to other properties, including without limitation, the adjacent WSDOT property, and which are caused by or result from TENANT's activities on the Premises. TENANT further agrees to retain, defend, indemnify and hold harmless WSDOT from any and all liability arising from the offsite disposal, handling, treatment, storage, or transportation of any such Hazardous Substances removed from said Premises.

F. The provisions of this section shall survive the termination or expiration of this Lease.

18. WSDOT'S RESERVATION OF RIGHT TO MAINTAIN AND GRANT UTILITY FRANCHISES AND PERMITS.

A. WSDOT reserves the right for utility franchise and permit holders to enter upon the Premises to maintain, repair and enhance existing facilities and install new utilities and, for itself, to grant utility franchises and/or permits across the Premises. Such installation will be accomplished in such a manner as to minimize any disruption to the TENANT. The franchise/permit holder will be required to restore paving and grading damaged by the installation. WSDOT also reserves the right to withdraw portions of the Premises for uses such as, but not limited to, telecommunications transmission sites, which WSDOT determines to be reasonably compatible with TENANT's authorized use of the Premises.

B. The TENANT shall not disturb markers installed by a franchise/permit holder and will contact and provide notice to any franchise/permit holder and all owners of underground facilities prior to any excavation. TENANT shall contact WSDOT and call the Underground Utility Locating Service, or its successor organization, as part of its efforts to ascertain any and all owners of underground utility facilities and to locate the utility. The TENANT shall not damage legally installed underground utilities. TENANT shall comply with all applicable provisions of Chapter 19.122 RCW relating to underground facilities.

19. USE OF RIGHT OF WAY UNDER OR ADJACENT TO STRUCTURE.

A. The TENANT agrees to provide protection against vehicular hits or other likely causes of damage arising from the TENANT's use of the Premises to all retaining walls and to bridge piers exposed to such potential damage under any elevated highway structure

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existing on the Premises arising from the TENANT's use of the Premises. The TENANT shall install jersey barriers around the perimeter of bridge piers with a minimum distance of Four (4) feet from the outside edge of each side of the piers, as shown on **EXHIBIT A**. Bridge pier protection shall be provided to the sole satisfaction of WSDOT at the time of Lease execution. TENANT agrees to make whatever alterations, changes or corrections to the bridge pier protection as directed by WSDOT.

B. The TENANT shall not weld any metal object to any metal member of any metal structure, nor drill or rivet into nor otherwise fasten anything to any pier or beam on any concrete, metal, or wood structure without WSDOT's specific written approval of detailed drawings for such welding, riveting, drilling, or fastening.

C. The TENANT shall not allow more than Twenty (20) gallons of fuel, per vehicle located on the Premises.

D. The TENANT shall not park compressed natural gas (CNG) or liquefied natural gas (LNG) vehicles under the bridge.

E. The TENANT shall, at its own expense, and upon prior written approval from WSDOT, make any provisions it deems necessary to protect users from any hazards resulting from use and operation of the highway.

20. TAXES, ASSESSMENTS, AND UTILITIES. The TENANT agrees to pay all assessments that benefit the Premises and/or that may hereafter become a lien on the interest of the TENANT in accordance with RCW 79.44.010. The TENANT also agrees to pay all taxes that may hereafter be levied or imposed upon the interest of the TENANT or by reason of this Lease. The TENANT is responsible for and agrees to pay the cost of utilities, including, but not limited to, surcharges, fuel adjustments, rate adjustments and taxes that serve the Premises.

21. LIENS.

A. Nothing in this Lease shall be deemed to make the TENANT the agent of WSDOT for purposes of construction, repair, alteration, or installation of structures, improvements, equipment, or facilities on the Premises. The TENANT acknowledges that WSDOT may not, and shall not, be subject to claims or liens for labor or materials in connection with such activities by the TENANT.

B. The TENANT shall at all times indemnify and hold harmless WSDOT from all claims for labor or materials in connection with construction, repair, alteration, or

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installation of structures, improvements, equipment, or facilities on or within the Premises, and from the cost of defending against such claims, including attorney fees.

C. In the event a lien is filed upon the Premises, the TENANT shall:

(1) Record a valid Release of Lien;

(2) Deposit sufficient cash with WSDOT to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to lienholder claim; or

(3) Procure and record a bond which releases the Premises from the claim of the lien and from any action brought to foreclose the lien.

D. Should the TENANT fail to accomplish 1, 2, or 3, above, within Fifteen (15) calendar days after the filing of such a lien, the Lease shall be in default.

22. WSDOT'S RIGHT OF ENTRY AND INSPECTION.

A. WSDOT, for itself, its agents and contractors, and for the Federal Highway Administration (FHWA), reserves the right to enter upon the Premises at any time without notice to the TENANT for the purpose of inspection, maintenance, construction, or reconstruction of the highway facility or any element thereof, to perform security audits such as Homeland Security, or to perform environmental audits as provided for elsewhere in this Lease. Any loss of the use of the Premises due to WSDOT's exercise of such right will be compensated for solely by a pro rata reduction of rent. WSDOT shall in no way be responsible for any incidental or consequential damages due to such loss of use, if any, by the TENANT.

B. WSDOT and FHWA may enter upon the Premises at any time without prior notice for the purpose of inspecting any excavation, construction, or maintenance work being done by the TENANT. In addition, WSDOT and FHWA may enter the improvements, if any, on the Premises at any time and without prior notice, for the purpose of inspection, maintenance, and repair of said improvements.

C. Entry upon the Premises and the improvements, if any, for any other purpose by WSDOT and FHWA shall be conducted with reasonable notice to the TENANT and during the hours of 8:00 a.m. to 5:00 p.m.

23. INSURANCE.

A. TENANT warrants that it is self-insured, and agrees to provide acceptable evidence of its self-insured status to WSDOT. TENANT's insurance policy must provide liability coverage for the Premises, including public liability coverage for bodily injury, property damage, and personal injury of not less than Two Million and no/100 Dollars ($2,000,000.00) combined single limit per occurrence, with a general aggregate amount of not less than Four Million and no/100 Dollars ($4,000,000.00) per policy period. The TENANT shall increase the policy limits at its sole cost, when and if WSDOT deems it necessary due to the TENANT's use of the Premises.

B. The TENANT assumes all obligations for premium payment, and in the event of nonpayment, the TENANT is obligated to reimburse WSDOT the cost of maintaining the insurance coverage and any legal fees incurred in enforcing such reimbursement should TENANT fail to pay the policy premiums.

C. Coverage, if obtained by the TENANT in compliance with this section, shall not be deemed as having relieved the TENANT of any liability in excess of such coverage.

D. In the event TENANT, after commencement of this Agreement, elects to terminate its self-insured status and secure commercial liability coverage, TENANT will promptly notify WSDOT and provide a certificate of insurance from an insurer licensed to conduct business in the State of Washington, in the amounts and types as set forth in **Section 23.A.** above. Further, TENANT shall provide a certificate of insurance within Ten (10) calendar days of receiving a written notice from WSDOT for an increase in the coverage amounts.

24. HOLD HARMLESS/INDEMNIFICATION.

A. To the extent authorized by law, TENANT, its successors and assigns, will protect, save, and hold harmless WSDOT, its authorized agents and employees, from all claims, actions, costs, damages, (both to persons and/or property) or expenses of any nature whatsoever by reason of the acts or omissions of the TENANT, its assigns, subtenants, agents, contractors, licensees, invitees, employees, or any person whomsoever, arising out of or in connection with any acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Premises. The TENANT further agrees to defend WSDOT, its agents or employees, in any litigation, including payment of any costs or attorney's fees, for any claims or actions commenced, arising out of, or in connection with acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Premises. This obligation shall not include such claims, actions, costs, damages, or expenses which may be caused by the sole

THE CITY CLERK

negligence of WSDOT or its authorized agents or employees; provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) WSDOT, its agents or employees and (b) the TENANT, its assigns, subtenants, agents, contractors, licensees, invitees, employees, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the TENANT or its assigns, subtenants, agents, contractors, licensees, invitees, employees.

B. WAIVER: TENANT agrees that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents while occupying the Premises for any purpose. For this purpose, the TENANT, by MUTUAL NEGOTIATION, hereby waives with respect to the WSDOT only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions chapter 51.12 RCW.

C. The indemnification and WAIVER provisions contained in this section shall survive the termination or expiration of this Lease.

25. TENANT'S FUNDS AVAILABLE TO SATISFY INDEMNITY CLAIMS.

A. TENANT's indemnity obligations under this lease are limited to funds that have been appropriated and are available at the time an indemnity claim is made. TENANT's annual appropriations available to satisfy an indemnity claim are the funds available in (1) the Budget Control Level (BCL) under which the lease was made; (2) any associated BCL controlled and authorized for transfer by TENANT; and (3) the Judgment and Claims Subfund. In addition, the City maintains excess liability insurance coverage, disbursements of which do not require City appropriation.

B. For 2013 the amount appropriated for the Judgment and Claims Subfund is $21,533,963 (which includes $9,745,897 for litigation expenses; $3,750,000 to pay claims; and $6,500,000 to satisfy unanticipated claims); and the amount of excess liability insurance coverage is $40 million.

C. The Seattle Department of Finance and Administrative Services, or successor department, shall notify WSDOT annually of any changes to the City's appropriation structure, or to the appropriation amounts, set forth in part (B) above. Such notice will be sent to:

DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P.O. Box 473389

Olympia, WA 98504-73389

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Program Manager
7345 Linderson Way S.W.
Tumwater, WA 98501

26. PERSONAL PROPERTY. WSDOT shall not be liable in any manner for, or on account of, any loss or damage sustained to any property of whatsoever kind stored, kept, or maintained on or about the Premises, except for such claims or losses that may be caused by WSDOT or its authorized agents or employees. Upon termination of this Lease, WSDOT or its agent may remove all property remaining on the Premises at the TENANT's expense and dispose of it in any manner WSDOT deems appropriate. TENANT agrees to reimburse WSDOT for the costs of such removal and disposal within Thirty (30) calendar days of the date of WSDOT's invoice.

27. NONDISCRIMINATION. TENANT, for itself, its successors and assigns, as part of the consideration hereof, does hereby agree to comply with all applicable civil rights and antidiscrimination requirements, including, but not limited to, Chapter 49.60 RCW.

28. ASSIGNMENT. Neither this Lease nor any rights created by it may be assigned, sublet, or transferred. In the event that the TENANT allows others to use any portion of the Premises, whether by written or oral agreement without WSDOT's prior written approval, WSDOT, in addition to or in lieu of terminating this Lease for default, and in addition to any damages it may experience, may demand a share of any revenue generated by such unauthorized use. WSDOT shall set the amount of said share, and its decision shall be final and binding. WSDOT may demand such share at any time during the term of this Lease. The TENANT shall pay said share to WSDOT within Thirty (30) calendar days of demand. The TENANT agrees to pay said share retroactively to the date the unauthorized third party's use of the Premises commenced. Furthermore, such unauthorized assignment shall not relieve the TENANT hereunder from all of its obligations under this Lease, including but not limited to, payment of rent and maintenance of insurance.

29. PERFORMANCE BY WSDOT. If TENANT defaults in the performance or observation of any covenant or agreement contained in this Lease, WSDOT, without notice if deemed by WSDOT that an emergency exists, or if no emergency exists, with Thirty (30) calendar days prior written notice, may direct TENANT to stop work and may itself perform or cause to be performed such covenant or agreement and may enter upon the Premises for such purpose. Such emergency shall include, but not be limited to, endangerment of life, the highway facility or failure of TENANT to obtain in a timely manner the specified insurance coverage.

CITY CLERK

TENANT shall reimburse WSDOT the entire cost and expense of such performance by WSDOT within Thirty (30) calendar days of the date of WSDOT's invoice. Any act or thing done by WSDOT under the provisions of this section shall not be construed as a waiver of any agreement or condition herein contained or the performance thereof.

30. DISPOSITION OF IMPROVEMENTS. Except as provided elsewhere herein, upon termination of this Lease under any provision hereof, the improvements constructed by the TENANT on the Premises shall become the property of WSDOT or, at the option of WSDOT, shall be removed by the TENANT at the TENANT's expense in a manner prescribed by WSDOT. In the event the TENANT fails to remove said improvements upon termination, WSDOT may remove and dispose of said improvements as it deems appropriate and at the TENANT's expense. The TENANT shall reimburse WSDOT for all expenses incurred in such removal and disposal within Thirty (30) calendar days of the date of WSDOT's invoice for such costs.

31. WSDOT ACCESS TO REMOVE IMPROVEMENTS. In the event the TENANT fails to remove improvements or restore the Premises to WSDOT's satisfaction upon termination of this Lease, then if necessary or desirable in WSDOT's judgment for reasons of safety or economy, WSDOT or its agents shall have the right to cross any lands owned or otherwise controlled by the TENANT for the purpose of accomplishing said removal or restoration. Said right shall expire One Hundred Eighty (180) calendar days after the date of termination of this Lease, or when removal and restoration is complete in WSDOT's judgment, whichever is the earlier.

32. RESTORATION OF SITE. Prior to termination of this Lease, TENANT agrees, if so directed by WSDOT, to restore the Premises to its condition prior to TENANT's occupancy, reasonable wear and tear excepted. This work is to be done at the TENANT's expense to the satisfaction of WSDOT.

33. VACATION OF PREMISES. Upon termination of this Lease, the TENANT shall cease its operations on and/or use of the Premises. In the event the TENANT fails to vacate the Premises on the date of termination, the TENANT shall be liable for any and all costs to WSDOT arising from such failure.

34. BINDING CONTRACT. This Lease shall not become binding upon WSDOT unless and until executed for WSDOT by the Secretary of Transportation or her duly authorized representative.

THE CITY CLERK

35. ATTORNEYS' FEES. In the event of any controversy, claim, or dispute arising out of this Lease, each party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorney's fees and costs.

36. MODIFICATIONS. This Lease contains all the agreements and conditions made between the parties hereto pertaining to the rental of the Premises and may not be modified orally or in any other manner other than by a written agreement signed by all parties hereto. The receipt of rent by WSDOT, with knowledge of any breach of this Lease by the TENANT, and/or with knowledge of any default on the part of the TENANT shall not be deemed to be a waiver of any provision of this Lease. Failure on the part of WSDOT to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of WSDOT to enforce the same in the event of any subsequent breach or default.

37. INTERPRETATION. This Lease shall be governed by and interpreted in accordance with the laws of the State of Washington. The titles to paragraphs or sections of this Lease are for convenience only and shall have no effect on the construction or interpretation of any part hereof.

38. SEVERABILITY. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

39. VENUE. TENANT agrees that the venue of any action or suit concerning this Lease shall be in the Thurston County Superior Court and all actions or suits thereon shall be brought therein, unless applicable law requires otherwise.

40. TOTALITY OF AGREEMENT. It is understood that no guarantees, representations, promises, or statements expressed or implied have been made by WSDOT except to the extent that the same are expressed in this Lease.

41. NOTICES. Wherever in this Lease written notices are to be given or made, they will be served, personally delivered or sent by certified or overnight mail addressed to the parties at the address listed below unless a different address has been designated in writing and delivered to the other party. The TENANT agrees to accept service of process at said address; provided, that such address is located in the State of Washington. Otherwise, the TENANT designates the Secretary of State of Washington as an agent for the purpose of service of process. Such service shall be deemed personal service.

DES CITY CLERK

WSDOT: DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P.O. Box 47338
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Program Manager
7345 Linderson Way SW
Tumwater, WA 98501

TENANT: CITY OF SEATTLE
Finance and Administration
P.O. Box 94689
Seattle, WA 98124-4689

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

THIS CITY CLERK

IN WITNESS WHEREOF, the parties have executed this Lease as of the date of WSDOT's execution written below.

Accepted and Approved by:

CITY OF SEATTLE

By: _____

Title: _____

Dated: _____

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

By: _____

Cynthia Tremblay,

Property Management Program Manager

Dated: _____

APPROVED AS TO FORM

By: _____

Assistant Attorney General

_____, 20____

CITY CLERK

AGENCY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____, 20_____ before me personally appeared _____, to me known to be the duly appointed _____ and that he/she executed the within and foregoing instrument and acknowledged the said instrument to be his/her free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath Lessees that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20_____.

_____
(Signature)

_____
(Print or type name)
Notary Public in and for the State of Washington
residing at_____
My commission expires _____

DRS CITY CLERK

WSDOT AGENCY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20_____ before me personally appeared Cynthia Tremblay, to me known to be the duly appointed Property Management Program Manager, and that she executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath states that she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20_____.

_____
(Signature)

_____
(Print or type name)
Notary Public in and for the State of Washington
residing at_____
My commission expires_____

DIS CITY CLERK

shulerf | 05/13/2005 | 09:33:11 AM | PLOT15 | C:\AAWork\SR 90\4th Ave. S Vicinity\1165SHEETS1.dgn

CURVE DATA				
P.I. STATION	DELTA	RADIUS	TANGENT	LENGTH
EB B-2 28+09.41	1°11'26" RT.	3193.66'	75.0'	149.80'
EB B-2 30+33.58	8°56'37" LT.	1909.86'	149.37'	298.13'

T. 24 N. R. 4E. W.M.
CITY OF SEATTLE

LESSEE	EB B-2 26+55.33 TO EB B-2 27+38± (LT.)	** IGN I-17-09250
SPECIFIED USER	STATION ON ROADWAY	TYPE

ACCESS APPROACH SCHEDULE

FAS WSDOT 6th Ave Lease SDOT ORD Attachement 1 Exhibit A v2

FAS

ACCESS NOTES:

TRAFFIC MOVEMENT AND ACCESS TO AND FROM CITY STREETS WILL BE PERMITTED UNDER THE HIGHWAY STRUCTURES AS CLEARANCE PERMITS AT: STA. EBT 15+00 TO STA. D-2 30+20± AND STA. EB B-2 15+00 TO STA. B-2 32+17.

MAINTENANCE AND OPERATIONS OF THE EXISTING UTILITIES WILL BE ALLOWED ACROSS AND WITHIN LIMITED ACCESS AREAS BENEATH AND ON THE HIGHWAY STRUCTURES

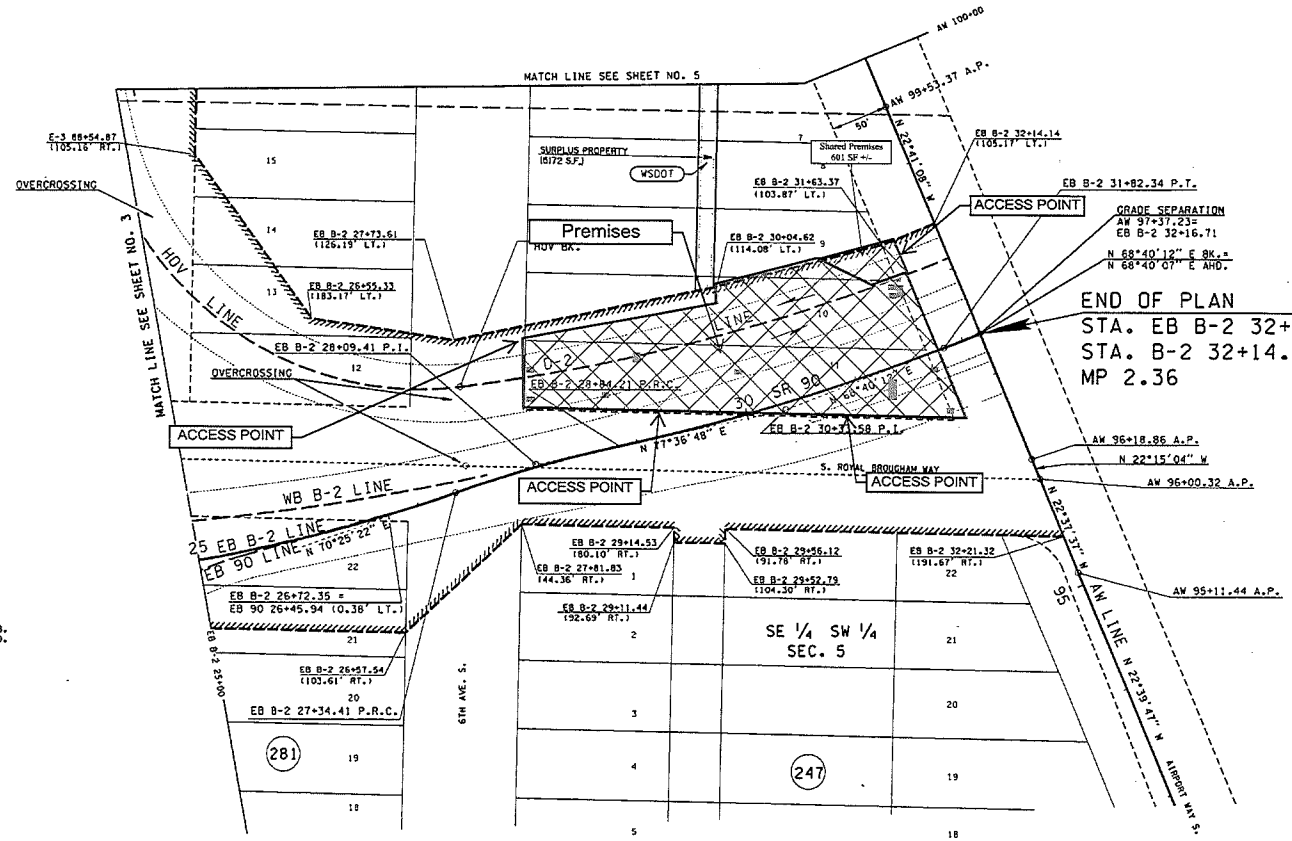
SEATTLE TIDE LANDS

COLUMBIA & PUGET SOUND R.R. REPLAT OF PART OF BLK 283 SEATTLE TIDE LANDS

FOR SURVEY INFORMATION SEE "SR 519 VIC. SAFECO FIELD 1ST AVE TO AIRPORT WAY" MONUMENTATION MAP SHEETS 1-6. FILED SEPTEMBER 4, 2002

THIS PLAN SUPERSEDES SHEET 2 OF 5 SR 90, CONNECTICUT ST. INTERCHANGE: 4TH AVE. S. AND TRANSIT RAMPS, APPROVED AUGUST 23, 1985

** NO. 2:
THE PRIVILEDGE OF ACCESS TO AREAS WITHIN THE RIGHT OF WAY IS PERMITTED TO THE USER DESIGNATED SOLELY FOR THE USE AUTHORIZED BY AND SUBJECT TO THE CONDITIONS OF THE FRANCHISE, PERMIT, OR AGREEMENT SPECIFIED NO ACCESS WILL BE ALLOWED TO THE TRAVELED HIGHWAY LANES OR RAMPS.



FOR R/W & L/A EASTERLY SEE SR 5, SEATTLE FREEWAY PLUM STREET TO JACKSON STREET, SHEETS 5 AND 7 OF 8 SHEETS. APPROVED AUGUST 7, 1962.

END OF PLAN
STA. EB B-2 32+16.71 P.O.T. BK.=
STA. B-2 32+14.46 P.O.T. AHD.
MP 2.36

FOR RIGHT OF WAY AND LIMITED ACCESS FOR EB. EB90 AND 4TH AVE. S. SEE SR 519 EAST BOUND. KINGDOME VICINITY AND SR 90 CONNECTION. SHEETS 2 AND 3 OF 4 SHEETS. APPROVED SEPTEMBER 4, 1996.

ALL PLANS ARE SUBJECT TO CHANGE. OWNERSHIP SHOULD BE VERIFIED. PROPOSED PROPERTY RIGHTS SHOWN MAY NOT HAVE BEEN ACQUIRED. PARTIES SEEKING CURRENT INFORMATION SHOULD CONSULT THE DEPARTMENT OF TRANSPORTATION HEADQUARTERS RIGHT OF WAY PLANS OFFICE FOR THE OFFICIAL PLAN ON FILE.

OWNERSHIP SHOULD BE VERIFIED. PROPERTY RIGHTS SHOWN MAY NOT HAVE BEEN ACQUIRED BY WSDOT.

EXHIBIT A
AA-1-12923
IC 1-17-09251
CITY OF SEATTLE
PAGE 1 OF 3 PAGES

= Bridge Piers and Electrical Boxes

LEGEND
ACCESS TO BE PROHIBITED SHOWN THUS
PROPERTY OWNERSHIP NUMBERS
PROPERTY LINES
0 50 100
SCALE IN FEET

SR 90
4TH AVE. S. TO AIRPORT WAY S.
KING COUNTY
RIGHT OF WAY AND LIMITED ACCESS
MP 2.23 TO MP 2.36
STATION EB B-2 25+00 TO STATION EB B-2 32+16.71

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OLYMPIA, WASHINGTON

APPROVED AND ADOPTED MAY 27, 2005

EXPIRES 12/20/06
PROJECT ENGINEER
RIGHT OF WAY PLANS ENGINEER

PARCEL NO.	NAME	TOTAL AREA	R/W	LT. REMAINDER RT.	EASM'T

TOTAL AREA IS FROM ASSESSOR'S RECORDS UNLESS OTHERWISE NOTED.
OWNERSHIPS
ALL AREAS ARE SHOWN IN SQUARE FEET UNLESS OTHERWISE NOTED.

Reference	Approval	Revision Description	By
Letter 6-17-2	7-21-2	Added Access Approach Schedule, Added IGN I-17-09250, Added Access Note No. 2!	CJ
Letter 6-6-05	6-10-05	Noted Surplus Property on Lt. Vic. Sta. EB B-2 30+00	dwf

Limited Access Established by Commission Findings and Order Adopted March 19, 1964

SHEET 4 OF 6 SHEETS
R/W D-2 SR 90/703

Drawer V081 Sequence 10

WSDOT ROW Lease: 6th and Royal Brougham Way

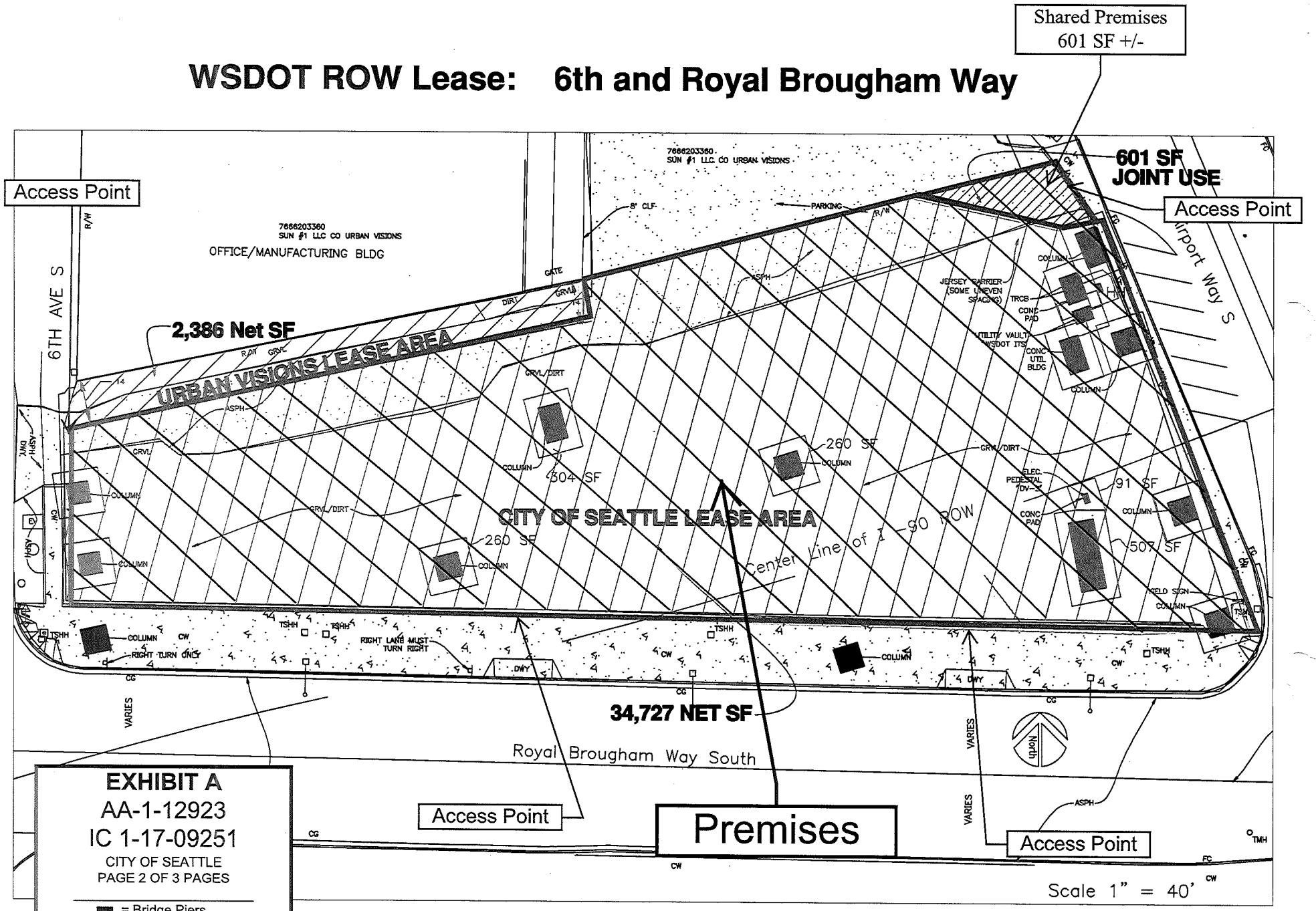


EXHIBIT A
AA-1-12923
IC 1-17-09251
CITY OF SEATTLE
PAGE 2 OF 3 PAGES

■ = Bridge Piers and Electrical Boxes

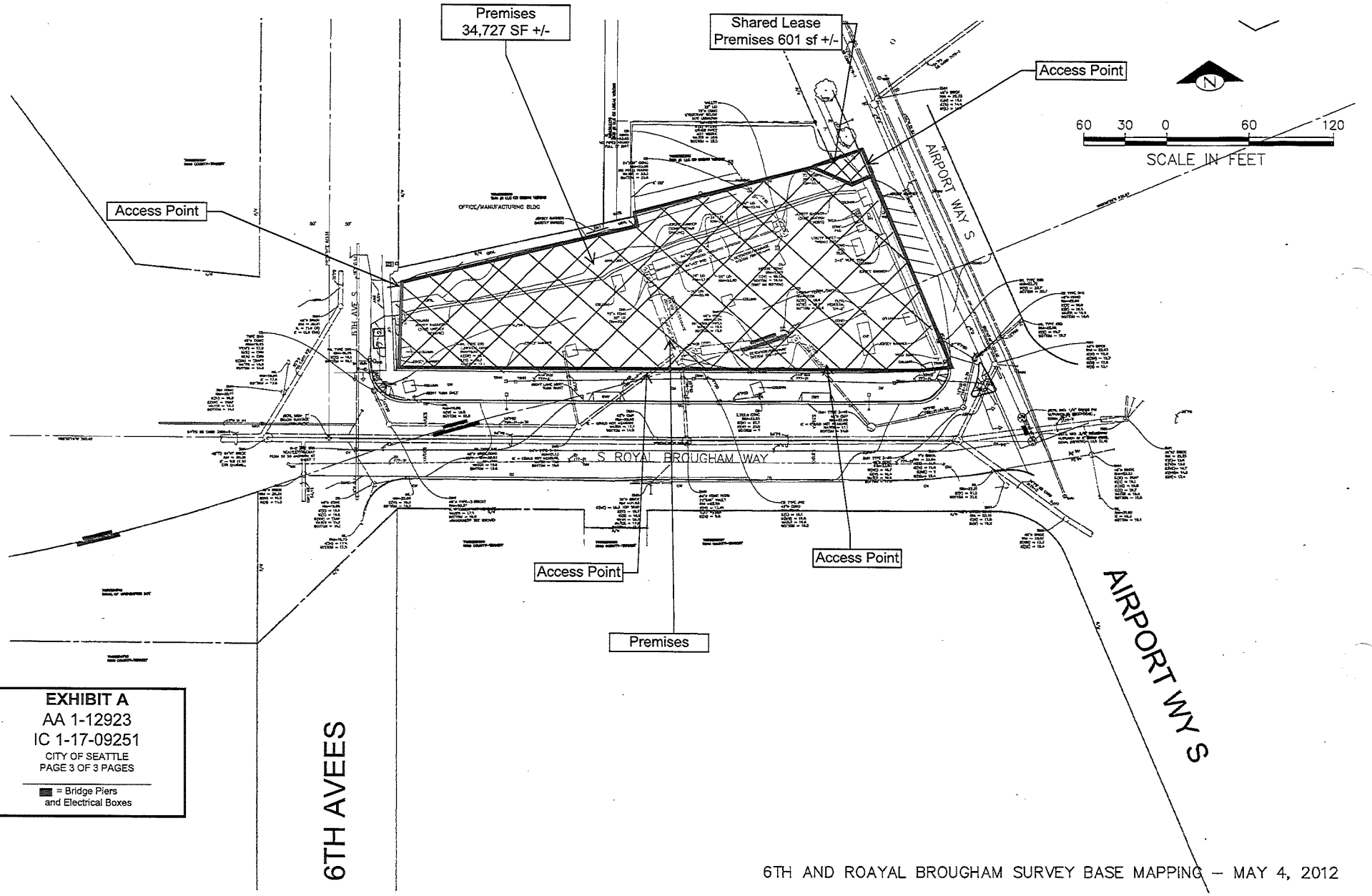


EXHIBIT A
AA 1-12923
IC 1-17-09251
CITY OF SEATTLE
PAGE 3 OF 3 PAGES

= Bridge Piers and Electrical Boxes

6TH AND ROAYAL BROUGHAM SURVEY BASE MAPPING – MAY 4, 2012

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Finance and Administrative Services	Daniel Bretzke 733-9882	Jennifer Devore 615-1328

Legislation Title:
AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing execution of a lease agreement with the Washington State Department of Transportation for a portion of the highway right of way of State Route 90 located at Airport Way South and South Royal Brougham Way; and ratifying and confirming prior acts.

Summary of the Legislation:
This legislation will authorize the Director of the Department of Finance and Administrative Services (FAS) to negotiate and execute a new lease of 36,159 square feet of highway right of way of State Route 90 from the Washington State Department of Transportation (WSDOT), to be used by the Seattle Department of Transportation (SDOT) for vehicle and equipment parking. SDOT and FAS determined that the area of highway right of way is needed to accommodate the First Hill Street Car Maintenance Facility at Charles Street Campus. Since May 23, 2012, SDOT has used the area under a temporary permit from WSDOT, pending the lease negotiations. This legislation seeks authorization from City Council for this month-to-month lease because the Director of FAS is only authorized to execute leases containing up to 18,000 square feet of unimproved real estate or land used for parking or open storage.

Background:
The lease area is located in the highway right of way of State Route 90, under existing freeway structures, north of Royal Brougham Way between 6th Avenue South and Airport Way South. This area is one block west of the southern portion of the Charles Street Campus. The area consists of approximately 36,159 square feet, with 1,422 square feet deducted to account for bridge deck support piers, utility boxes and a four feet setback for pier and utility box protection.

In 2011, a space utilization study indicated that the proposed First Hill Street Car Maintenance Facility could be built at the Charles Street campus, if replacement vehicle parking area was obtained. On May 23, 2012 SDOT obtained a permit from WSDOT to use this portion of right of way near the Charles Street Campus on a temporary basis until a permanent lease for the area could be negotiated. The temporary permit allowed for immediate use of the right of way and allowed the right of way to be improved with gravel surfacing, fencing and lighting.

This month-to-month lease is effective retroactively from May 23, 2012, the date that the permit was first issued. The current lease rate is $4,312.87, which has been paid monthly. WSDOT may adjust the rent annually by either the CPI-U or based on an appraisal/market evaluation of comparable rents.

Please check one of the following:

____ **This legislation does not have any financial implications.**

CITY CLERK

__X__ This legislation has financial implications.

Appropriations:

Appropriations Notes: There are no new appropriations associated with this legislation. Sufficient appropriation authority is included in the existing 2013 Adopted Budget.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Revenue/Reimbursement Notes: There is no new revenue associated with this legislation.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact: N/A

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2013 Expenditures	2014 Anticipated Expenditures
Finance and Administrative Services Fund (50300)	Finance & Administrative Services	Facility Operations	$51,754.44	$51,754.44
TOTAL			$51,754.44	$51,754.44

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

Spending/Cash Flow Notes:
At a starting lease rate per square foot per year of approximately $1.49, the cost for a net 34,737 square feet is $4,312.87 per month, or $51,754.44 per year. The lease rate is based upon an appraisal of the property and represents the fair market rent. The lease rate is indexed to the U.S. Consumer Price Index for All Urban Consumers using the date published by the United States Department of Labor's Bureau of Labor Statistics.

During the construction of the First Hill Street Car Maintenance Facility on the Charles Street Campus, the lease acquisition cost, yard improvements and lease rate have been allocated to the First Hill Street Car Capital construction fund. Upon the completion of the First Hill Street Car Maintenance Facility, the rental cost of the property will be allocated to SDOT Street Maintenance.

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
The City anticipates the area will be used for many years to support City operations, although the terms of the lease allow either WSDOT or the City to terminate the lease with 30 days' notice for any reason.

b) **What is the financial cost of not implementing the legislation?**
This area is located near the existing Charles Street Campus. The area has been improved with

DIS CITY CLERK

security fencing and lighting, and if the legislation approving the lease is not authorized, these improvements will remain with the property. Application and permit fees to WSDOT have been paid for in this area, and are not transferable or refundable. SDOT requires a similarly sized vehicle and equipment parking area located in the proximity of Charles Street Campus. If this lease is not authorized, a replacement property is estimated to cost between $4 and $8 million.

c) **Does this legislation affect any departments besides the originating department?**
This legislation affects SDOT. This legislation will authorize the lease of WSDOT right of way to be used for vehicle and equipment parking for the SDOT Street Maintenance Division, which parking was displaced from the Charles Street Campus when the new First Hill Street Car Maintenance Facility was placed there.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
Alternate vehicle and equipment parking locations in the vicinity of the Charles Street Campus are located on private land. Leasing privately owned land is an option, although it is beneficial to use publicly owned land for public uses and to preserve the development capacity of private land for private development.

e) **Is a public hearing required for this legislation?**
No public hearings are needed.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No public hearings are needed.

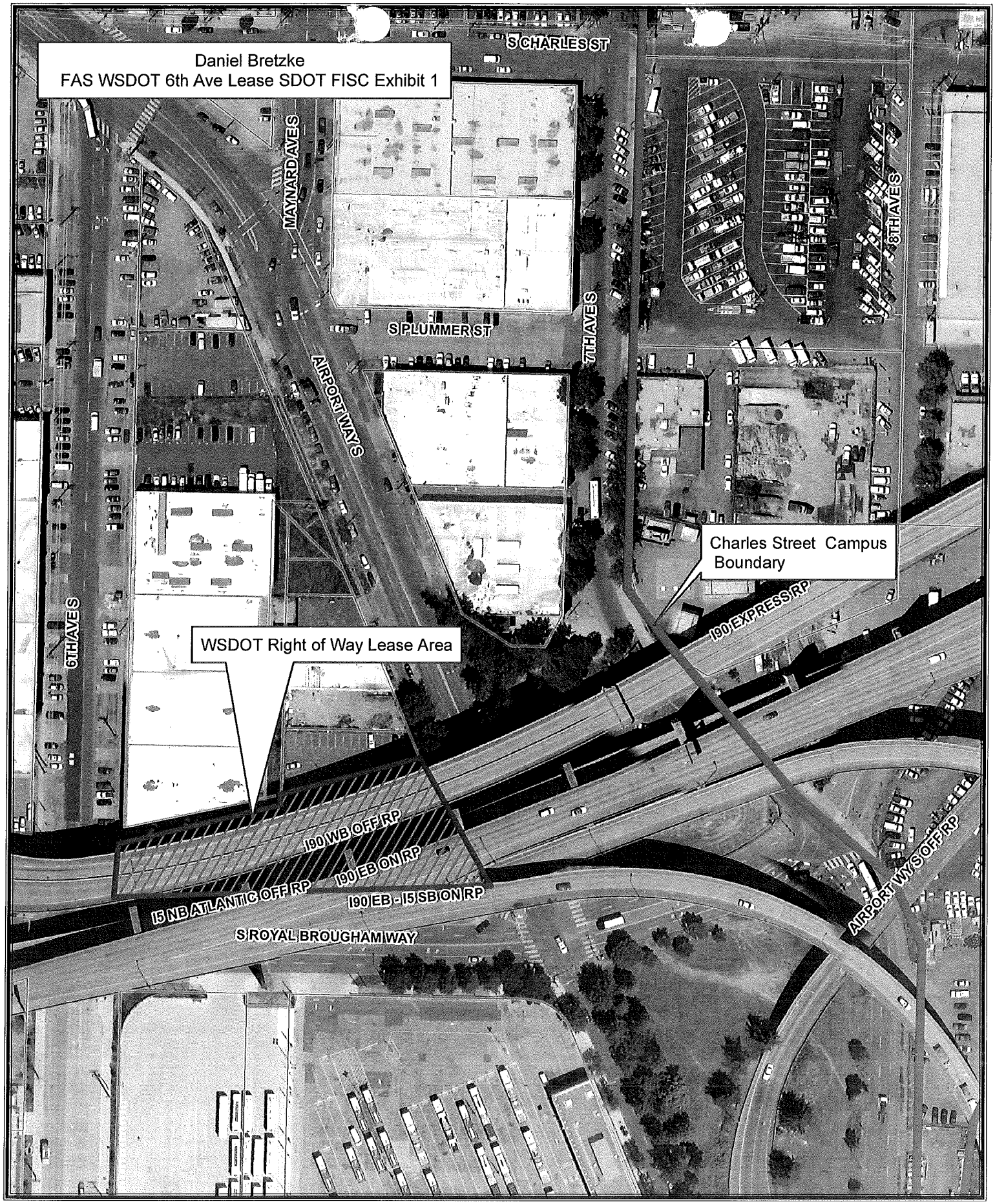
g) **Does this legislation affect a piece of property?**
Yes. A map is attached to this fiscal note as Exhibit 1: WSDOT State Route I-90 Lease Area.

h) **Other Issues:**

List attachments to the fiscal note below:

Exhibit 1: WSDOT State Route I-90 Lease Area

DIS CITY CLERK



WSDOT State Route I-90 Lease Area

City of Seattle

0 120 Feet

N

Produced by the City of Seattle, FAS, Real Estate Services D. Bretzke All Rights Reserved. No guarantee of any part implied, including accuracy, completeness or fitness of use.

City of Seattle
Office of the Mayor

November 19, 2013

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 that authorizes the Director of the Department of Finance and Administrative Services (FAS) to negotiate and execute a lease with the Washington State Department of Transportation (WSDOT) for the use of a portion of the highway right of way of State Route 90 by the Seattle Department of Transportation (SDOT).

Due to the construction of the First Hill Street Car Maintenance Facility at the Charles Street Campus, street maintenance vehicles and equipment were moved to a location under the I-90 freeway structure. The use of this WSDOT right of way was authorized by a temporary permit until lease terms could be negotiated. The area has been improved with gravel surfacing, fencing and security lighting. The area with its close proximity to the Charles Street Campus and its location under freeway structures is the best location for the storage of City owned vehicles and equipment.

Thank you for your consideration of this legislation. Should you have questions, please contact Daniel Bretzke at 206-733-9882.

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

CITY CLERK

FILED
CITY OF SEATTLE

2014 FEB -6 PM 4: 21

CITY CLERK

STATE OF WASHINGTON -- KING COUNTY

--ss.

306498 No. 124392,393,394,395,396,97

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:TITLE ONLY ORDINANCES

was published on

01/15/14

The amount of the fee charged for the foregoing publication is the sum of $104.65 which amount has been paid in full.

JENNIFER A. SORRENTO
NOTARY PUBLIC
COMMISSION EXPIRES
10-24-15
STATE OF WASHINGTON

Pamela Oglesby

Subscribed and sworn to before me on

01/15/2014

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 16, 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. 124392

AN ORDINANCE relating to the Seattle Retirement System; making changes to conform with the Internal Revenue Code; making technical corrections; amending Sections 4.36.040, 4.36.193 and 4.36.385, and repealing Section 4.36.285 of the Seattle Municipal Code; and ratifying and confirming certain acts.

ORDINANCE NO. 124393

AN ORDINANCE relating to consuming marijuana in public; amending Chapter 12A.20 of the Seattle Municipal Code to conform with state law

ORDINANCE NO. 124394

AN ORDINANCE relating to smoking in public places and places of employment; amending Chapter 10.64 of the Seattle Municipal Code to conform with state law.

ORDINANCE NO. 124395

AN ORDINANCE related to the sale and redevelopment of the former Public Safety Building block; authorizing the execution of amendments to the Purchase and Sale Agreement, to continue implementation of the sale and redevelopment of such property, as previously authorized by Ordinance 122612, and accepting payment therefor.

ORDINANCE NO. 124396

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing execution of a lease agreement with the Washington State Department of Transportation for a portion of the highway right of way of State Route 90 located at Airport Way South and South Royal Brougham Way; and ratifying and confirming prior acts.

ORDINANCE NO. 124397

AN ORDINANCE related to the 2013 Budget; amending Ordinance 124058, which adopted the 2013 Budget, including the 2013-2018 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new projects; revising project allocations for certain projects in the 2013-2018 CIP; creating positions; abrogating positions, lifting a proviso and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

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