#3

Effie K. Moody SPU 701 Orchard ORD March 11, 2013 Version # 3

### **CITY OF SEATTLE**

1	ORDINANCE
2	
3	COUNCIL BILL \\7766
4	AN ORDINANCE relating to Seattle Public Utilities; declaring certain reserved real property rights relating to sewer facilities within the vacated portion of 7 <sup>th</sup> Avenue South, and
5	easement rights related to storm water runoff at 701 South Orchard Street as being surplus to City utility needs; authorizing the Director of Seattle Public Utilities to
6	relinquish such easement rights; authorizing the Director of Seattle Public Utilities to accept an easement from Seattle Iron & Metals Company for conveyance of stormwater
7	runoff through private property from city-owned drainage facilities in portions of South Garden Street; and ratifying and confirming certain prior acts.
8	Garden Succe, and rainying and commining contain prior acts.
9	WHEREAS, the City of Seattle in 1936 pursuant to street vacation Ordinance 66185 reserved rights for a sewer pipe drain in a vacated portion of 7 <sup>th</sup> Avenue South, which is now part
10	of private property at 701 South Orchard Street owned by certain Seattle Iron & Metals
11	Company entities (SIMCO); and
12	WHEREAS, SIMCO desires to expand its operations at its 701 South Orchard Street property
13	and use the area where the City has its reserved rights for a sewer pipe drain; and
14	WHEREAS, Seattle Public Utilities (SPU) no longer needs the reserved easement rights for a sewer pipe drain acquired pursuant to Ordinance 66185 and which is surplus to the City'
15	needs; and
16	WHEREAS, SIMCO's predecessor, Manson Construction and Engineering Co., under King
17	County Recording No. 8509130874, granted the City an "Easement for Storm Water Runoff, accepted by Ordinance 116511; and
18	
19	WHEREAS, the City desires to relinquish said easement and accept a new easement from SIMCO which clarifies current ownership of drainage infrastructure and responsibilities
20	for stormwater runoff from 701 South Orchard Street and the right-of-way of South Garden Street; and
21	
22	WHEREAS, SIMCO is willing to grant the City a new easement for the conveyance of stormwater runoff from portions of South Garden Street in exchange for the City's
23	relinquishment of its easement rights for a sewer pipe in vacated 7 <sup>th</sup> Avenue South reserved under Ordinance 66185, and the City's relinquishment the Easement for Storm

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

COLERK COLERK

Form Last Revised on December 11, 2009

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Water Runoff accepted by Ordinance 116511; NOW THEREFORE,

-

 Section 1. Pursuant to the provisions of RCW 35.94.040, the reserved easement right for a sewer pipe drain per street vacation Ordinance 66185, and easement rights for stormwater runoff as accepted by Ordinance 116511, are hereby found and declared to be no longer required for municipal utility purposes and are surplus to the City of Seattle's needs, and Ordinance 116511 is hereby repealed.

Section 2. The Director of Seattle Public Utilities, or his designee, is authorized to execute for and on behalf of the City of Seattle, the relinquishment of the reserved easement for a sewer pipe drain as shown in Attachment 1.

Section 3. The Director of Seattle Public Utilities, or his designee, is authorized to execute for and on behalf of the City of Seattle, the relinquishment of the easement for stormwater runoff as shown in Attachment 2.

Section 4. The City hereby accepts and places under the jurisdiction of Seattle Public Utilities the easement granted to the City of Seattle by Seattle Iron & Metals Corp., Shalmar Group, LLC, Shalmar 08, LLC, and SIMCO Properties, LLC, (collectively, "SIMCO") for conveyance of drainage water from the public right-of-way from South Garden Street through SIMCO property to the Lower Duwamish Waterway, as shown in Attachment 3.

Section 5. Any act pursuant to and prior to the effective date of this ordinance is hereby ratified and confirmed.

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Section 6. This ordinance shall take effect and be in force thirty (30) days from and 1 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) 2 3 days after presentation, it shall take effect as provided by 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 day of 6 7 , 2013. 8 President \_\_\_\_\_of the City Council 9 10 Approved by me this \_\_\_\_ day of \_\_\_\_\_\_, 2013. 11 12 13 Michael P. McGinn, Mayor 14 15 Filed by me this day of , 2013. 16 17 18 Monica Martinez Simmons, City Clerk 19 (Seal) 20 21 22 23 ATTACHMENT 1- Relinquishment of Reserved Easement ATTACHMENT 2- Relinquishment of Easement for Storm Water Runoff 24 ATTACHMENT 3- Easement (Incl. Exhibits 1 and 2) 25 26 27 2.8



Judith Cross SPU 701 Orchard ORD ATT 1 March 18, 2013 Version #1

#### Attachment 1

Recording Requested By And When Recorded Mail To:

Seattle Public Utilities Real Property Services PO Box 34018 Seattle WA 98124-4018

## RELINQUISHMENT OF RESERVED EASEMENT

Reference #s of Documents Released or Assigned:	Seattle Ordinance 66185 reservation
Grantor:	City of Seattle
Grantee:	Shalmar Group, LLC, SIMCO Properties, LLC, Shalmar 08, LLC, and
	Seattle Iron & Metals Corporation ("SIMC")
Legal Description (abbreviated):	Pt of SE 1/4 Pt of SW 1/4 Sec 29, T 24 N, R4 E
	Pt of 21362000380, 2136200706, 2924049089
TEDDODOG B TEST DE OFFICE DE CONTROL DE CONT	, ,

SIMC Agreement/701 S. Orchard Street RW# 2008-023

The City of Seattle, a municipal corporation of the State of Washington, ("Grantor"), acting by and through Seattle Public Utilities, for and in consideration of \$1.00 (ONE DOLLAR), receipt of which is hereby acknowledged, does hereby relinquish a reserved property right for drainage to Shalmar Group LLC, SIMCO Properties, LLC, Seattle Iron & Metal Corp. and Shalmar 08, LLC, three Washington State Limited Liability Companies and a Washington State Corporation, collectively "SIMC", ("Grantee"), their successors and assigns, and

WHEREAS, such real property rights were reserved in a easement to the City of Seattle for future construction of a sewer pipe drain along a line approximately thirty feet east of and parallel with the west line of 7<sup>th</sup> Avenue South, together with the right to operate and maintain such drain after its construction.

THEREFORE, the real property rights reserved as an easement for sewer drain pipe purposes as stated in Section 1 of City of Seattle Vacation Ordinance 66185, dated March 31, 1936, is no longer required for municipal utility purposes and is surplus to the City of Seattle's utility needs and hereby relinquished to Grantee.



Judith Cross SPU 701 Orchard ORD ATT 1 March 18, 2013 Version #1

IN WITNESS THEREOF, Grantor executes the Utilities as authorized by Ordinance	nis documer , this	nt through its Dire	ector of Seattle Public , 2012.
THE CITY OF SEATTLE			
By:		•	
Ray Hoffman, Director, Seattle Public Util	ities	:	
	·		
STATE OF Washington)			
) ss.	•		
COUNTY OF King )			
•	·		
I certify that I know or have satisfactory evide before me, and signed this instrument, on oat instrument and acknowledged it as the Direct Seattle, a municipal corporation of the State of such party for the uses and purposes mentioned	th stated that ctor of <b>Sea</b> of Washingt	at they were auth attle Public Utilition, to be the free	orized to execute the ities, of The City of
	Dated		
Notary (print name	e)		
Notary P	ublic in and	for the State of_	
residing	at		· · ·
My appointment e	expires	a since year of the section of the s	

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Judith Cross SPU 701 Orchard ORD ATT2 March 18, 2013 Version #1

## Attachment 2

Recording Requested By And When Recorded Mail To:

Seattle Public Utilities Real Property Services PO Box 34018 Seattle WA 98124-4018

## RELINQUISHMENT OF EASEMENT

Reference #s of Documents Released or Assigned:	KC #8509130874, as accepted by City of Seattle Ordinance 116511
Grantor:	City of Seattle
Grantee:	Shalmar Group, LLC, SIMCO Properties,
Giantee	LLC, Shalmar 08, LLC,
	and Seattle Iron & Metals Corporation
	("SIMC")
Legal Description (abbreviated):	Pt of SE 1/4 Pt of SW 1/4 Sec 29,
Degui Debetipatora (ususus anno anno anno anno anno anno anno ann	T 24 N, R4 E
Assessor's Tax Parcel ID#:	Pt of 2136200706, 2924049089, 2136200380
	SIMC/701 S. Orchard St
	RW# 2008-023
and through Seattle Public Utilities, for and in corof which is hereby acknowledged, does hereby relato Shalmar Group LLC, SIMCO Properties, Shalmar 08, LLC, three Washington State Limits State Corporation, collectively "SIMC", ("Grante	inquish an Easement for Storm Water Runoff, LLC, Seattle Iron & Metal Corp. and ited Liability Companies and a Washington
WHEREAS, The City of Seattle and SIMC have en recorded under King County Recording No obligations for stormwater management and control	ntered into an agreement, dated, andto clarify responsibilities and
recorded under King County Recording No	to clarify responsibilities and lon the SIMC properties and adjacent streets.  d in the Easement for Storm Water Runoff as 09130874 relating to drainage in the SIMC



March 18, 2013 Version #1 December 21, 1992, are hereby found and declared to be no longer required for municipal utility purposes and are surplus to the City of Seattle's utility needs and are hereby relinquished to Grantee. IN WITNESS THEREOF, Grantor executes this document through its Director of Seattle Public Utilities as authorized by Ordinance \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2012. THE CITY OF SEATTLE Ray Hoffman, Director, Seattle Public Utilities STATE OF Washington) ) ss. COUNTY OF King I certify that I know or have satisfactory evidence that Ray Hoffman is the person who appeared before me, and signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Director of Seattle Public Utilities, of The City of Seattle, a municipal corporation of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument. Dated Notary (print name) Notary Public in and for the State of Washington, residing at My appointment expires

Page 2 of 2

Judith Cross

SPU 701 Orchard ORD ATT2



#### **ATTACHMENT 3**

Recording Requested By And When Recorded Mail To:

Seattle Public Utilities Real Property Services PO Box 34018 Seattle WA 98124-4018

#### **EASEMENT**

Reference #s of Documents Released or Assigned	d: None
Grantor:	Seattle Iron & Metals Corporation, Shalmar Group,
	LLC, Shalmar 08, LLC, and SIMCO Properties, LLC
Grantee:	City of Seattle
Legal Description (abbreviated):	Pt of SW ¼ Sec 29 T 24 N, R4 E, WM
Assessor's Tax Parcel ID#:	2136200706, 2136200380, & 2924049089
·	RW # 2008-023
THIS EASEMENT granted this day	of, 2012, by Seattle Iron &
	e State of Washington, and Shalmar Group, LLC,
	ties, LLC, limited liability companies of the State of
	Grantor," to The City of Seattle, a municipal corporation
	nd through Seattle Public Utilities, a City of Seattle
department, hereinafter called the "Grantee."	

WITNESSETH: Said Grantor for and in consideration of the benefits herein between Grantor and Grantee, and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, do by these presents grant, bargain, sell, convey, and warrant to the Grantee a permanent easement for conveyance of stormwater drainage from the public right-of-way known as S. Garden Street through an underground drain pipe and appurtenances owned by Grantor ("Grantor's Drain Pipe" or "SIMC Storm Drain Pipe") through and across Grantor's real property in Seattle, King County, Washington herein described in Exhibit 1 and as shown in Exhibit 2 ("Easement Area").

This easement shall include such rights in the Easement Area as shall be necessary for the continued and permanent conveyance of drainage from the public right-of-way from S. Garden Street through Grantor's Drain Pipe to its outfall on the Lower Duwamish Waterway. Grantor also agrees to maintain Grantor's Drain Pipe in good and continuous operating condition, and to inspect, repair, improve, alter, reconstruct or replace Grantor's Drain Pipe to ensure Grantee's rights under this Easement.



Dated this

day of

#### **ATTACHMENT 3**

The Grantee shall have the right without prior institution of any suit or proceeding at law, at such time as may be necessary and in the manner described herein, to enter upon the Easement Area for the purpose of inspecting the operating condition of Grantor's Drain Pipe without incurring any legal obligation or liability therefore, except for property damage or personal injury caused by the Grantee's own negligence. The Grantee shall have the right to enter upon the Easement Area for the purposes herein described, provided that in the absence of an emergency, at least 24-hours advance notice of Grantee's entry into the Easement Area shall be provided to Grantor by Grantee in recognition that Grantor operates an active, heavy industrial facility.

Grantor hereby agrees that no new buildings, other permanent structures, trees, fill or obstructions of any kind, shall be constructed, planted or permitted to remain within the boundaries of said Easement Area, without prior written permission of the Director of Seattle Public Utilities, or any such officer or board who may hereafter succeed to the jurisdiction and powers in respect to the Facilities now possessed by the Director of Seattle Public Utilities; provided, however that Grantee hereby consents to the concrete block structure shown in Exhibit 2 remaining in place within the Easement Area.

Grantor, its successors, assigns, lessees, sub-lessees, tenants, and sub-tenants, shall have the right to use the Easement Area in any way and for any other legal purpose that is not inconsistent with the rights herein granted to Grantee.

The covenants herein contained shall run with the land and shall be binding on the parties, their successors and assigns forever.

2012

SHALMAR GROUP, LLC	SIMCO PROPERTIES, LLC	
By:	By:	
Printed name:	Printed name:	
Title:	Title:	



## SHALMAR 08, LLC

## **ATTACHMENT 3**

SEATTLE IRON & METALS CORP.

Ву:	By:	
Printed name:	Printed name:	
Title:	Title:	
Title.	-	
		•
	·	
STATE OF) ss.		
COUNTY OF		
		• • • •
who appeared before me, and said person oath stated that he/she was authorized(title) of SHALMA State of Washington, to be the free and vertical mentioned in the instrument.	to execute the instrument and ackn AR GROUP, LLC, a limited liability	owledged it as company of the
SUBSCRIBED AND SWC	ORN to before me thisday of	, 2012
		. ·
	Name (Print)	
	NOTARY PUBLIC for the State of	·
	residing at	
	My appointment expires	



#### **ATTACHMENT 3**

STATE OF)	
COUNTY OF) ss.	
oath stated that he/she was authorized to (title) of SIMCO PR	acknowledged that he/she signed this instrument, on execute the instrument and acknowledged it as COPERTIES, LLC, a limited liability company of the
State of Washington, to be the free and vomentioned in the instrument.	pluntary act of such party for the uses and purposes
SUBSCRIBED AND SWORN to before me	thisday of, 2012
	Name (Print)
	NOTARY PUBLIC for the State of
	residing at
	My appointment expires
STATE OF) ss.  COUNTY OF)	
who appeared before me, and said person soath stated that he/she was authorized to(title) of SHALMAI Washington, to be the free and voluntary act	is the person acknowledged that he/she signed this instrument, on execute the instrument and acknowledged it as R 08, LLC, a limited liability company of the State of of such party for the uses and purposes mentioned in
the instrument.  SUBSCRIBED AND SWORN to before me	this day of 2012
SODSCIADED AND SWORT to before the	uns, 2012
	Name (Print)
	NOTARY PUBLIC for the State of
	SPU 701 Orchard ORD Attachment 3



#### **ATTACHMENT 3**

	residing at	<b></b>
	My appointment expires	<b></b> .
STATE OF	)	
COUNTY OF	) ss. )	
who appeared before me, and oath stated that he/she was(title)	atisfactory evidence that is the said person acknowledged that he/she signed this instrument and acknowledged of SEATTLE IRON & METALS CORPORATION.	ament, or ged it as TION,
corporation of the State of War and purposes mentioned in the	nington, to be the free and voluntary act of such party for instrument.	r the uses
SUBSCRIBED AND SWORN	to before me thisday of, 2012	
		_
	Name (Print)	
	NOTARY PUBLIC for the State of	
	residing at	_
	My appointment expires	



Judith Cross
SPU 701 Orchard Exhibit 1 to AT1 
March 20, 2013
Version #1

#### EXHIBIT 1

#### SIMC STORM DRAIN PIPE DESCRIPTION

A 24 INCH WIDE STORM DRAIN PIPE LOCATED BELOW GROUND AND ALONG THE FOLLOWING DESCRIBED CENTERLINE OVER THAT PORTION OF SOUTH GARDEN STREET, AS VACATED UNDER ORDINANCE NO. 112815 AND OVER A PORTION OF THE ABANDONED BEDS OF THE DUWAMISH RIVER LYING WITHIN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 29;
THENCE NORTH 00°09'26" WEST 2,256.41 FEET ALONG THE CENTERLINE OF
SAID SECTION 29 TO A POINT ON THE NORTH MARGIN OF SOUTH GARDEN
STREET, AS DEDICATED IN THE PLAT OF THE DUWAMISH INDUSTRIAL
ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF
RECORDED IN VOLUME 21 OF PLATS, PAGE 65, KING COUNTY, WASHINGTON;
THENCE WEST ALONG SAID NORTH MARGIN 353.23 FEET TO THE EAST
MARGIN OF SAID VACATED SOUTH GARDEN STREET;
THENCE SOUTH 00°00'00" WEST ALONG EAST MARGIN OF SAID VACATED
SOUTH GARDEN STREET 15.96 FEET TO THE TRUE POINT OF BEGINNING.
THENCE NORTH 90°00'00" WEST 134.17 FEET;
THENCE SOUTH 89°08'07" WEST 200.77 FEET;
THENCE SOUTH 49°23'25" WEST 88.86 FEET TO THE NORTHEASTERLY
MARGIN OF COMMERCIAL WATERWAY DISTRICT NO. 1 AND THE TERMINUS OF
SAID CENTERLINE;

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.



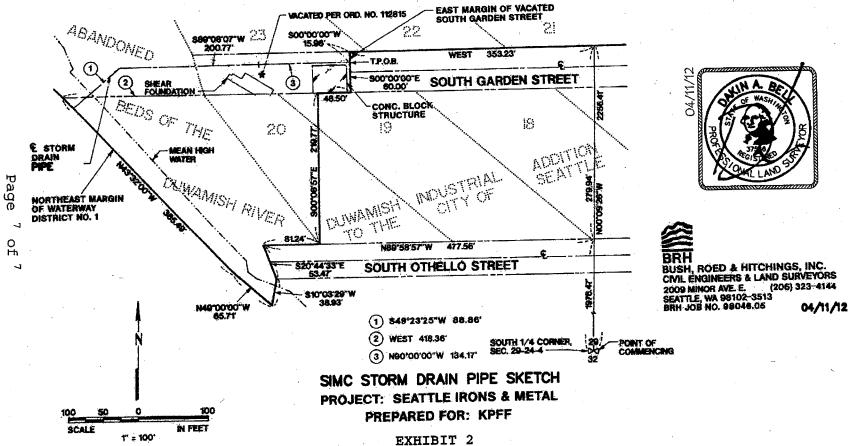
SEATTLE IRON & METALS KPFF DAKIN A. BELL, P.L.S. BRH JOB NO. 98046.05 APRIL 10, 2012

BUSH, ROED & HITCHINGS, INC. 2009 MINOR AVENUE EAST SEATTLE, WA 98102 (206) 323-4144

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SPU 701 Orchard Exhibit 2 to March 20, 2013 Version #1





Form revised: December 6, 2011

#### FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Judith Cross/6-1814	Karl Stickel 4-8085

#### **Legislation Title:**

AN ORDINANCE relating to Seattle Public Utilities; declaring certain reserved real property rights relating to sewer facilities within the vacated portion of 7<sup>th</sup> Avenue South, and easement rights related to storm water runoff at 701 South Orchard Street as being surplus to City utility needs; authorizing the Director of Seattle Public Utilities to relinquish such easement rights; authorizing the Director of Seattle Public Utilities to accept an easement from Seattle Iron & Metals Company for conveyance of stormwater runoff through private property from city-owned drainage facilities in portions of South Garden Street; and ratifying and confirming certain prior acts.

**Summary of the Legislation:** This legislation would authorize the relinquishment of two easements the City no longer needs for utility purposes and authorizes the acceptance of an easement to convey public stormwater through private property.

#### Background:

Seattle Iron & Metals Company (SIMCO) wants to expand its facilities near the Duwamish Waterway and asked the City to release a reserved right for a sewer pipe on its property. SPU studied the drainage in the area and reached an agreement with SIMCO which clarifies ownership of the drainage facilities and responsibilities of SIMCO and the City for drainage from SIMCO's properties and part of S. Garden Street, and reduces potential City liability for a drainage pipe and outfall on private property.

Please check one of the following:

X This legislation does not have any financial implications.

#### 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?

  Ongoing risk related to continued liability for pipe and outfall on private property; possible City liability for failing to release unused and unneeded historical reserved property right for a sewer pipe.



Effie K. Moody SPU 701 Orchard FISC March 11, 2013 Version #2

- 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? No alternatives to relinquishments and acceptance of easement.
- e) Is a public hearing required for this legislation? Yes. A public hearing is required pursuant to RCW 35.94.040.
- f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

  N/A
- g) Does this legislation affect a piece of property? Yes. Map exhibit included in legislation packet.
- h) Other Issues: N/A

List attachments to the fiscal note below:

None





# City of Seattle Office of the Mayor

April 9, 2013

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

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill which would allow Seattle Public Utilities (SPU) to resolve several easement issues related to the Seattle Iron & Metal Company's (SIMCO) expansion of its recycling facility at 701 South Orchard Street in the Duwamish industrial corridor.

The City and SIMCO reached an agreement which clarifies the company's responsibilities for sewer and drainage from its property and the unvacated portions of South Garden Street. The City has agreed to relinquish reserved rights for a sewer in part of vacated 7<sup>th</sup> Avenue South in favor of accepting an easement from SIMCO for public stormwater runoff from the South Garden Street right-of-way that is conveyed through SIMCO's property to the Duwamish River.

This legislation has no financial cost to SPU ratepayers but it reduces legal risk to the utility and provides benefits to the community by enabling the expansion of SIMCO's metal recycling facility. Thank you for your consideration of this legislation. If you have questions, please contact Judith Cross at 6-1814.

Sincerely,

Michael McGinn Mayor of Seattle

cc: Honorable Members of the Seattle City Council

