

CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL 117688

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Lake Washington Boulevard South located beneath and adjacent to a parking lot between 48th Avenue South and 49th Avenue South, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair, and operation of a combined sewer overflow underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

WHEREAS, by Ordinance 29998 (September 1912), Block 79, Maynard's Lake Washington Addition to the City of Seattle was set over and transferred to the control and jurisdiction of the Board of Park Commissioners; and

WHEREAS, a parking lot exists within the boundaries of the park boulevard known as Lake Washington Boulevard South, in Block 79, Maynard's Lake Washington Addition to the City of Seattle, between 48th Avenue South and 49th Avenue South (Parking Lot); and

WHEREAS, the City of Seattle, operating through Seattle Public Utilities (SPU), owns and operates a combined sewer system that overflows during heavy rain events; and

WHEREAS, the combined sewer system overflows (CSOs) are governed by the State of Washington under the terms of a National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, based on the volume of overflows and their impact on water quality in Lake Washington, Basins 40 and 41, which are upland of the Parking Lot, have been identified in the NPDES permit as a priority for CSO reduction, including regulatory milestones for completion of a capital improvement project; and

WHEREAS, after nearly two years of study and discussions with residents and other interested stakeholders, SPU has determined that constructing an underground storage tank beneath the Parking Lot will address, in part, the reduction in CSOs required by the NPDES permit; and

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2 WHEREAS, the Department of Parks and Recreation (DPR) and SPU have determined that
3 transfer of partial jurisdiction of the area to be occupied by the underground storage tank,
4 associated underground pipes and electrical lines, and limited surface ancillary facilities
5 from DPR to SPU is appropriate because of the permanent nature of the tank and
6 ancillary facilities and to facilitate efficient on-going maintenance, repair and operation
7 of the underground storage tank and ancillary facilities by SPU; and

8 WHEREAS, the City Council has held a public hearing in accordance with the requirements of
9 Section 3 of Ordinance 118477, adopting Initiative 42; NOW, THEREFORE,

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

11 Section 1. The City Council hereby finds that the transfer of limited and partial
12 jurisdiction of a portion of Lake Washington Boulevard, as described in Section 2 below, from
13 the Department of Parks and Recreation (DPR) to Seattle Public Utilities (SPU) for the
14 maintenance, repair, and operation of a combined sewer overflow underground storage tank,
15 associated underground pipes and electrical lines, and limited surface ancillary facilities (CSO
16 Facility) to reduce combined sewer system overflows into Lake Washington, meets the
17 requirements of Ordinance 118477, adopting Initiative 42, as follows: (a) the proposed use is
18 necessary because there is no reasonable and practical alternative location for the CSO Facility;
19 (b) transfer of limited and partial jurisdiction for maintenance, repair, and operation of the CSO
20 Facility is equivalent to a subsurface or utility easement, as permitted by Section 3 of Ordinance
21 118477; and (c) the CSO Facility is compatible with park use because it is compatible with the
22 current use of the property for parking and landscaping.

23 Section 2. Effective as of the date of completion of the CSO Facility (which shall be
24 constructed pursuant to authorization and terms and conditions of a permit for non-park use of
25 park property issued by DPR), such limited and partial jurisdiction of the real property legally
26 described and depicted in Attachment 1, attached hereto and incorporated herein, (Use Area) as
27 shall be necessary for the maintenance, repair, and operation of the CSO Facility is transferred
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from the DPR to SPU on the conditions that (a) SPU shall give the DPR at least 5 days notice of intent to access the Use Area for maintenance and repair, except in case of emergency, and shall coordinate with DPR to avoid time periods when heavy use of public parking is anticipated; (b) after any maintenance and repair, SPU will restore the Use Area, at SPU's expense, to at least the condition existing immediately prior to such maintenance and repair; and (c) SPU shall not use any park land outside of the Use Area, except for access purposes permitted in Section 3 below, for such maintenance and/or repair without the prior written approval of the DPR. Both SPU and DPR understand that notwithstanding the legal descriptions in Attachment 1, all of the Use Area except that portion occupied by limited surface ancillary facilities is subsurface.

Section 3. In order to access the Use Area, SPU shall have reasonable pedestrian access across the adjacent park land, or vehicular access if required for maintenance or repair, but only on the paved parking lot. SPU shall restore any park land, vegetation or improvements damaged by such access, at SPU's expense, to at least the condition existing immediately prior to such maintenance and repair.

1 Section 4. 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 _____, 2013, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2013.

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President _____ of the City Council

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11 Approved by me this ____ day of _____, 2013.

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Michael McGinn, Mayor

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16 Filed by me this ____ day of _____, 2013.

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Monica Martinez Simmons, City Clerk

20 (Seal)

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25 Attachment 1: Use Area

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Attachment 1: Use Area

PARTIAL TRANSFER OF JURISDICTION
FOR UNDERGROUND UTILITIES
LAND DESCRIPTION

THAT PORTION OF THE SE QUARTER OF THE NE QUARTER AND THE NE QUARTER OF THE SE QUARTER OF SECTION 15, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., UNDER THE JURISDICTION OF THE SEATTLE DEPARTMENT OF PARKS AND RECREATION AS GRANTED TO THE CITY OF SEATTLE FOR PARK, PARKWAY AND BOULEVARD PURPOSES PURSUANT TO ORDINANCES 26273, 29953, 29998 DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT IN A CASE AT THE INTERSECTION OF THE CENTERLINES OF 49TH AVENUE SOUTH AND SOUTH ANDOVER STREET; THENCE N 89° 00' 13" W ALONG THE CENTERLINE OF SOUTH ANDOVER STREET A DISTANCE OF 310.15 FEET TO A CONCRETE MONUMENT AT THE INTERSECTION OF 48TH AVE SOUTH; THENCE N 01° 00' 02" E A DISTANCE OF 100.42 FEET TO THE POINT OF BEGINNING;

THENCE S 89° 29' 05" E A DISTANCE OF 24.55 FEET;

THENCE S 62° 52' 49" E A DISTANCE OF 64.02 FEET;

THENCE S 31° 31' 32" E A DISTANCE OF 26.54 FEET;

THENCE S 51° 15' 05" E A DISTANCE OF 50.17 FEET;

THENCE S 03° 07' 35" E A DISTANCE OF 39.66 FEET;

THENCE S 84° 20' 16" E A DISTANCE OF 78.25 FEET;

THENCE S 73° 55' 03" E A DISTANCE OF 22.73 FEET;

THENCE S 79° 42' 38" E A DISTANCE OF 15.47 FEET;

THENCE S 89° 00' 17" E A DISTANCE OF 43.54 FEET TO THE FACE OF A CONCRETE CURB AND TO THE BEGINNING OF A NON TANGENT 69.64 FOOT RADIUS CURVE WHICH RADIUS BEARS N 88° 16' 02" W;

THENCE SOUTHERLY LEAVING THE FACE OF THE CONCRETE CURB ALONG THE ARC OF THE CURVE THROUGH A CENTRAL ANGLE OF 52° 20' 18" A DISTANCE OF 63.61 FEET TO THE FACE OF A CONCRETE CURB;

Attachment 1: Use Area

THENCE LEAVING THE FACE OF CONCRETE CURB S 39° 54' 47" W A DISTANCE OF 38.77 FEET;

THENCE N 40° 16' 34" W A DISTANCE OF 41.68 FEET;

THENCE N 12° 59' 30" E A DISTANCE OF 22.83 FEET;

THENCE N 49° 24' 59" W A DISTANCE OF 66.80 FEET;

THENCE N 04° 26' 57" E A DISTANCE OF 19.10 FEET;

THENCE N 48° 34' 27" W A DISTANCE OF 62.90 FEET;

THENCE S 50° 40' 52" W A DISTANCE OF 80.43 FEET;

THENCE N 63° 02' 45" W A DISTANCE OF 44.53 FEET;

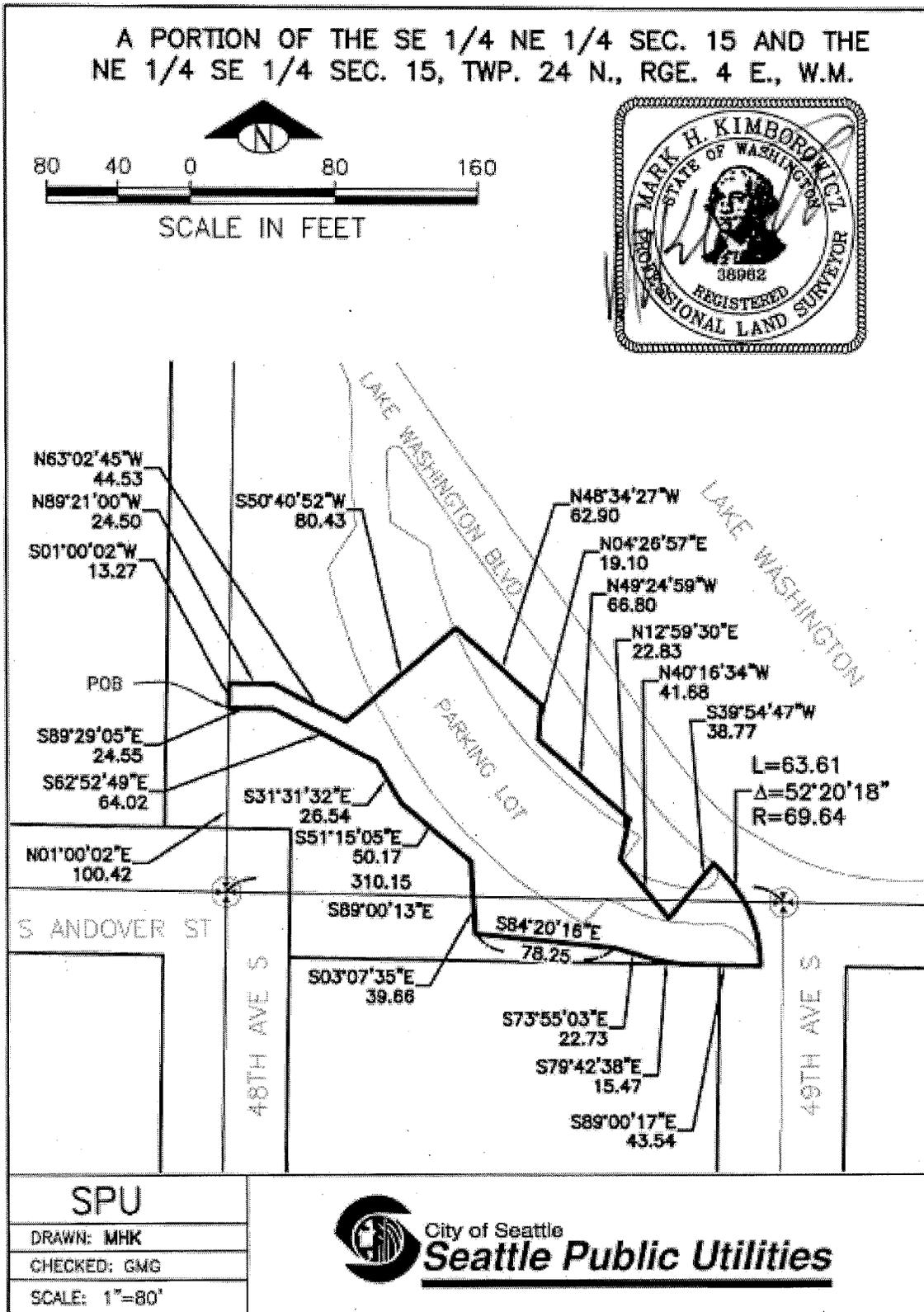
THENCE N 89° 21' 00" W A DISTANCE OF 24.50 FEET;

THENCE S 01° 00' 02" W A DISTANCE OF 13.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 18,683 SQ. FT., MORE OR LESS.



Attachment 1: Use Area



Attachment 1: Use Area

PARTIAL TRANSFER OF JURISDICTION
FOR UNDERGROUND AND ABOVE GROUND UTILITIES
LAND DESCRIPTION

THAT PORTION OF THE NE QUARTER OF THE SE QUARTER OF SECTION 15,
TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., UNDER THE JURISDICTION OF THE
SEATTLE DEPARTMENT OF PARKS AND RECREATION AS GRANTED TO THE
CITY OF SEATTLE FOR PARK, PARKWAY AND BOULEVARD PURPOSES
PURSUANT TO ORDINANCES 26273, 29953, 29998 DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT IN A CASE AT THE INTERSECTION
OF THE CENTERLINES OF 49TH AVENUE SOUTH AND SOUTH ANDOVER STREET;
THENCE N 89° 00' 13" W ALONG THE CENTERLINE OF SOUTH ANDOVER STREET
A DISTANCE OF 310.15 FEET TO A CONCRETE MONUMENT AT THE
INTERSECTION OF 48TH AVE SOUTH; THENCE S 85° 54' 54" E A DISTANCE OF
194.69 FEET TO THE POINT OF BEGINNING;

THENCE N 29° 36' 13" E A DISTANCE OF 15.00 FEET;

THENCE S 60° 23' 47" E A DISTANCE OF 12.00 FEET;

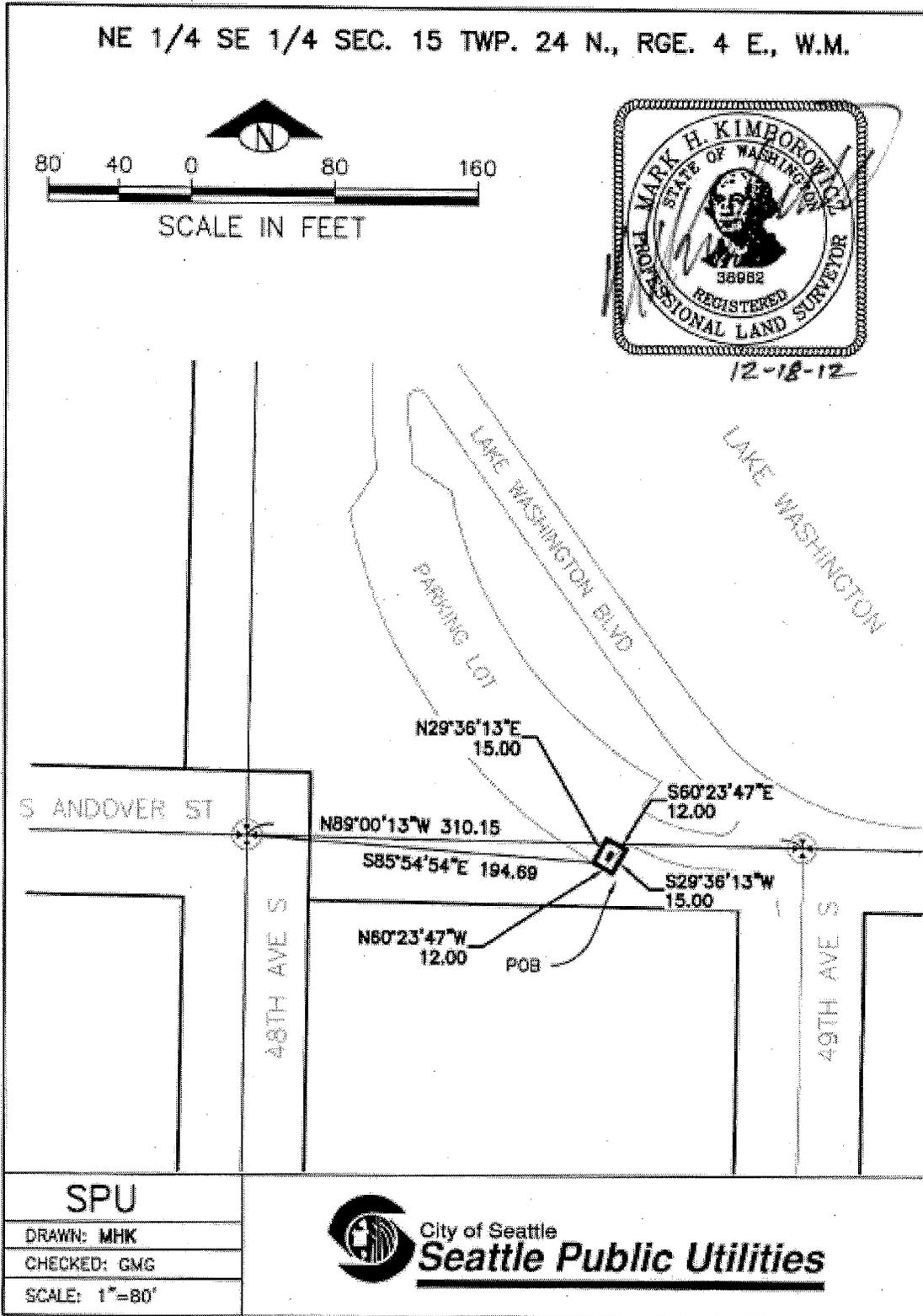
THENCE S 29° 36' 13" W A DISTANCE OF 15.00 FEET;

THENCE N 60° 23' 47" W A DISTANCE OF 12.00 FEET TO THE POINT OF
BEGINNING.

CONTAINING 180 SQ. FT., MORE OR LESS.



Attachment 1: Use Area



Attachment 1: Use Area

PARTIAL TRANSFER OF JURISDICTION
FOR UNDERGROUND UTILITIES
LAND DESCRIPTION

THAT PORTION OF THE NE QUARTER OF THE SE QUARTER OF SECTION 15,
TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., UNDER THE JURISDICTION OF THE
SEATTLE DEPARTMENT OF PARKS AND RECREATION AS GRANTED TO THE
CITY OF SEATTLE FOR PARK, PARKWAY AND BOULEVARD PURPOSES
PURSUANT TO ORDINANCES 26273, 29953, 29998 DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT IN A CASE AT THE INTERSECTION
OF THE CENTERLINES OF 49TH AVENUE SOUTH AND SOUTH ANDOVER STREET;
THENCE N 89° 00' 13" W ALONG THE CENTERLINE OF SOUTH ANDOVER STREET
A DISTANCE OF 310.15 FEET TO A CONCRETE MONUMENT AT THE
INTERSECTION OF 48TH AVE SOUTH; THENCE S 78° 43' 57" E A DISTANCE OF
196.29 FEET TO A POINT ON THE SOUTHERLY MARGIN OF SOUTH ANDOVER
STREET AND THE POINT OF BEGINNING;

THENCE N 00° 59' 47" E A DISTANCE OF 10.00 FEET;

THENCE S 89° 00' 13" E A DISTANCE OF 5.00 FEET;

THENCE N 00° 59' 47" W A DISTANCE OF 24.71 FEET;

THENCE S 89° 00' 13" E A DISTANCE OF 10.00 FEET;

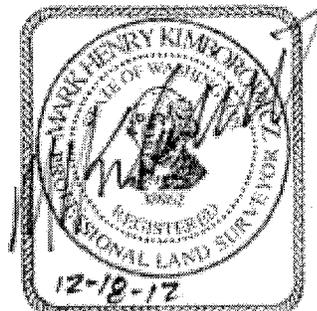
THENCE S 00° 59' 47" W A DISTANCE OF 24.71 FEET;

THENCE S 89° 00' 13" E A DISTANCE OF 74.69 FEET;

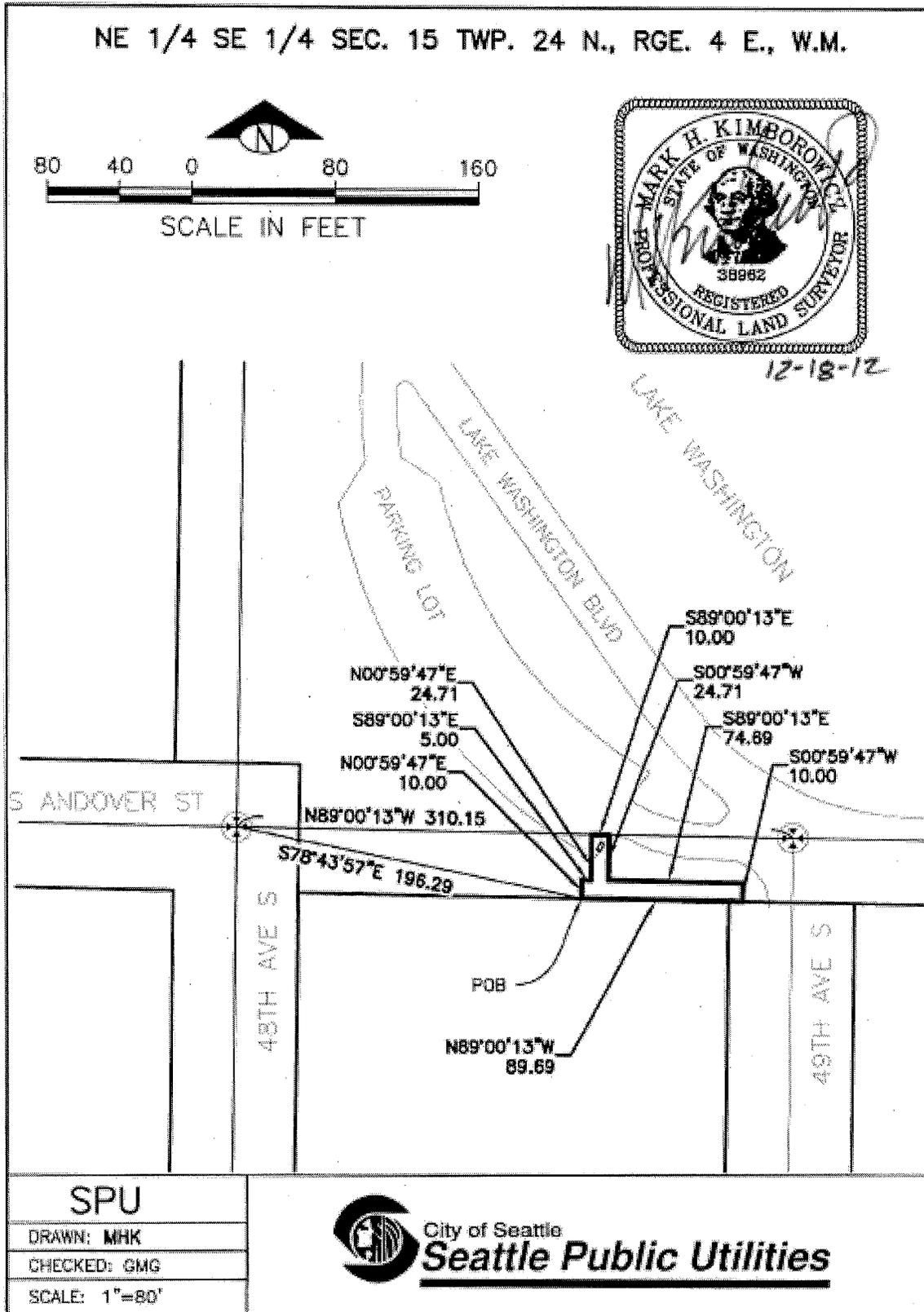
THENCE S 00° 59' 47" W A DISTANCE OF 10.00 FEET TO A POINT ON THE
SOUTHERLY MARGIN OF SOUTH ANDOVER STREET;

THENCE CONTINUING ALONG SAID MARGIN N 89° 00' 13" W A DISTANCE OF
89.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 1144 SQ. FT., MORE OR LESS.



Attachment 1: Use Area



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Andrew Lee/6-9754 Donald Harris/4-8018	Karl Stickel/4-8085 Jeff Muhm/4-8049

Legislation Title:

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Lake Washington Boulevard South located beneath and adjacent to a parking lot between 48th Avenue South and 49th Avenue South, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair, and operation of a combined sewer overflow underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

Summary of the Legislation:

This legislation would transfer partial jurisdiction for part of a parking lot property between 48th Avenue South and 49th Avenue South, within the boundaries of the park boulevard known as Lake Washington Boulevard, from the Department of Parks and Recreation (Parks) to Seattle Public Utilities (SPU). SPU needs to use the subsurface area to maintain, repair, and operate an underground sewage/stormwater storage tank and associated pipes and electrical lines, and a small surface area for limited surface ancillary facilities to comply with state and federal water quality regulations.

The legislation includes findings that the transfer of partial jurisdiction meets the requirements of Ordinance 118477 (Initiative 42). Specifically, (a) the proposed use is necessary because there is no reasonable and practical alternative location for the underground storage tank; (b) transfer of limited and partial jurisdiction for maintenance, repair, and operation of the tank is equivalent to a subsurface or utility easement, as permitted by Section 3 or Ordinance 118477; and (c) the tank, pipes, electrical lines, and limited surface ancillary facilities are compatible with park use because they are compatible with the current use of the property for parking and landscaping.

Background:

The City's combined sewer overflow (CSO) discharge permit from the Washington State Department of Ecology (Ecology) requires SPU construct facilities to reduce CSO discharges into Lake Washington. The State Department of Ecology identifies the Genesee Basins 40 and 41, which are upland of the parking lot, as a priority to construct a CSO reduction project by 2015. Through a comprehensive siting analysis and public involvement process, SPU determined the only practical and reasonable alternative to reducing CSOs in this basin is to construct an underground storage tank in the parking lot located between 48th Avenue South and 49th Avenue South. This parking lot is within the boundaries of the park boulevard known as Lake

Washington Boulevard.

Ordinance 118477 does not require replacement property for transfer or change of use or subsurface or utility easements compatible with park use. The proposed transfer of partial and limited jurisdiction is equivalent to a subsurface or utility easement and the installation of an underground tank, associated pipes and electrical lines, and limited surface ancillary facilities are compatible with park use because they are compatible with the current use of the property for parking and landscaping.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

The capital project to construct the underground storage tank is included in the 2013-2018 Adopted Drainage and Wastewater Fund capital appropriations (S. Genesee Combined Sewer Overflow – Project C3608), within the Combined Sewer Overflows Budget Control Level (BCL) (C360B). There is no direct charge for the partial transfer of jurisdiction from Parks to SPU authorized under this legislation. SPU and Parks are negotiating the terms of a revocable use permit because of temporary construction impacts to the site. SPU has set aside approximately \$50,000 for the revocable use permit in the project's capital budget. No additional appropriations are being requested due to this legislation.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
SPU and Parks are negotiating the terms of a revocable use permit, because of the temporary construction impacts to the parking lot site. SPU has set aside approximately \$50,000 for the revocable use permit in the project's budget, which is part of the adopted budget for the Drainage and Wastewater Fund, Combined Sewer Overflows BCL.
- b) **What is the financial cost of not implementing the legislation?**
Limited alternatives exist for reducing CSOs in the Genesee Basins 40 and 41. Aside from the proposed alternative, SPU could implement one of the following alternatives: (1) violate the requirements of the NPDES permit and pay fines of up to \$10,000 per day; (2) construct an underground storage tank in Genesee Park and associated piping underneath Lake Washington Blvd; or (3) purchase multiple private properties along Lake Washington Boulevard and constructing the underground storage tank on the private parcel.

Alternatives 2 and 3 would both add approximately \$5 million to the project budget.

- c) **Does this legislation affect any departments besides the originating department?**
Yes, the legislation will have operational impacts on the Department of Parks &

Recreation (Parks), since the parking lot site will be unavailable for use during the year long construction period of the underground tank. After construction is completed, Parks' operations will be minimally impacted.

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

There are no alternatives to the legislation.

e) Is a public hearing required for this legislation?

Yes, pursuant to Ordinance 118477 a public hearing is required. The target date for a public hearing regarding this legislation is January 17, 2013. The public hearing will be held at the City Council's Parks & Neighborhoods Committee meeting.

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

Yes, notice of the legislation and the public hearing will be published in *The Daily Journal of Commerce* two weeks prior to the public hearing date.

g) Does this legislation affect a piece of property?

Yes, the legislation affects the parking lot between 48th Avenue South and 49th Avenue South, within the park boulevard known as Lake Washington Boulevard. A map of the project area is attached.

h) Other Issues:

None.

List attachments to the fiscal note below:

Project Area Map

Andrew Lee
 SPU I-42 Genesee 40 and 41 FISC
 December 13, 2012
 Version #6



DECEMBER 2012



APPROVED FOR ADVERTISING:
 NANCY LOCKE
 CHIEF OF STAFF & ADVERTISING SERVICES
 SEATTLE, WASHINGTON
 BY: [Signature]

NAME OR NUMBER AND DATE	DATE	DESCRIPTION
TRIP	12/13/12	FIELD VISIT
DESIGN	12/13/12	FIELD VISIT
CONSTRUCTION	12/13/12	FIELD VISIT
OPERATION	12/13/12	FIELD VISIT

Seattle Public Utilities
 City of Seattle
 Ray Holman, Director
 APPROVED

SEATTLE PUBLIC UTILITIES
 GENESSEE CSO
 REDUCTION PROJECT

PROJECT NO.	CS03103
DATE	12/13/12
SCALE	AS SHOWN
SHEET NO.	OF 3

49TH AVE SOUTH PARKING LOT VICINITY



City of Seattle
Office of the Mayor

December 26, 2012

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

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would authorize partial transfer of property jurisdiction from the Department of Parks and Recreation to Seattle Public Utilities for an underground sewage storage tank at a parking lot at 49th Avenue South and Lake Washington Boulevard South.

During heavy rains, Seattle's sewer system lacks the capacity to contain the large volumes of stormwater runoff and sanitary sewage and, as a result, millions of gallons of combined sewage are discharged into Lake Washington each year. The City of Seattle, acting through Seattle Public Utilities, must reduce combined sewage overflows into Lake Washington to meet the terms of a National Pollutant Discharge Elimination System (NPDES) permit. The proposed underground storage tank will retain combined sewage until the downstream system empties and it can be sent to a King County treatment plant for processing.

This project will enable the City to improve its sewage system, reduce flows of diluted sewage into Lake Washington, and meet the terms of its NPDES permit. Thank you for your consideration of this legislation. Should you have questions, please contact Andrew Lee (Seattle Public Utilities) at 733-9066 or Don Harris (Seattle Parks & Recreation) at 684-8018.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council