

#2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117555

AN ORDINANCE relating to a passenger boat moorage and loading facility located over and across Vine Street, west of Alaskan Way, amending Ordinance 115972, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to the Port of Seattle; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 115972, the City of Seattle granted the Port of Seattle permission to construct and maintain a passenger boat moorage and loading facility over and across the submerged portion of Vine Street, west of Alaskan Way, for a ten-year term, renewable for two successive ten-year terms; and

WHEREAS, the conditions of Ordinance 115972 were amended by Ordinance 121855; and

WHEREAS, the permission authorized by Ordinance 115972 was due for renewal on January 15, 2012; and

WHEREAS, the Port of Seattle has submitted an application to the Seattle Department of Transportation Director ("Director") to continue maintaining and operating the passenger boat moorage and loading facility; and

WHEREAS, the Port of Seattle has satisfied all terms of the original authorizing ordinance and the Director recommends that the term permit be renewed subject to the terms identified in this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The permission granted to the Port of Seattle by Ordinance 115972 and amended by Ordinance 121855 to maintain and operate a passenger boat moorage and loading facility over and across Vine Street, West of Alaskan Way, is renewed for a ten-year period starting, January 16, 2012, and ending at 11:59 p.m. on January 15, 2022, upon the terms and conditions set forth in Ordinance 115972, as amended by Ordinance 121855, and as further amended by this ordinance.



1 Section 2. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Ordinance 115972, as
2 amended by Ordinance 121855, are amended as follows:

3 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of Seattle.
4 ("City") grants permission ((is hereby granted)) (also referred to in this ordinance as a permit) to
5 the Port of Seattle, and its successors and assigns (((("Port"))), as approved by the Director of the
6 Seattle Department of Transportation ("Director") according to Section 10 of this ordinance (the
7 party named above and each approved successor and assign is referred to as "Permittee"), to
8 construct, maintain, and operate a Pedestrian Boat Moorage and Passenger Loading Facility
9 consisting of vessels, piers, pilings, floats, and ramps ("Facility") located in Vine Street, west of
10 Alaskan Way, adjacent to Pier 69((-)), adjacent in whole or in part to the property legally
11 described as:

12
13 Parcel A: Lots 5, 6, 7, 8, 9, 10, 11, and 12, Block 169, the Supplemental Plat of Seattle
14 Tide Lands in King County, Washington.

15
16 Parcel B: Together with all of the harbor area lying in front of Lots 5, 6, 7, 8, 9, 10, 11,
17 and 12, Block 169, Seattle Tide Lands and bounded by the inner and the outer harbor lines and
18 the North line of said Lot 5 and the South line of said Lot 12, both extended to said outer harbor
19 line, as shown on the official maps of Seattle Tide Lands on file in the office of the
20 Commissioner of Public Lands at Olympia, Washington.

21
22 2. **Term.** The permission ((herein)) granted to the ((Port, its successors and assigns, shall
23 be)) Permittee is for a term of ten (((10))) years, ((commencing upon)) starting on the effective
24 date of (((this ordinance)) Ordinance 115972 and ((terminating)) ending at 11:59 p.m. on the last
25 day of the tenth year((; provided, however, that upon)). Upon written application of the ((Port))
26 Permittee at least ((30)) 180 days before expiration of the term, the Director ((of Transportation



1 (~~“Director”~~) or the City Council may renew the permit (~~(for two)~~) twice, each time for a
2 successive ten-year (~~(terms, provided further that the total of the permission as originally granted~~
3 ~~and thus extended shall not exceed 30 years)~~ term, subject to the right of the City (~~(of Seattle~~
4 (~~“City”~~)) to require the removal of the Facility or to revise (~~(the fee provided for in Section 11~~
5 ~~hereof, and)~~ by ordinance (~~(to then revise)~~) any of the terms and conditions (~~(contained herein.)~~)
6 of the permission granted by this ordinance. The total term of the permission, including
7 renewals, shall not exceed 30 years. The Permittee shall submit any application for a new
8 permission no later than 180 days prior to the expiration of the then-existing term. Further, the
9 ~~(Per)~~ Permittee may provide written notice of its intent to discontinue the use of the Facility
10 and of the portion of Vine Street identified (~~(above)~~) in Section 1, in which case, subject to the
11 terms and conditions stated in Section 3 (~~(below)~~), the permission (~~(hereby)~~) granted will
12 terminate on the 60th day following the City’s receipt and acceptance of such written notice.

15 **3A. Protection of utilities.** The permission granted is subject to the Permittee bearing the
16 expense of any protection, support, or relocation of existing utilities deemed necessary by the
17 owners of the utilities, and the Permittee being responsible for any damage to the utilities due to
18 the construction, repair, reconstruction, maintenance, operation, or removal of the Facility and
19 for any consequential damages that may result from any damage to utilities or interruption in
20 service caused by any of the foregoing.

22 **3B. Removal for public use or for cause.** The (~~(permit)~~) permission granted (~~(hereby)~~)
23 is subject to (~~(primary and secondary)~~) use of the right-of-way or other public place (collectively
24 public place) by the City and the public for travel (~~(and utilities)~~), utility purposes, (~~(and the)~~)
25 and other public uses or benefits. The City expressly reserves the right to deny renewal, or
26 terminate the permission at any time prior to expiration of the initial term or any renewal term;
27



1 and require the ((Port)) Permittee to remove the Facility, or any part thereof or installation on the
2 public place at ((Port's)) the Permittee's sole cost and expense in the event that:

3 a) The City Council determines by ordinance that the space occupied by the Facility is
4 necessary for any ~~((such primary and secondary))~~ public use or benefit or that the
5 Facility interferes with any ~~((such primary and secondary))~~ public use or benefit; or

6 b) The ~~((Board of Public Works or a successor body or official of the City ("Board")))~~
7 Director determines that use of the Facility has been abandoned; or

8 c) The Director determines that any term or condition of this ordinance has been
9 violated((:)), and the violation has not been corrected by the Permittee by the compliance date
10 after a written request by the City to correct the violation (unless a notice to correct is not
11 required due to an immediate threat to the health or safety of the public); or

12 ~~((e))~~d) The ((Port)) Permittee notifies the City of the ((Port's)) Permittee's intent to
13 discontinue use of the Facility and Vine Street in the manner provided in this Ordinance; or

14 ~~((d))~~e) The United States, through the Army Corps of Engineers, or any other federal
15 agency with jurisdiction, lawfully orders the removal thereof as an obstruction to navigation or
16 for other reasonable cause, or the United States lawfully requires the use thereof.

17 A City Council determination that the space is ~~((necessary))~~ needed for, or the Facility
18 interferes with, a ((primary and secondary)) public use or benefit ((by or to the public for travel
19 and utilities purposes shall be)) is conclusive and final without any right of the Permittee to
20 resort to the courts to adjudicate the matter.

21 **4. Permittee's obligation to remove and restore.** ~~((In the event that the permit is not~~
22 renewed, or)) If the permission ((hereby)) granted ((extends to its termination in 30 years))
23 expires without an application for a new permission being granted, or is earlier terminated in
24



1 accordance with the terms and conditions of this Ordinance, or if the City ((orders)) terminates
2 the permission; then within 90 days after the expiration or termination of the permission, or prior
3 to any earlier date stated in an ordinance or order requiring removal of the Facility ((pursuant to
4 the terms of this ordinance, then within 90 days after such expiration, termination or order of
5 removal, or prior to the date stated in an Order to Remove, as the case may be,)); the ((Port))
6 Permittee shall, at its own expense, remove the Facility((Whereupon the Board shall issue a
7 certificate discharging the Port from any responsibilities under this ordinance for occurrences
8 after the date of such discharge.)) and all portions all of the Permittee's equipment and property
9 from the public place. Following removal of the Facility, the Permittee shall replace and restore
10 all portions of the public place that may have been disturbed for any part of the Facility. The
11 public place shall be replaced and restored in as good condition for public use as it was prior to
12 construction of the Facility and in at least as good condition in all respects as the abutting
13 portions of the public place as required by SDOT right-of-way restoration standards.

14
15
16 Failure to remove the Facility as required by this section is a violation of Chapter 15.90
17 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of Chapter
18 15.90 does not eliminate any remedies available to the City under this ordinance or any other
19 authority. If the Permittee does not timely fulfill its obligations under this section, the City may
20 in its sole discretion remove the Facility and restore the public place at the Permittee's expense,
21 and collect the expenses in any manner provided by law.

22
23 Upon the Permittee's completion of removal and restoration in accordance with this
24 section, or upon the City's completion of the removal and restoration and the Permittee's
25 payment to the City for the City's removal and restoration costs, the Director shall then issue a
26 certification that the Permittee has fulfilled its removal and restoration obligations under this
27



1 ordinance. Upon prior notice to the Permittee and entry of written findings that it is in the public
2 interest, the Director may, in the Director's sole discretion, conditionally or absolutely excuse the
3 Permittee from compliance with all or any of the Permittee's obligations under this section.

4 **5. Repair or reconstruction.** The Facility shall remain the exclusive responsibility of the
5 Permittee and the Permittee shall maintain the Facility in good and safe condition for the
6 protection of the public. The ((Port)) Permittee shall not reconstruct or ((relocate)) repair the
7 Facility except ((under the supervision of the Board, and)) in strict accordance with plans and
8 specifications((;)) approved by the ((Board before any work is commenced)) Director. The
9 ((Board)) Director may, in ((its)) the Director's judgment ((may)), order ((such reconstruction or
10 relocation of)) the Facility reconstructed or repaired at the ((Port's own)) Permittee's cost and
11 expense because of: the deterioration or unsafe condition of the Facility((, or because of)); the
12 installation, construction, reconstruction, maintenance, operation, or repair of any ((and all))
13 municipally-owned public utilities((;)); or for any other reasonable cause.

14
15
16 **6. Failure to correct unsafe condition.** After written notice to the ((Port, the Board))
17 Permittee and failure of the Permittee to correct an unsafe condition within the time stated in the
18 notice, the Director may order the Facility be closed or removed at the Permittee's expense if the
19 ((Board)) Director deems that ((it)) the Facility has become unsafe or creates a risk of injury to
20 the public. If there is an immediate threat to the health or safety of the public, a notice to correct
21 is not required.

22
23 **7. Continuing obligations.** Notwithstanding termination or expiration of the permission
24 granted, or closure or removal of the Facility, the ((Port)) Permittee shall remain bound by all of
25 its obligations under this ordinance until ((a) the Facility and all its equipment and property are
26 removed from the street and b) the Board certifies that the Port has discharged its obligations
27



1 herein; provided, that the Board shall act in a timely manner to provide such certification and
2 shall not unreasonably withhold such certification; and further provided, that upon prior notice to
3 the Port and entry of written findings that such is in the public interest, the Board may, in its sole
4 discretion, excuse the Port, conditionally or absolutely, from compliance with all or any of the
5 Port's obligations to remove the Facility and its property and restore areas disturbed.) the
6 Director has issued a certification that the Permittee has fulfilled its removal and restoration
7 obligations under Section 4 of this ordinance. Notwithstanding the issuance of that certification,
8 the Permittee shall continue to be bound by the obligations in Section 8 of this ordinance and
9 shall remain liable for any unpaid fees assessed under Section 11 of this ordinance.

11 **8. Release, hold harmless, indemnification, and duty to defend.** ~~((The Facility shall~~
12 ~~remain the exclusive responsibility of the Port.)) The ~~((Port))~~ Permittee, by ~~((its acceptance))~~
13 accepting the terms of this ordinance ~~((and the permission hereby granted, does release));~~
14 releases the City, its officials, officers, employees, and agents; from and against any and all
15 claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and
16 description arising out of or by reason of the Facility or this ordinance; including but not limited
17 to claims resulting from injury, damage, or loss to ~~((its own))~~ the Permittee or the Permittee's
18 property ~~((and does covenant and agree for itself, its successors and assigns, with the City;)).~~~~

21 The Permittee agrees to at all times ~~((protect and save))~~ defend, indemnify, and hold

22 harmless the City, its officials, officers, employees, and agents; from and against all claims,
23 actions, suits, liability, loss, costs, ~~((expense))~~ expenses, attorneys' fees, or damages of every
24 kind and description, ~~((f))~~ excepting only ~~((such))~~ damages that may result from the sole
25 negligence of the City ~~((, which)), that may accrue to, be asserted by, or be suffered by ~~((;))~~ any~~
26 person or ~~((persons;))~~ property including, without limitation, damage, death, or injury to ~~((the~~



1 Port, its)) members of the public or to the Permittee's officers, agents, employees, contractors,
2 invitees, tenants ((and)), tenants' invitees, licensees, or ((their)) successors and assigns((;))
3 arising out of or by reason of:

4 (a) the existence, condition, construction, reconstruction, modification, maintenance,
5 operation ((or)), use, or removal of ((said)) the Facility ((or the occupation or use of Vine
6 Street,)) or any portion thereof, or ((by reason of)) the use, occupation, or restoration of the
7 public place or any portion thereof by the Permittee or any other person or entity;

8 (b) anything that has been done((;)) or may at any time be done((;)) by the ((Port, its
9 successors or assigns,)) Permittee by reason of this ordinance((, or by reason of the Port, its
10 successors or assigns,)); or

11 (c) the Permittee failing or refusing to strictly comply with ((each and)) every provision
12 of this ordinance; ((and if)) or

13 (d) this ordinance in any other way.

14
15
16 If any ((such)) suit, action, or claim ((shall be)) of the nature described above is filed,
17 instituted, or begun against the City((;)); the ((Port, its successors or assigns,)) Permittee
18 shall((;)) upon notice ((thereof)) from the City((;)) defend the ((same)) City, with counsel
19 acceptable to the City, at ((its or their)) the sole cost and expense of the Permittee, and ((in case))
20 if a judgment ((shall be)) is rendered against the City in any suit or action, the ((Port, its
21 successors, or assigns,)) Permittee shall fully satisfy ((said)) the judgment within 90 days after
22 ((such)) the action or suit ((shall have)) has been finally determined, if determined adversely to
23 the City. The Port has executed a Public Place Indemnity Agreement in favor of the City, dated
24 February 19, 1991, and recorded with the King County Recorder under Recording No.
25 9102271219. If it is determined by a court of competent jurisdiction that Revised Code of
26
27
28



1 Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are
2 caused by or result from the concurrent negligence of the City, its agents, contractors, or
3 employees; and the Permittee, its agents, contractors, or employees; this indemnity provision
4 shall be valid and enforceable only to the extent of the negligence of the Permittee or the
5 Permittee's agents, contractors, or employees.

6
7 **9A. Performance bond.** With the City's knowledge and permission, the ~~((Port))~~
8 Permittee has entered into a lease agreement with Clipper Navigation ~~((Lessee))~~ for use of the
9 Facility. ~~((The Port has delivered))~~ Within 60 days after the effective date of this ordinance, the
10 Permittee shall deliver to the Director ((of Engineering)) for filing with the City Clerk a ((good
11 and)) sufficient bond executed by a surety company authorized and qualified to do business in
12 the State of Washington that is: in the ((sum)) amount of ((Fifty Thousand and No/100ths
13 Dollars (\$50,000.00), executed by a surety company authorized and qualified to do business in
14 the State of Washington)) \$415,000, and conditioned with a requirement that the ((Port and
15 Clipper Navigation will)) Permittee and Lessee shall comply with ((each and)) every provision
16 of this ordinance and with ((each and)) every order ((of the Board pursuant thereto. Said bond, or
17 any replacement bond or other form of security acceptable to the City, shall remain)) the Director
18 issues under this ordinance. The Permittee shall ensure that the bond remains in effect until
19 ((such time as the Facility is entirely removed from its location as described in Section 1, or until
20 discharged by order of the Board of Public Works as provided in)) the Director has issued a
21 certification that the Permittee has fulfilled its removal and restoration obligations under Section
22 4 ((of this ordinance. In the event the Port requires any subleases of the Facility to procure public
23 liability insurance and name the Port as an additional named insured, the Port shall require the
24 sublease to name the City as an additional insured.)) An irrevocable letter of credit approved by
25
26
27
28



1 the City's Risk Manager may be substituted for the bond upon approval of the Director. In the
2 event that the Permittee assigns or transfers the permission granted by this ordinance, the
3 Permittee shall maintain in effect the bond or letter of credit required under this section until the
4 Director has approved the assignment or transfer pursuant to Section 10.

5 **9B. Insurance.** For as long as the Permittee exercises any permission granted by this
6 ordinance and until the Director has issued a certification that the Permittee has fulfilled its
7 removal and restoration obligations under Section 4, the Permittee shall obtain and maintain in
8 full force and effect, at its own expense, insurance and/or self-insurance that protects the
9 Permittee and the City from claims and risks of loss from perils that can be insured against under
10 commercial general liability (CGL) insurance policies in conjunction with:

- 11
12 (a) construction, reconstruction, modification, operation, maintenance, use, existence, or
13 removal of the Facility or any portion thereof, as well as restoration of any disturbed
14 areas of the public place in connection with removal of the Facility;
15
16 (b) the Permittee's and Lessee's activity upon or the use or occupation of the public place
17 described in Section 1 of this ordinance; and
18
19 (c) claims and risks in connection with activities performed by the Permittee and Lessee
20 by virtue of the permission granted by this ordinance.

21 Minimum insurance requirements are CGL insurance based on the Insurance Services Office
22 (ISO) form CG 00 01 or equivalent. The City requires insurance coverage to be placed with an
23 insurer admitted and licensed to conduct business in Washington State or with a surplus lines
24 carrier according to RCW Chapter 48.15. If coverage is placed with any other insurer or is
25 partially or wholly self-insured, such insurer(s) or self-insurance is subject to approval by the
26 City's Risk Manager.



1 Minimum limits of liability shall be \$2,000,000 each occurrence combined single limit
2 bodily injury and property damage, with \$4,000,000 annual aggregate. Coverage shall include
3 the “City of Seattle, its elected and appointed officers, officials, employees and agents” as
4 additional insureds for primary and non-contributory limits of liability subject to a Separation of
5 Insureds clause.

6 Within 60 days after the effective date of this ordinance, the Permittee shall provide to
7 the City, or cause to be provided, certification of insurance coverage including an actual copy of
8 the blanket or designated additional insured policy provision per the ISO CG 20 12 endorsement
9 or equivalent. The insurance coverage certification shall be delivered or sent to the Director or to
10 the Department of Transportation (SDOT) at an address as the Director may specify in writing
11 from time to time. The Permittee shall provide a certified complete copy of the insurance policy
12 to the City promptly upon request.

13 If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager
14 may be submitted in lieu of the insurance coverage certification required by this ordinance, if
15 approved in writing by the City’s Risk Manager. The letter of certification must provide all
16 information required by the City’s Risk Manager and document, to the satisfaction of the City’s
17 Risk Manager, that self-insurance equivalent to the insurance requirements of this ordinance is in
18 force. After a self-insurance certification is approved, the City may from time to time
19 subsequently require updated or additional information. The approved self-insured Permittee
20 must provide 30 days’ prior notice of any cancellation or material adverse financial condition of
21 its self-insurance program. The City may at any time revoke approval of self-insurance and
22 require the Permittee to obtain and maintain insurance as specified in this ordinance.
23
24
25
26
27
28



1 In the event that the Permittee assigns or transfers the permission granted by this
2 ordinance, the Permittee shall maintain in effect the insurance required under this section until
3 the Director has approved the assignment or transfer pursuant to Section 10.

4 9C. **Adjustment of insurance and bond requirements.** The Director, in consultation
5 with the City's Risk Manager, may adjust minimum liability insurance levels and surety bond
6 requirements during the term of this permission. If the Director and City's Risk Manager
7 determine that an adjustment is necessary to fully protect the interests of the City, the Director
8 shall notify the Permittee of the new requirements in writing. The Permittee shall, within 60 days
9 of the date of the notice of adjustment, provide proof of the adjusted insurance and surety bond
10 levels to the Director.

11 9D. **Contractor insurance.** The Permittee shall contractually require that any and all of
12 its contractors performing work on any premises contemplated by this permit name the "City of
13 Seattle, its elected and appointed officers, officials, employees and agents" as additional insureds
14 for primary and non-contributory limits of liability on all CGL, Automobile and Pollution
15 liability insurance and/or self-insurance. The Permittee shall also include in all contract
16 documents with its contractors a third-party beneficiary provision extending to the City
17 construction indemnities and warranties granted to the Permittee.

18 10A. **Consent for and conditions of assignment or transfer.** Except as provided for in
19 a lease agreement for use of the Facility, ((the Port shall not)) permission granted by this
20 ordinance shall not be assignable or transferable by operation of law; nor shall the Permittee
21 assign ((or)), transfer ((any privileges conferred by this ordinance)), mortgage, pledge or
22 encumber the same without the Director's consent ((of the Director.)), which the Director shall
23 not unreasonably refuse. The Director may approve assignment ((and/or transferal)) or transfer



1 of the ~~((permit))~~ permission granted by this ordinance to a successor entity ~~((in the case of a~~
2 ~~change of name and/or ownership provided that))~~ only if the successor or assignee has
3 ~~((demonstrated its acceptance of))~~ accepted in writing all of the terms and conditions of the
4 ~~permission granted ((to the initial Permittee. Whenever permission is granted, the assignee or~~
5 ~~transferee shall be bound by all of the terms and conditions of this ordinance. The permission~~
6 ~~conferred by this ordinance shall not be assignable or transferable by operation of law.))~~ by this
7 ordinance; has provided, at the time of the acceptance, the bond and certification of insurance
8 coverage required under this ordinance; and has paid any fees due under Section 11 of this
9 ordinance. Any person or entity seeking approval for an assignment or transfer of the permission
10 granted by this ordinance shall also provide the Director with a description of the current and
11 anticipated use of the Facility.

12
13
14 **10B. Obligations of successors and assigns.** The obligations and conditions imposed on
15 the Permittee by and through this ordinance are also imposed on the Permittee's successors
16 and/or assigns regardless of whether the Director has approved assignment or transfer of the
17 permission granted by this ordinance to such successors and/or assigns. All references in this
18 ordinance to obligations or conditions imposed on the "Permittee" shall also be deemed to refer
19 to the successors and assigns of the Permittee.

20
21 The obligations and conditions imposed on the Permittee by and through this ordinance
22 are covenants that run with the land and bind subsequent owners of the property adjacent to the
23 Facility and legally described in Section 1 of this ordinance (the "Property"), regardless of
24 whether the Director has approved assignment or transfer of the permission granted herein to
25 such subsequent owner(s). At the request of the Director, Permittee shall provide to the Director
26 a current title report showing the identity of all owner(s) of the Property and all encumbrances on
27



1 the Property. The Permittee shall, within 60 days of the effective date of this ordinance, and prior
2 to conveying any interest in the Property, deliver to the Director upon a form to be supplied by
3 the Director, a covenant agreement imposing the obligations and conditions set forth in this
4 ordinance, signed and acknowledged by the Permittee and any other owner(s) of the Property
5 and recorded with the King County Recorder's Office. The Director shall file the recorded
6 covenant agreement with the City Clerk. The covenant agreement shall reference this ordinance
7 by its ordinance number. At the request of the Director, Permittee shall cause encumbrances on
8 the Property to be subordinated to the covenant agreement.

10 11A. **Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or
11 successor provision, pay the City the amounts charged by the City to inspect the Facility during
12 construction, reconstruction, repair, annual safety inspections, and at other times deemed
13 necessary by the City. An inspection of the Facility by the City shall not be construed as a
14 representation, warranty, or assurance to the Permittee or any other person as to the safety,
15 soundness, or condition of the Facility. Any failure by the City to require correction of any defect
16 or condition shall not in any way limit the responsibility or liability of the Permittee.

18 11B. **Inspection reports.** The Permittee shall submit to the Director, or to the
19 Department of Transportation at an address specified by the Director, an inspection report that:

- 21 (a) describes the physical dimensions and condition of all load-bearing elements;
22 (b) describes any damages or possible repairs to any element of the Facility;
23 (c) prioritizes all repairs and establishes a timeframe for making repairs; and
24 (d) is stamped by a professional structural engineer licensed in the State of
25 Washington.

1 A report meeting the foregoing requirements shall be submitted within 60 days after the effective
2 date of this ordinance; subsequent reports shall be submitted every 2 years; provided that, in the
3 event of a natural disaster or other event that may have damaged the Facility, the Director may
4 require that additional reports be submitted by a date established by the Director. The Permittee
5 has the duty of inspecting and maintaining the Facility, and the responsibility to submit structural
6 inspection reports periodically or as required by the Director does not waive or alter any of the
7 Permittee's other obligations under this ordinance. The receipt of any reports by the Director
8 shall not create any duties on the part of the Director. Any failure by the Director to require a
9 report, or to require action after receipt of any report, shall not waive or limit the obligations of
10 the Permittee.

11
12 11C. Annual fee. Beginning on January 16, 2012, and annually thereafter, the Permittee
13 or the Lessee ((The Port, its successors and assigns,)) shall promptly pay to the City, upon
14 statements or invoices issued by the Director, an annual ((Street Use Permit Fees as established
15 by Council resolution.)) fee of \$13,473 as established by the Street Use Permit Fee Schedule, or
16 as adjusted annually thereafter, for the privileges granted by this ordinance. All payments shall
17 be made to the City Finance ((Department)) Director for ((the)) credit ((of)) to the Transportation
18 Operating Fund.

19
20
21 12. Compliance with other laws. ((The Port shall not discriminate against any employee
22 or applicant for employment in connection with the design, architectural or structural
23 engineering work or the construction, repair, or maintenance of the Facility permitted to be
24 erected pursuant to this ordinance, on the basis of race, creed, color, sex, marital status, sexual
25 orientation, political ideology, and ancestry, age, national origin, or the presence of any sensory,
26 mental or physical handicap unless based upon bona fide occupational qualification. The Facility
27



1 ~~shall be used and operated in accordance with the applicable public accommodation~~
2 ~~requirements of Chapter 14.08 of the Seattle Municipal Code.))~~

3 Permittee shall construct, maintain and operate the Facility in compliance with all
4 applicable federal, state, County and City laws and regulations. Without limitation, in all matters
5 pertaining to the Facility, the Permittee shall comply with the City's laws prohibiting
6 discrimination in employment and contracting including Seattle's Fair Employment Practices
7 Ordinance, Chapter 14.04 and Fair Contracting Practices code, Chapter 14.10 (or successor
8 provisions).

10 ***

11 **Section 3. Acceptance of terms and conditions.** The Permittee shall deliver to the
12 Director its written signed acceptance of the terms of this ordinance within 60 days after the
13 effective date of this ordinance. The Director shall file the written acceptance with the City
14 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
15 this ordinance shall be deemed to be declined or abandoned and the permission granted deemed
16 to be lapsed and forfeited and the Permittee shall, at its own expense, remove the Facility and all
17 of the Permittee's equipment and property and replace and restore all portions of the public place
18 as provided in Section 4 of Ordinance 115972, as further amended by Ordinance 121855 and as
19 further amended by this ordinance.
20
21

22 **Section 4. Section titles.** Section titles are for convenient reference only and do not
23 modify or limit the text of a section.

24 **Section 5. Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the
25 authority and in compliance with the conditions of this ordinance but prior to the effective date
26 of the ordinance is ratified and confirmed.
27
28



1 Section 22. 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 ____ day of _____, 2012, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2012.

7 _____
8 _____
9 President _____ of the City Council

10
11 Approved by me this ____ day of _____, 2012.

12 _____
13 _____
14 Michael McGinn, Mayor

15
16 Filed by me this ____ day of _____, 2012.

17 _____
18 Monica Martinez Simmons, City Clerk

19 (Seal)

20
21
22
23
24
25
26
27
28



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Rebecca Guerra/684-5339

Legislation Title:

AN ORDINANCE relating to a passenger boat moorage and loading facility located over and across Vine Street, west of Alaskan Way, amending Ordinance 115972, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to the Port of Seattle; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation amends Ordinance 115972, as amended by Ordinance 121855, for the Port of Seattle to continue maintaining and operating the existing passenger boat moorage and loading facility located over and across the submerged portion of Vine Street, west of Alaskan Way. An area map is attached for reference.

This permit is renewed for a ten-year term starting on January 16, 2012. The legislation updates the insurance and surety bond provisions as recommended by the City's Risk Manager, specifies the conditions under which authorization is granted, and provides for acceptance of the permit and conditions.

The ordinance requires the Port of Seattle, or the lessee, to pay the City an annual fee of \$13,473 starting from January 16, 2012, and annually thereafter. Adjustments to the annual fee may be made every year and if so made shall be calculated in accordance with the Street Use Permit Fee Schedule adopted by the City Council by Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, and 123485 as amended by Ordinances 123585 and 123907. An Annual Fee Appraisal Summary is attached for reference.

Background:

By Ordinance 115972, the City granted permission to the Port of Seattle to construct, operate, and maintain a passenger boat moorage and loading facility located over and across the submerged portion of Vine Street, west of Alaskan Way, for a ten-year term, renewable for two successive ten-year terms.



The conditions of Ordinance 115972 were amended by Ordinance 121855. The permission authorized by Ordinance 115972 was due for renewal on January 15, 2012.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations: N/A

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Annual Fee –	\$13,473	\$13,473
TOTAL			\$13,473	\$13,473

Revenue/Reimbursement Notes: None

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

Do positions sunset in the future? No

Spending/Cash Flow: N/A

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?
If the legislation is not enacted by the City Council, the City of Seattle will not receive the annual fee of \$13,473. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis.
- 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?**

No

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, an area map is attached for reference.

h) **Other Issues:** N/A

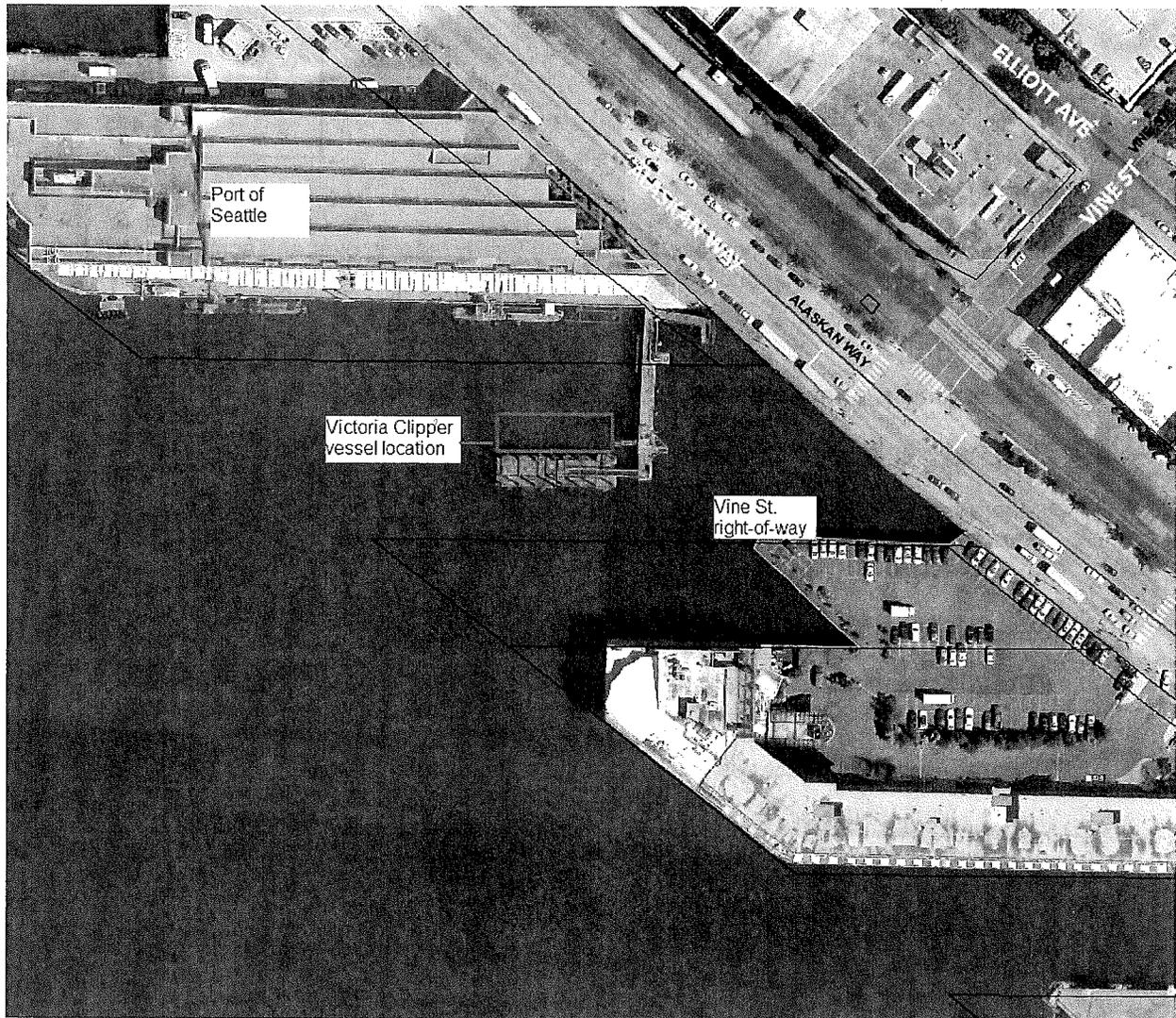
List attachments to the fiscal note below:

Attachment A – Port of Seattle/Victoria Clipper Moorage Area Map

Attachment B – Annual Fee Assessment Summary



Attachment A – Port of Seattle/Victoria Clipper Moorage Area Map



Map is for informational purposes only and is not intended to modify or supplement the legal description(s) in the Ordinance.



Attachment B - Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 7/13/12

<p><u>Summary:</u> First Year Permit Fee: \$13,473</p>
--

I. Property Description:

Existing passenger boat moorage and loading facility located over and across the submerged portion of Vine Street, west of Alaskan Way.

Applicant:

Port of Seattle, owner; Victoria Clipper, lessee.

Use Description:

Moorage: 4,120 SF
Structures (pier, dock, loading platform, pilings, etc.): 3,733 SF

II. Annual Fee Assessment:

The 2012 permit fee is calculated according to the Street Use Permit Fee Schedule authorized under Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, and 123485 as amended by Ordinances 123585 and 123907, for permit types 12A, Moorage, and 7A, Structures and overhangs in underwater streets.

Moorage: $(\$0.14/\text{SF}/\text{MO}) \times (4,120 \text{ SF}) + \$140 \text{ renewal fee} = \$7,061.60$
Structures: $(\$0.14/\text{SF}/\text{MO}) \times (3,733 \text{ SF}) + \$140 \text{ renewal fee} = \$6,411.44$

Total permit fee: \$13,473





City of Seattle
Office of the Mayor

July 31, 2012

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

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that will grant to the Port of Seattle a ten-year renewal permit for an existing passenger boat moorage and loading facility over and across the submerged portion of Vine Street, west of Alaskan Way, as authorized by Ordinance 115972.

The existing passenger boat moorage and loading facility is operated by the Victoria Clipper Ferry under lease from the Port of Seattle. In addition to granting a new ten-year permit renewal, the proposed Council Bill updates the insurance and bond requirements, updates the annual fee, and specifies the conditions under which authorization is granted.

Thank you for your consideration of this legislation. Should you have questions, please contact Angela Steel at 684-5967.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

