

Ordinance No. 123657

The City of Seattle – Legislative Department

Council Bill No. 117193

Council Bill/Ordinance sponsored by: [Signature]

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to purchase approximately 148.2 acres of real property in Section 36, Township 23 North, Range 7 East, W.M. in King County, Washington, commonly called the Herbrand Property, in close proximity to the Cedar River Municipal Watershed, from the Herbrand Company, and ratifying and confirming certain prior acts.

Committee Action:

Date	Recommendation	Vote
7/12	PASS	3-0; MO - BH - RC

Related Legislation File:

Date Introduced and Referred: <u>6.6.11</u>	To: (committee): <u>Seattle Public Utilities + Neighborhoods</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>7.18.11</u>	Date Presented to Mayor: <u>7.19.11</u>
Date Signed by Mayor: <u>July 21, 2011</u>	Date Returned to City Clerk: <u>July 21, 2011</u>
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

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

Full Council Action:

Date	Decision	Vote
7.18.11	Passed	8-0 excused: NL

LAW DEPARTMENT

ORDINANCE 123657

1
2 AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public
3 Utilities to purchase approximately 148.2 acres of real property in Section 36, Township
4 23 North, Range 7 East, W.M. in King County, Washington, commonly called the
5 Herbrand Property, in close proximity to the Cedar River Municipal Watershed, from the
6 Herbrand Company, and ratifying and confirming certain prior acts.

7
8 WHEREAS, the City, acting through and by Seattle Public Utilities ("SPU"), owns and manages
9 the more than 92,000-acre Cedar River Municipal Watershed ("Watershed"), which is
10 both a source of unfiltered drinking water for Seattle and surrounding communities and
11 home to many species of fish and wildlife; and

12 WHEREAS, the Herbrand Company desires to sell approximately 148.2 acres of undeveloped
13 real property it currently owns and manages within the unincorporated community of
14 Kerriston, commonly referred to as the Herbrand Property ("Property"), in close
15 proximity to the northern boundary of the Watershed and accessed by means of the King
16 County public Kerriston Road that passes through the Watershed; and

17 WHEREAS, SPU has determined that purchasing the Property will achieve its critical and
18 strategic management objectives for the Watershed including: (1) increasing control of
19 lands accessed by the Kerriston Road; (2) avoiding future risk and costs associated with
20 illegal trespass in and around the Watershed; and (3) reducing risk and liability costs
21 associated with the continuing residential build-out of the Kerriston community; and

22 WHEREAS, SPU and Herbrand Company have agreed to a Purchase and Sale Agreement,
23 NOW, THEREFORE,

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

25 Section 1. The Director of Seattle Public Utilities, or his designee, is hereby authorized
26 to purchase approximately 148.2 acres of undeveloped real property commonly called the
27 Herbrand Property, legally described in Attachment 1 and depicted in Attachments 2 and 3, for
28 \$500,000 from the Herbrand Company, a Washington corporation, and to execute any necessary
documents, accept or deliver any necessary deeds, or take any other actions reasonably necessary
to effectuate this ordinance.



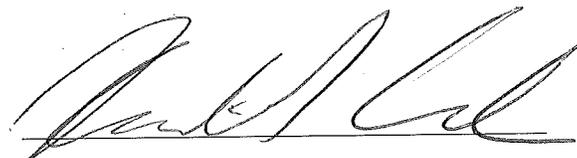
1 Section 2. The Property acquired pursuant to this ordinance shall be placed under the
2 jurisdiction of Seattle Public Utilities

3 Section 3. Any act pursuant to the authority and prior to the effective date of this
4 ordinance is hereby ratified and confirmed.

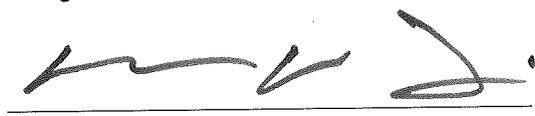
5
6 Section 4. This ordinance shall take effect and be in force 30 days from and after its
7 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
8 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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1 Passed by the City Council the 18th day of July, 2011, and
2 signed by me in open session in authentication of its passage this 18th day of
3 July, 2011.

4 
5 President _____ of the City Council

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7 Approved by me this 21st day of July, 2011.

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10 Michael McGinn, Mayor

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12 Filed by me this 21st day of July, 2011.

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15 Monica Martinez Simmons, City Clerk

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18 (Seal)

- 19
20
21 Attachment 1 – Real Property Description
22 Attachment 2 – Regional Setting – Herbrand Property Purchase
23 Attachment 3 – Map of Herbrand Property Purchase



Attachment 1

Real Property Description

PORTIONS OF THE SOUTHEAST QUARTER AND THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 23 NORTH RANGE 7 EAST, PARCELS A, B, C, D, E, and F, KING COUNTY, WASHINGTON:

Parcel A: Lot 2, King County Short Plat Number 1080021, recorded under recording number 8303160819, in King County, Washington. Parcel Identification Number 3623079046.

Parcel B: Lot 3, King County Short Plat Number 1080021, recorded under recording number 8303160819, in King County, Washington. Parcel Identification Number 3623079047.

Parcel C: The north $\frac{3}{4}$ of the east half of the southeast quarter of Section 36, Township 23 North, Range 7 East, Willamette Meridian, in King County, Washington. Parcel Identification Number 3623079013.

Parcel D: The southeast quarter of the northeast quarter of Section 36, Township 23 North, Range 7 East, Willamette Meridian, in King County, Washington; except the southwest quarter of the southwest quarter of the southeast quarter of the northeast quarter of said Section 36. Parcel Identification Number 3623079004.

Parcel E: The southwest quarter of the northeast quarter of Section 36, Township 23 North, Range 7 East, Willamette Meridian, in King County, Washington; except the northwest quarter of the southwest quarter of the northeast quarter of said Section 36 except County road. Parcel Identification Number 3623079003.

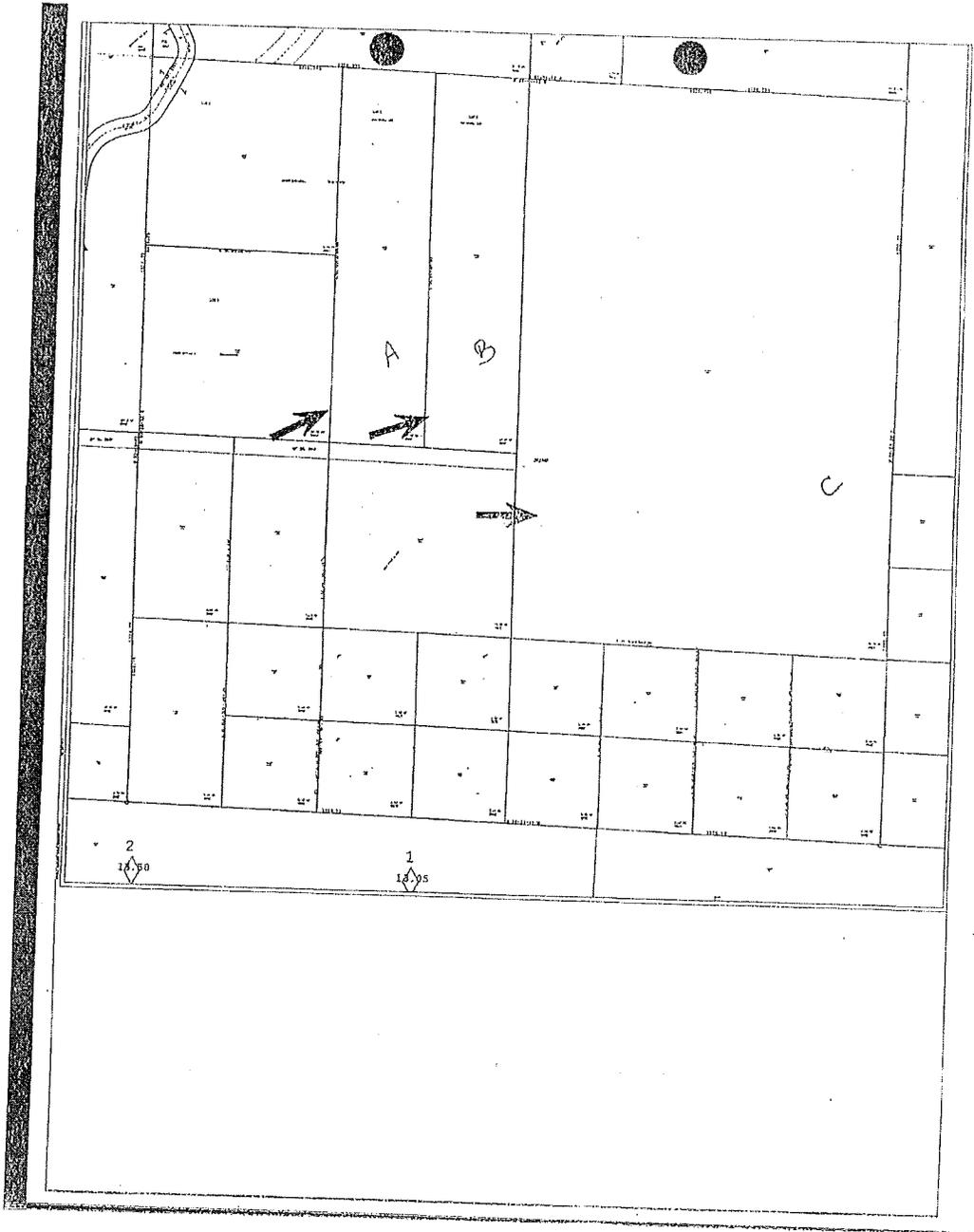
Parcel F: The southwest quarter of the southwest quarter of the southeast quarter of the northeast quarter of Section 36, Township 23 North, Range 7 East, Willamette Meridian, in King County, Washington. Parcel Identification Number 3623079041.

Containing an area of 6,455,592 square feet, or 148.2 acres, more or less.



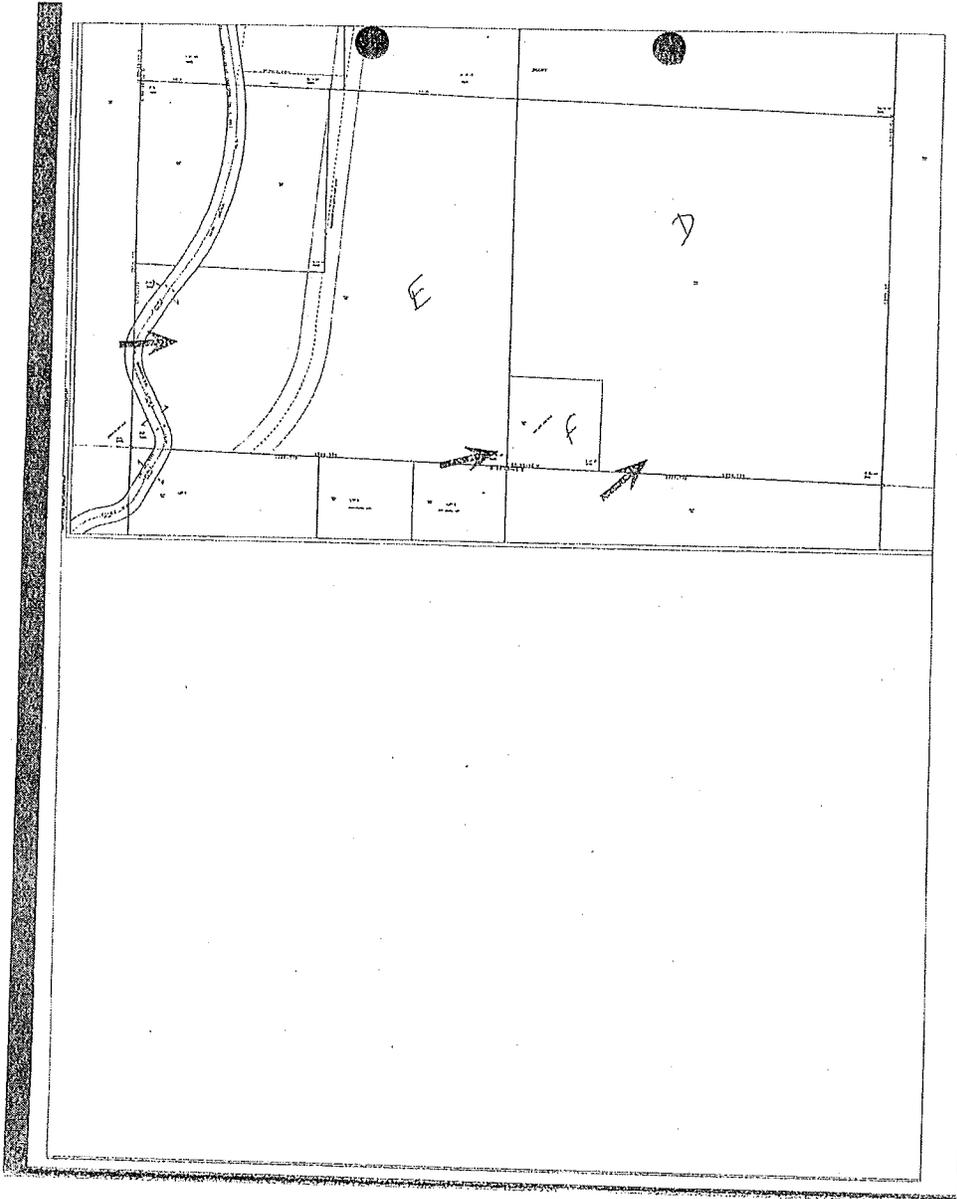
Attachment 1

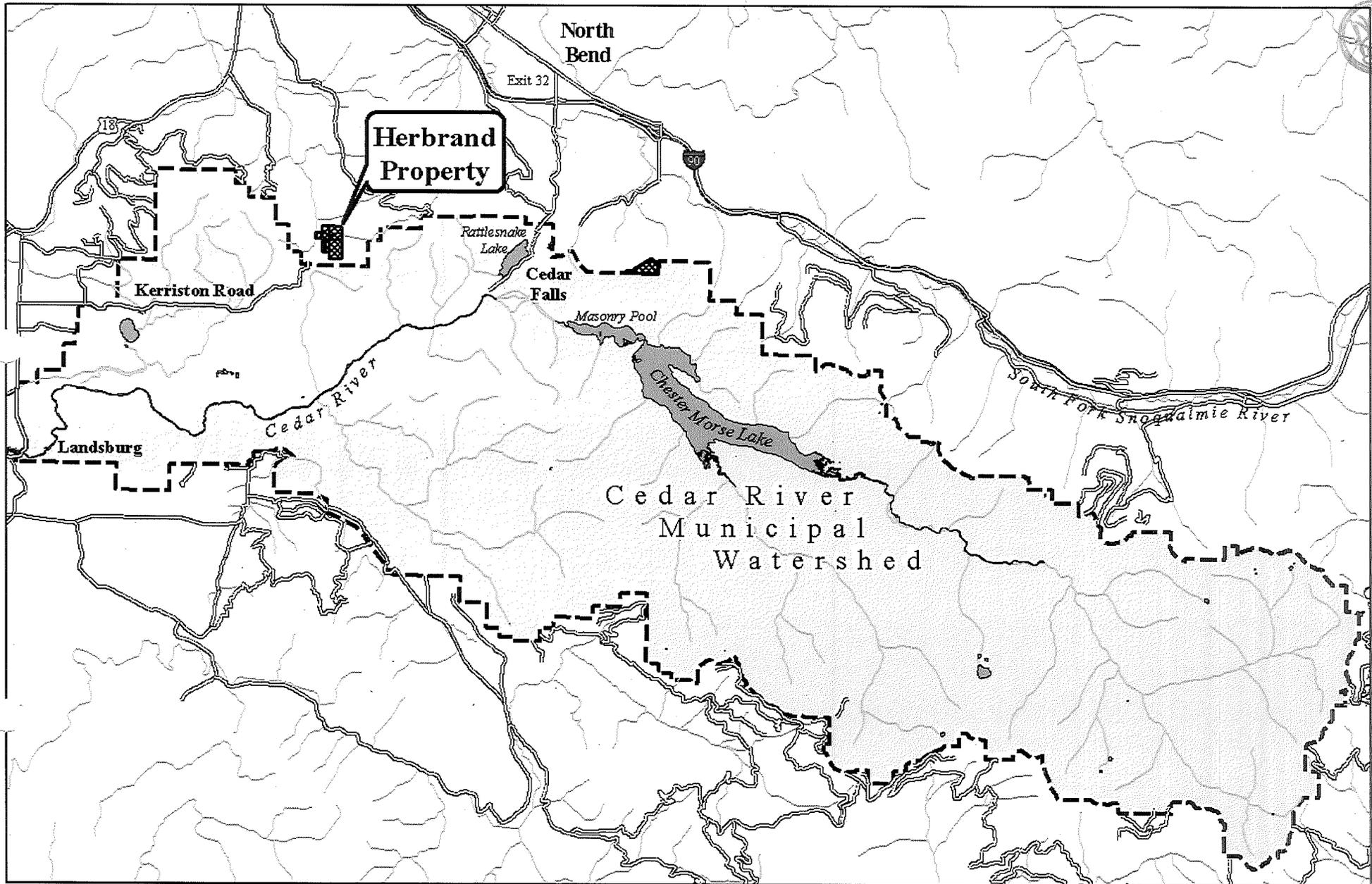
Real Property Description



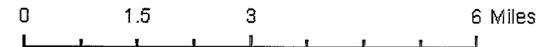
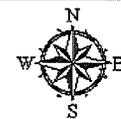
Attachment 1

Real Property Description



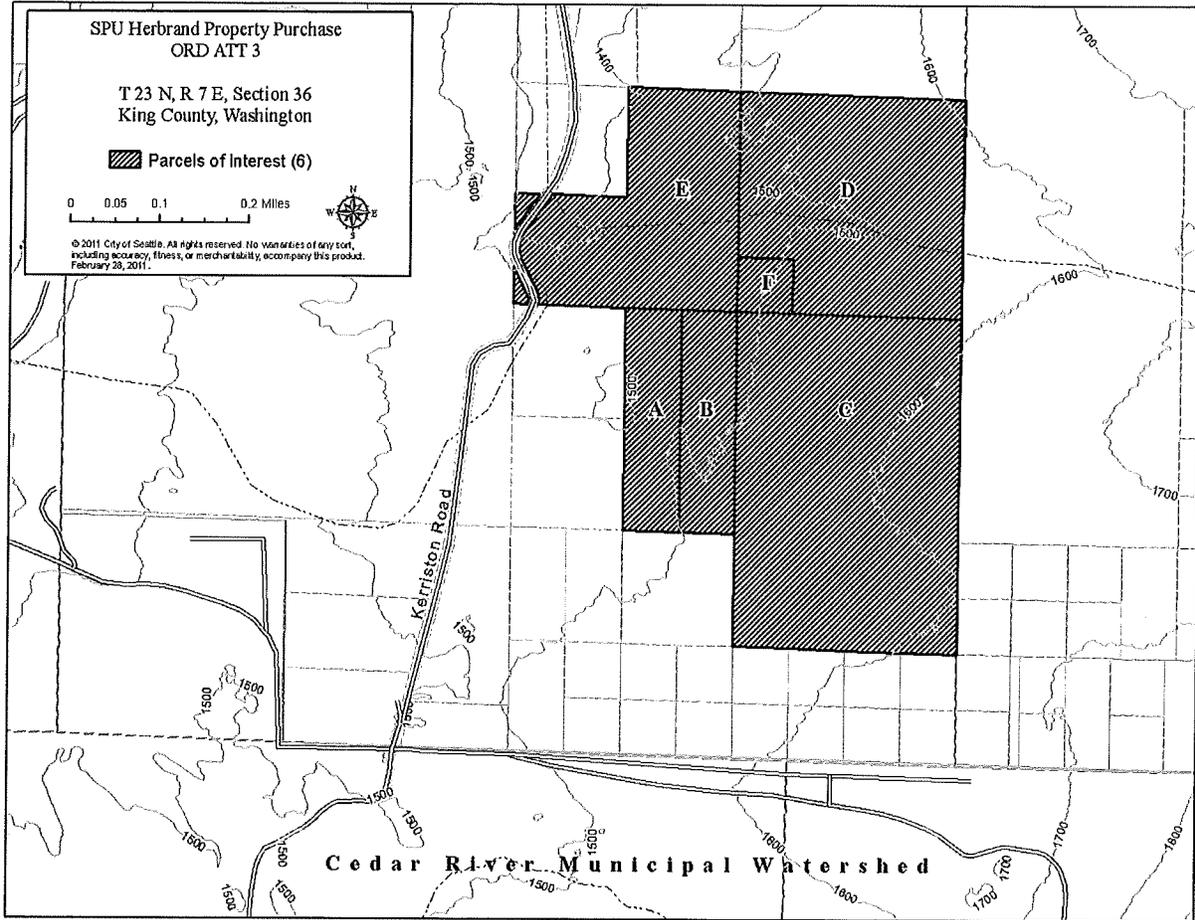


Regional Setting
Herbrand Property Purchase



SPU Herbrand Property Purchase ORD ATT 2

Attachment 3



FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Clayton Antieau/3-3711	Karen Grove/4-5805

Legislation Title: AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to purchase approximately 148.2 acres of real property in Section 36, Township 23 North, Range 7 East, W.M. in King County, Washington, commonly called the Herbrand Property, in close proximity to the Cedar River Municipal Watershed, from the Herbrand Company, and ratifying and confirming certain prior acts.

Summary and Background of the Legislation:

Project Name:	Project ID:	Project Location:	Start Date:	End Date:
	C1314	Herbrand Property; Section 36, T23N, R7E adjacent to the Cedar River Municipal Watershed	January 2011	August 2011

**The Kerriston Road CIP project (C1314) provides an ongoing allocation of over \$600,000 to acquire properties adjacent to the lower Cedar River Municipal Watershed that are accessed via Kerriston Road, which runs through the lower municipal watershed. Acquisition of these lands minimizes the risk to water quality. The Herbrand Property will be purchased with funds in this CIP allocation. Start and end dates in the table above refer specifically to the Herbrand Property acquisition and do not pertain to the Kerriston Road project as a whole, which has a start date of Q1 2009 and is a multi-year, ongoing project.*

The ordinance authorizes the Director of Seattle Public Utilities to purchase 148.2 acres of undeveloped land from the Herbrand Company, a Washington corporation and willing seller. The City protects its Cedar River water supply and minimizes water treatment requirements by managing risks to source water quality. Property ownership and controlling public access are cornerstones of Seattle’s water quality protection strategy. The City owns almost all of the land within the Cedar River watershed boundary and controls public access on those lands. The only remaining point of unrestricted public access is the 7-mile long Kerriston Road, 4.1 miles of which pass through the watershed. Kerriston Road is the only access to the unincorporated town of Kerriston. The road is a long-standing source of unrestricted traffic through the watershed immediately upstream of SPU’s water supply diversion at Landsburg, as well as an avenue of trespass onto watershed lands.

SPU targeted the Herbrand Property for acquisition because it is the largest single-owner, contiguous holding within the Kerriston area with the potential for residential development. With the seller’s concurrence, this property was prepared for purchase through SPU’s multi-year ongoing CIP project to acquire lands in the Kerriston area to manage unrestricted public access allowed by the Kerriston Road. The property is valuable to SPU because it offers access control to lands accessed by the Kerriston Road, including: 1) reduced risk and liability costs associated



with the reduced public traffic through the watershed; 2) avoidance of risk and costs associated with illegal trespass in and around the Cedar River Municipal Watershed; and 3) reduced risk and liability costs related to the continuing residential build-out in the Kerriston area.

This project is fully accounted for in current water rates. For illustrative purposes, if this project was not yet funded in the CIP and was to be added to the CIP and rates now, it would represent approximately a 0.1 percent increase to the 2011 water rates of \$34.01 paid by the average residential customer (this representing the cash financing component per month for the first year only), and 0.03 percent in out-years for ongoing debt service related to the project.

- Please check any of the following that apply:

 This legislation creates, funds, or anticipates a new CIP Project. (Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)

 This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

 X **This legislation has financial implications.** (Please complete all relevant sections that follow.)

Appropriations: This table should detail existing appropriations and reflect appropriations that are a direct result of this legislation. If this legislation does not directly change an appropriation, but has budget impacts, please explain in the notes section below:

Fund Name and Number	Department	Budget Control Level*	Existing 2011 Appropriation (Allocation)	New 2011 Appropriation (if any)	2012 Anticipated Appropriation
Water 43000	SPU	C130B Watershed Stewardship	\$612,001	N/A	\$624,240

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

The table above shows the allocation amount for the Kerriston Road project, which is budgeted within the Watershed Stewardship BCL.

Appropriations Notes: No additional appropriation is being sought by this legislation. The negotiated purchase price for this land is \$500,000, with up to an additional \$30,000 in related expenses (appraisal, appraisal reviews, title costs, and escrow costs, etc.). This purchase will be funded by the existing Kerriston Road Acquisition Project, ID C1314, contained in the 2011 Adopted Water Fund Capital Budget.



Once acquired, this property may require expenditures of less than \$50,000 for boundary posting, security gate installation, and site restoration. These land-related expenditures will be paid out of the existing Water Fund O&M budget, specifically charged to SPU Watersheds Services Division's general management number (N780196), which has sufficient appropriated funds to cover those charges.

Spending Plan and Future Appropriations for Capital Projects: Please list the timing of anticipated appropriation authority requests and expected spending plan. In addition, please identify your cost estimate methodology including inflation assumptions, the projected costs of meeting applicable LEED standards, and the percent for art and design as appropriate.

Spending Plan and Budget	2011	2012	2013	2014	2015	2016	Total
Spending Plan	\$1,200,000	\$612,000	\$624,235	\$636,706	\$649,471	\$662,471	\$4,384,882
Current Year Adopted CIP	\$612,001						
Endorsed Amounts in Adopted CIP		\$624,240	\$636,720	\$649,440	\$662,460	\$675,720	\$3,248,580

Spending Plan and Budget Notes: The 2011 Adopted Water Fund Capital Budget includes \$612,001 in appropriations for this capital activity (C1314: Kerriston Road Acquisitions). The Spending Plan was increased by approximately \$600,000 to enable Seattle Public Utilities to take advantage of this unanticipated acquisition opportunity, in addition to other, planned acquisitions.

Funding source:

Funding Source (Fund Name and Number, if applicable)	2011	2012	2013	2014	2015	2016	Total
Water Fund - 43000	\$530,000						\$530,000
TOTAL	\$530,000						\$530,000

Funding Source Notes: This project is funded by the Water Fund, and is not expected to generate revenue.

Bond Financing Required:

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
Fixed Rate	\$489,600	3.6%	30	1/2011	\$27,760
TOTAL	\$489,000				\$27,760

Bond Financing Notes: No future bonds will be issued for this project. It will be financed with bonds issued in January 2011, which are managed at the fund level. Amounts above are



illustrative of the entire Kerriston Road Acquisition project's contribution to debt service in 2011. On average, 80 percent of Water Fund project costs are financed with debt, with the remainder financed with cash. The amount \$489,600 in the table above represents 80% of the 2011 Adopted Kerriston Road Acquisition project allocation of \$612,000. The above funding amount includes 3 percent in issuance costs.

Uses and Sources for Operation and Maintenance Costs for the Project: Estimate cost of one-time startup, operating and maintaining the project over a six year period and identify each fund source available. Estimate the annual savings of implementing the LEED Silver standard. Identify key assumptions such as staffing required, assumed utility usage and rates and other potential drivers of the facility's cost.

O&M	2011	2012	2013	2014	2015	2016	Total
Uses							
Start Up		\$50,000					
On-going							
Sources (itemize)							

Operation and Maintenance Notes: These are one-time costs related to boundary posting, security gate installation, and site restoration. There is no opportunity to implement the LEED Silver standard.

Periodic Major Maintenance costs for the project: Estimate capital cost of performing periodic maintenance over life of facility. Please identify major work items and frequency.

Major Maintenance Item	Frequency	Cost	Likely Funding Source
TOTAL			

Funding sources for replacement of project: There are no replacement costs associated with this proposed property acquisition.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact:

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

* List each position separately

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



Clayton Antieau
SPU Herbrand Property Purchase FISC
May 25, 2011
Version #3

positions from 2011.

Position Notes: No positions will be created, modified, or abrogated by this proposed legislation.



Do positions sunset in the future?

Not applicable. No positions will be created, modified, or abrogated by this legislation.

Does this legislation affect any departments besides the originating department? *(If so, please list the affected department(s), the nature of the impact (financial, operational, etc), and indicate which staff members in the other department(s) are aware of this Bill.):* No other Departments will be affected by this legislation.

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

SPU's Asset Management Committee evaluated three options for managing public access to this property. The options included: do nothing; seek conservation easements or other "less-than-fee" options; or continue the City's long-standing practice of controlling land use on source lands for the City's municipal water supplies through fee acquisition. Based on the history of the City's ownership of its municipal drinking water supply and the recognized benefits related to watershed security, land management, and water quality protection, SPU believes resolving the Kerriston Road issues are a utility priority and purchasing the property provides the best value to SPU ratepayers.

Is the legislation subject to public hearing requirements?

No

Other Issues:

None.

List attachments to the fiscal note below:

None.





Michael McGinn
Mayor of Seattle

May 31, 2011

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

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill authorizing the Director of Seattle Public Utilities to purchase 148.2 acres of property from the Herbrand Company. The property is close to the Cedar River Municipal Watershed, which provides 60 percent of the City's municipal drinking water supply. The acquisition would help resolve watershed access and security issues posed by King County's public Kerriston Road.

The City protects its Cedar River water supply and minimizes water treatment requirements by managing activities and risks potentially affecting source water quality. Property ownership and the control of public access are cornerstones of Seattle's water quality protection strategy. The City currently owns almost all of the land within the Cedar River watershed boundary and controls public access on those lands. The Kerriston Road is the only remaining point of unrestricted public access which passes through the watershed to serve the unincorporated Kerriston community.

This real estate purchase will increase SPU's control of lands accessed by the Kerriston Road and the future development of those lands. Reduced public traffic through the watershed is expected to reduce risk and costs associated with illegal trespass in and around the watershed; and reduce risk and liability costs related to the continuing residential build-out in the Kerriston community.

Thank you for considering this legislation and supporting protection of an important source of Seattle and the region's water supply. If you have questions, please contact Clayton Antieau at 233-3711.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Office of the Mayor
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PO Box 94749
Seattle, WA 98124-4749

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



STATE OF WASHINGTON – KING COUNTY

--SS.

274433
CITY OF SEATTLE, CLERKS OFFICE

No. 123657,658,659,660,661,62

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

07/28/11

The amount of the fee charged for the foregoing publication is the sum of \$ 102.38, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

07/28/11

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle Title Only Ordinance

The full text of the following legislation, passed by the City Council on July 18, 2011, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

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

ORDINANCE NO. 123657

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to purchase approximately 148.2 acres of real property in Section 36, Township 23 North, Range 7 East, W.M. in King County, Washington, commonly called the Herbrand Property, in close proximity to the Cedar River Municipal Watershed, from the Herbrand Company, and ratifying and confirming certain prior acts.

ORDINANCE NO. 123658

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to enter into an agreement granting a non-exclusive easement for access, ingress and egress over and across a portion of the City of Seattle's fee-owned Cedar River Pipeline property for the benefit of a single family residence located on adjacent property commonly known as 12660 Beacon Avenue South, Seattle, WA 98178, King County.

ORDINANCE NO. 123659

AN ORDINANCE relating to street-food vending, merchandise displays, and sidewalk cafes; amending various sections of and adding sections to Titles 11 and 15 of the Seattle Municipal Code; repealing Chapter 10.10, and Sections 10.03.110, 15.17.010, and 15.17.020; amending the current Seattle Department of Transportation Street Use fee schedule by adding new vending-related Street Use permit use codes and amending vending-related Street Use permit fees.

ORDINANCE NO. 123660

AN ORDINANCE relating to the Seattle Department of Transportation and Seattle Public Utilities; authorizing the Director of the Department of Transportation to acquire, accept, and record, on behalf of the City of Seattle, a permanent easement located in a portion of Lot 28, Block 3 of Patten's Addition to the City of Seattle for the purpose of slope stabilization; authorizing the Director of Seattle Public Utilities to acquire, accept and record, on behalf of the City of Seattle, two permanent easements located in portions of Lots 2 and 3, Block 2 of Patten's Addition to the City of Seattle for drainage infrastructure that contributes to slope stabilization and area drainage; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123661

AN ORDINANCE relating to medical cannabis or medical cannabis products, and the regulation thereof within the City of Seattle.

ORDINANCE NO. 123662

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

Date of publication in the Seattle Daily Journal of Commerce, July 28, 2011.

7/28(274433)