



SEATTLE CITY COUNCIL

Legislative Summary

CB 118637

Record No.: CB 118637

Type: Ordinance (Ord)

Status: Passed

Version: 1

125007

In Control: Full Council

File Created: 02/29/2016

Final Action: 03/14/2016

Title: AN ORDINANCE approving an amendment of the Property Use and Development Agreement approved by Ordinance 123923 for property located at 3902 S. Ferdinand Street.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Ex A - Amended PUDA

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	03/01/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	03/03/2016	sent for review	Full Council			
	Action Text: The Council Bill (CB) was sent for review. to the Full Council						
	Notes:						
1	Full Council	03/07/2016	referred	Full Council			
	Action Text: The Council Bill (CB) was referred. to the Full Council						
	Notes:						
1	Full Council	03/14/2016	passed				Pass
	Action Text: The Motion carried, the Bill passed by the following vote, and the President signed the Bill:						
	Notes: Motion was made and duly seconded to pass Council Bill 118637.						
	In Favor: 9 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant						

Opposed: 0

1 City Clerk

03/14/2016 attested by City
Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE
ORDINANCE 125007
COUNCIL BILL 118637

AN ORDINANCE approving an amendment of the Property Use and Development Agreement approved by Ordinance 123923 for property located at 3902 S. Ferdinand Street.

WHEREAS, on July 23, 2012, the City Council passed Ordinance 123923, approving a contract rezone for LR COLUMBUS LLC for property located at and addressed as 3902 S. Ferdinand Street, including acceptance of a Property Use and Development Agreement ("PUDA"); and

WHEREAS, the PUDA imposes conditions that restrict the development at those sites; and

WHEREAS, the ownership of the property has changed since the approval of the PUDA; and

WHEREAS, the conditions of the PUDA run with the property and the current owner ("Owner") is requesting an amendment to the PUDA to allow for redevelopment of the property differently than called for in the conditions of the PUDA; and

WHEREAS, Seattle Municipal Code subsection 23.76.058.C authorizes the Council to amend PUDAs; and

WHEREAS, the Council finds that amendment of the PUDA is in the public interest on the basis of the analysis provided by the Department of Planning and Development to the Council filed in Clerk File 314316; NOW, THEREFORE,

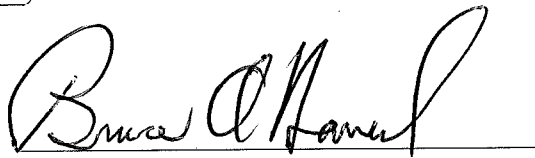
BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

1 Section 1. The amendment to the Property Use and Development Agreement ("PUDA")
2 approved by Ordinance 123923, attached as Exhibit A to this ordinance, is approved.

3 Section 2. The City Clerk is hereby authorized and directed to take the following actions:
4 (1) file the amended PUDA, attached to this ordinance as Exhibit A, at the King County Records
5 and Elections Division; (2) upon return of the recorded amended PUDA from the King County
6 Records and Elections Division, file the original amended PUDA with this ordinance at the City
7 Clerk's Office; and (3) deliver copies of the amended PUDA and ordinance to the Director of the
8 Department of Construction and Inspections and to the King County Assessor's Office.
9

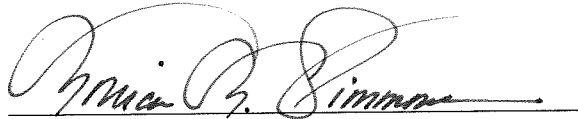
Section 3. This ordinance: effectuates a quasi-judicial decision of the City Council; is not subject to mayoral approval or disapproval; and shall take effect and be in force 30 days after its approval by the City Council.

Passed by the City Council the 14th day of MARCH, 2016, and signed by me in open session in authentication of its passage this 14th day of MARCH, 2016.



President _____ of the City Council

Filed by me this 14th day of March, 2016.



Monica Martinez Simmons, City Clerk

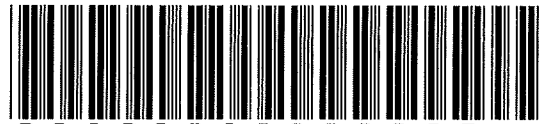
(Seal)

Exhibits:

Exhibit A – Amended PUDA

When Recorded, Return to:

Office of the City Clerk
600 4th Avenue, Floor 3
PO Box 94728
Seattle, Washington 98124-4728



20160316000908

SEATTLE CITY C AG
PAGE-001 OF 004
03/16/2016 13:59
KING COUNTY, WA

76.00

AMENDED PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor:	Northwest Investment LLC
☐ Additional on page	
Grantee:	City of Seattle
☐ Additional on page	
Legal Description :	Lot 230, 231, and 232, except the east 15.50 feet of said Lot 232, all in Block 10, Columbia Addition, according to the Plat thereof recorded in Volume 7 of Plats, Page 97, in King County, Washington.
☐ Additional on page	
Assessor's Tax Parcel ID #s:	170290-1220
Reference Nos. of Documents Released or Assigned:	KC Rec. No. 20120823000167

THIS AMENDED PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 15 day of March, 2016, in favor of the City of Seattle, a Washington municipal corporation (herein referred to as the "City"), by the Grantor listed above (herein referred to as the "Owner") of property legally described herein (herein referred to as the "Property").

RECITALS

A. The Owner owns that certain real Property in the City of Seattle, as successor in interest to LR Columbus, LLC. The legal description of the Property is Lot 230, 231, and 232, except the east 15.50 feet of said Lot 232, all in Block 10, Columbia

Section 3 of the PUDA accepted by Ordinance 123923 is amended as follows:

3. Termination. The covenants herein shall expire at such time as the Rezone expires or is revoked pursuant to SMC 23.34.004. If a Master Use Permit is issued pursuant to the final approved Master Use Permit decision with related plans, application accepted May 20, 2015 (MUP #3020678) dated July 6, 2011 (MUP #3011960), the covenants herein shall remain in effect until the Council changes the zoning designation for the Property, or amends development standards that apply to the LR3-RC zone, and a certificate of occupancy is issued for a new development of the Property that conforms to the zone designation and development standards that then apply to the Property and replaces the development described in Section 1.

Section 2. Agreement Runs With the Land. This Agreement shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the title to the Property and shall be binding upon the Owner, his heirs, successors, and assigns, and shall apply to the after-acquired title of the owner of the Property.

Section 3. Amendment, Exercise of Police Power, No Precedent. This Agreement may be amended or modified by agreement between the Owner and the City provided such amendment shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall prevent the City Council from making such further amendments to the Land Use Code or exercising the City's police power, as it may deem necessary in the public interest. The Owner agrees that nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in the Lowrise 3, Residential-Commercial, LR3-RC, zone. The conditions contained in this Agreement are based on the unique circumstances applicable to this Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 4. Benefited. This Agreement is made for the benefit of the City and for the benefit of the owners of the property within 300 feet of the Property and either the City or any such property owners may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

Section 5. Repeal as Additional Remedy. The Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if the Owner avails himself of the benefits of this rezone but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may revoke the rezone by ordinance and require the use of the Property conform to the requirements of the previously existing zone.

Addition, according to the Plat thereof recorded in Volume 7 of Plats, Page 97, in King County, Washington;

B. On July 23, 2012, the Seattle City Council passed Ordinance 123923, which rezoned the Property and accepted a Property Use and Development Agreement (PUDA) in connection with the rezone, the PUDA being recorded under King County Recording No. 20120823000167;

C. On November 3, 2015, Seattle Lot Boundary Adjustment No. 3019983, affecting the boundaries and legal description of the Property, was recorded with King County, Washington, Records and Elections Division under Instrument Number 20151103900001;

D. On May 20, 2015, the City of Seattle accepted the Owner's application to amend the PUDA to allow for redevelopment of the property as more fully set forth in City of Seattle Master Use Permit (MUP) #3020678, as opposed to the conditions of the PUDA. The proposed amendment does not change the zoning of the property established by the contract rezone in July 2012;

E. SMC Section 23.76.058.C provides that "[p]roperty use and development agreements recorded as a condition of a contract rezone may be amended by agreement between the Owner and the City, if the amendment is approved by the Council;" and

F. Those terms of the PUDA accepted by Ordinance 123923 that are not amended by this Agreement are still valid.

AGREEMENT

Section 1. Amended Conditions. Section 1 of the PUDA accepted by Ordinance 123923 is stricken and replaced with the following amended language:

1. Agreement. Pursuant to SMC 23.34.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitation and condition in consideration of the Rezone:

Future development of the Property is restricted to modification and reuse of an existing structure in substantial conformance with the final approved Master Use Permit decision with related plans, application accepted May 20, 2015 (MUP #3020678), authorizing apartment residences with commercial spaces in conformance with LR3-RC development standards, dated July 6, 2011 (MUP #3011960), authorizing a change of use of a structure with 8 dwelling units to a structure with 5 dwelling units above 3 commercial spaces. The commercial spaces will be available for retail/commercial or live/work uses. Two of the entries ~~Two of the entries~~ Entries to the commercial spaces are along 39th Avenue South, ~~with a third entry from and~~ South Ferdinand Street.

Exhibit A – Amended PUDA –C.F. 314316

3902 S. Ferdinand

SIGNED this 2nd day of MARCH, 2016.

Owner:

Northwest Investment LLC, a Washington limited liability corporation

By: Sachin Kukreja
Sachin Kukreja
Its: Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

On this 2nd day of March, 2016, before me personally appeared Sachin Kukreja, to me known to be the Manager of Northwest Investment LLC, the Washington limited liability corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said partnership.

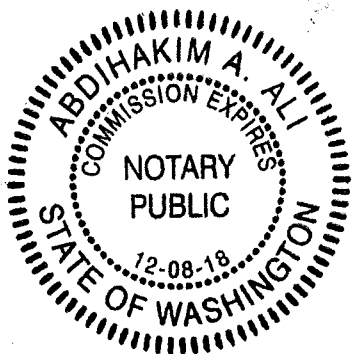
GIVEN under my hand and official seal this 2nd day of March, 2016.

Signature: [Signature]

Name (Print): Abdihakim A. Ali

NOTARY PUBLIC in and for the State
of Washington, residing at Seattle

My appointment expires: 12-08-18



SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
Legislative	Eric McConaghy/615-1071	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

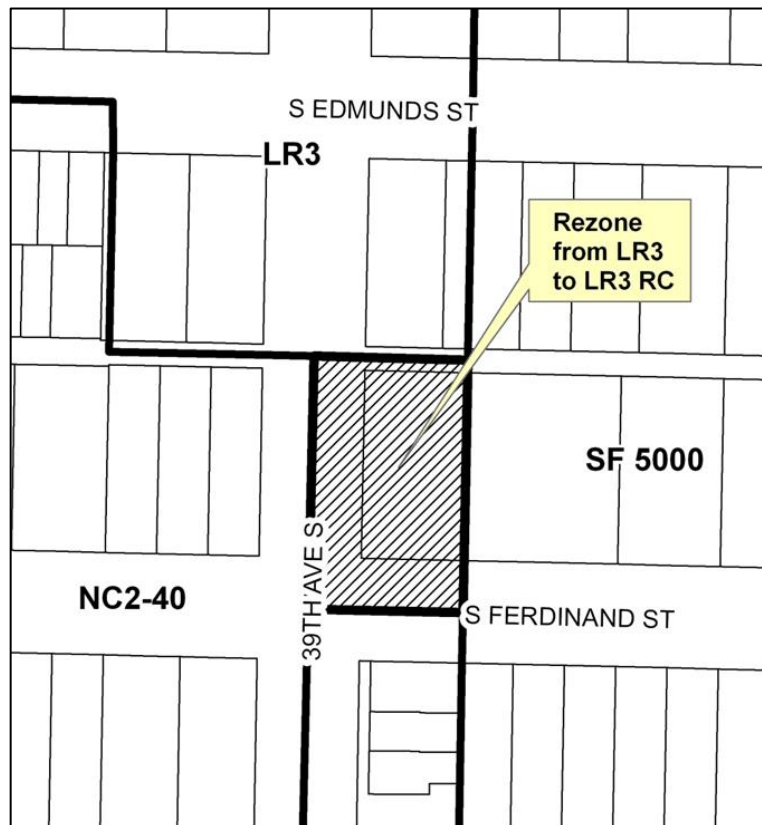
Legislation Title: An ORDINANCE approving an amendment of the Property Use and Development Agreement approved by Ordinance 123923 for property located at 3902 S. Ferdinand Street.

Summary and background of the Legislation:

The proponents are requesting that Council approve the minor amendment of a Property Use and Development Agreement (PUDA) binding on the property addressed as 3902 S. Ferdinand Street in the Columbia City neighborhood of Seattle. The PUDA, Clerk File (CF) #311662, was required as a condition of a contract rezone from Lowrise 3 (LR3) to Lowrise 3 with a Residential-Commercial overlay zone (LR3-RC) for a portion of the property.

Council approved the contract rezone under Ordinance 123923 on July 23, 2012. The other portion of the property remained zoned as Single Family 5000 (SF 5000). The associated Master Use Permit (MUP #3008629) authorized the reuse of an existing structure, formerly a church, for a mixed use including residential and commercial spaces.

Before the approval of the contract rezone and PUDA, the project proposal was for the conversion of the church building (formerly Mission Baptist Church) to an 8-unit residential structure on the LR3 portion and with a bed and breakfast on the SF 5000 portion. The approval of the rezone and the PUDA made possible the revision of the project to include the bed and breakfast, as before, and a mixed use structure on the rezoned LR3-RC portion.



The ownership of the property has changed since the approval of the PUDA. The conditions of the PUDA run with the property and the current owner is requesting an amendment to the PUDA to allow for redevelopment of the property differently than called for in the conditions of the PUDA. The proposed amendment would not change the zoning of the property established by the contract rezone in July 2012.

Proposed PUDA Amendments

The Director recommends that the Council approve the proponent's amendments to the PUDA to allow the following changes:

<i>Amended Condition</i>	<i>Original PUDA</i>	<i>Proposed Amendment</i>
parking	9 stalls provided; 8 stalls required	none
commercial units	3	2; less overall square footage
residential units	8 proposed; 8.25 allowed	14; no maximum under current code
exterior modifications to existing structure	multiple upper-level decks	convert one shed roof to rooftop plaza
	add west-facing dormer	no added dormers
	basement parking with required alley improvements	no parking provided; no alley improvements required

Minor PUDA Amendment

The Planning Director (Director) has determined that the requested amendment to the PUDA is minor per the criteria set forth in Seattle Municipal Code (SMC) 23.76.058. The determination that the amendment is minor is Type I land use decision and is non-appealable.

Council may "receive any additional advice that it deems necessary" to decide on the approval of minor PUDA amendments (SMC 23.76.058). This is different than the general requirement that Council decisions on quasi-judicial, Type IV land use decision must "be based on the record established by the Hearing Examiner." (SMC 23.76.054).

Council's decision regarding the approval of the PUDA amendment is a quasi-judicial, Type IV land use decision and must be approved by ordinance.

2. CAPITAL IMPROVEMENT PROGRAM

N/A

— This legislation creates, funds, or amends a CIP Project.

(If box is checked, please attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page.)

Project Name: **Project I.D.:** **Project Location:** **Start Date:** **End Date:** **Total Cost:**

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3. SUMMARY OF FINANCIAL IMPLICATIONS

Please check one:

☐ **This legislation has direct financial implications.** (If the legislation has direct fiscal impacts (appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" section.)

☒ **This legislation does not have direct financial implications.**
(Please skip to "Other Implications" section at the end of the document and answer questions a-i.)

Budget program(s) affected:	N/A			
Estimated \$ Appropriation change:	General Fund \$		Other \$	
	2016	2017	2016	2017
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2016	2017	2016	2017
Positions affected:	No. of Positions		Total FTE Change	
	2016	2017	2016	2017
Other departments affected:				

3.a. Appropriations

N/A **This legislation adds, changes, or deletes appropriations.**
(If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues/Reimbursements.)

Fund Name and number	Dept	Budget Control Level Name/##	2016 Appropriation Change	2017 Estimated Appropriation Change
TOTAL				

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

(This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not completely supported by revenue/reimbursements listed below, please identify the funding source (e.g. available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.)

Appropriations Notes:

3.b. Revenues/Reimbursements

N/A **This legislation adds, changes, or deletes revenues or reimbursements.**
(If this box is checked, please complete this section. If this box is not checked, please proceed to Positions.)

Eric McConaghy
 LEG 3902 S. Ferdinand PUDA Amendment ORD
 D1

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2016 Revenue	2017 Estimated Revenue
TOTAL				

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?)

Revenue/Reimbursement Notes:

3.c. Positions

N/A

☒ This legislation adds, changes, or deletes positions.

(If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications.)

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

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2016 Positions	2016 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* List each position separately

(This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.)

Position Notes:

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

No.

b) Is there financial cost or other impacts of not implementing the legislation?

(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential

costs or consequences.) No.

c) Does this legislation affect any departments besides the originating department?

(If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.), and indicate which staff members in the other department(s) are aware of the proposed legislation.) No.

d) Is a public hearing required for this legislation?

(If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned for the future?) No.

e) Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

(If yes, please describe the measures taken to comply with RCS 64.06.080.) No.

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

(For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.) Yes. In accordance with Council Quasi-Judicial Rules (Resolution 31602), Council staff provided notice of the committee meeting at which the action was considered, the Planning, Land Use and Zoning Committee, to the applicant, those who commented to DPD on the application, and those who requested notification of Council meetings on the matter.

g) Does this legislation affect a piece of property?

(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.) Yes, see above.

h) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

(If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.) No perceived implication.

i) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.

(This answer should highlight measurable outputs and outcomes.) No.

j) Other Issues: n/a

List attachments/exhibits below: n/a

STATE OF WASHINGTON -- KING COUNTY

--SS.

335553

No. 125007,08,09,10,11

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

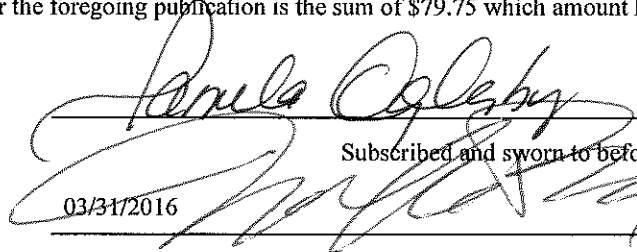
CT:TITLE ONLY ORDINANCES

was published on

03/31/16

The amount of the fee charged for the foregoing publication is the sum of \$79.75 which amount has been paid in full.




Subscribed and sworn to before me on
03/31/2016

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on March 14, 2016, 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.

Ord 125007

AN ORDINANCE approving an amendment of the Property Use and Development Agreement approved by Ordinance 123923 for property located at 3902 S. Ferdinand Street.

Ord 125008

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof. Ord 125009 AN ORDINANCE relating to City employment; authorizing the execution of collective bargaining agreements between The City of Seattle and certain unions; and ratifying and confirming certain prior acts.

Ord 125010

AN ORDINANCE relating to civil rights: authorizing the Director of the Office for Civil Rights or her designee to execute an agreement with the Social Justice Fund, a Washington non-profit, to provide services relating to zero youth detention projects; amending Ordinance 124927 by lifting a budget proviso; and ratifying and confirming certain prior acts.

Ord 125011

AN ORDINANCE relating to the Seattle bike share program; authorizing a partial removal of the proviso included in 2016 budget Green Sheet 93-1-A-1; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, March 31, 2016.

3/31(335553)