



SEATTLE CITY COUNCIL

Legislative Summary

CB 118894

Record No.: CB 118894

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125249

In Control: City Clerk

File Created: 12/05/2016

Final Action: 02/02/2017

Title: AN ORDINANCE amending Ordinance 124874; modifying the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street for First and Utah Street Associates, LLC; and ratifying and confirming certain prior acts.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: amy.gray@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	Mayor	12/20/2016	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
1	City Clerk	12/20/2016	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	01/04/2017	sent for review	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
	Notes:						
1	Full Council	01/17/2017	referred	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was referred. to the Sustainability and Transportation Committee						

Notes:

- 1 Sustainability and Transportation Committee 01/20/2017 pass Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).

Notes:

In Favor: 2 Chair O'Brien, Vice Chair Johnson

Opposed: 0

- 1 Full Council 01/30/2017 passed Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

Notes:

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 02/01/2017 submitted for Mayor's signature Mayor

- 1 Mayor 02/02/2017 Signed

- 1 Mayor 02/02/2017 returned City Clerk

- 1 City Clerk 02/02/2017 attested by City Clerk

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

Notes:

CITY OF SEATTLE
ORDINANCE 125249
COUNCIL BILL 118894

AN ORDINANCE amending Ordinance 124874; modifying the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street for First and Utah Street Associates, LLC; and ratifying and confirming certain prior acts.

WHEREAS, the Seattle City Council passed Ordinance 124874, renewing the term for First and Utah Street Associates, LLC to occupy, construct, maintain, and operate open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street; and

WHEREAS, First & Utah Street Associates, LLC has submitted an application to the Seattle Director of Transportation ("Director") to modify the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Sections 1, 4, 9, 13, and 15 of Ordinance 121572, as amended by Ordinance 124874, are amended as follows:

1. **Permission.** Subject to the terms and conditions of this ordinance, The City of Seattle ("City") grants permission (also referred to in this ordinance as a permit) to the First & Utah Street Associates, LLC ("Permittee"), and its successors and assigns as approved by the Director of the Seattle Department of Transportation ("Director") according to Section 14 of this ordinance, to occupy Utah Avenue South between South Stacy Street and South Lander Street to install and construct, maintain, and operate landscaping, decorative paving, benches, including approximately 1,127 square feet for stairs and accessible ramps, and other open space

1 improvements in the public place (“open space improvements”). The permit granted is subject to
2 use by the public for pedestrian travel, emergency vehicle access, and utility purposes.

3 * * *

4 4. **Permittee’s obligation to remove and restore.** If the permission granted is not
5 renewed at the expiration of a term, or if the permission expires without an application for a new
6 permission being granted, or if the City terminates the permission, then within 90 days after the
7 expiration or termination of the permission, or prior to any earlier date stated in an ordinance or
8 order requiring removal of the open space improvements, the Permittee shall, at its own expense,
9 remove the open space improvements, including but not limited to the stairs and ramps providing
10 ingress and egress to the commercial properties adjacent to the public place, and all of the
11 Permittee’s equipment and property from the public place and replace and restore all portions of
12 the public place that may have been disturbed for any part of the open space improvements in as
13 good condition for public use as existed prior to the construction of the open space and in at least
14 as good condition in all respects as the abutting portions of the public place as required by
15 Seattle Department of Transportation (“SDOT”) right-of-way restoration standards.

16 * * *

17 9. **Open Space Improvements.** The Permittee shall own any improvements and
18 fixtures, including but not limited to: art, benches, stairs, and ramps, or other amenities that were
19 installed in and on the closed street by Permittee; provided, however, that ownership may be
20 negotiated with the City at the termination of the permit. Activation of the public place with uses
21 open to the public is allowed, subject to applicable City departments’ review and approval. Any
22 activation of the public place for private uses must be permitted by the City.

23 * * *

13A. **Performance bond.** Within 60 days after the effective date of this ordinance, the Permittee shall deliver to the Director for filing with the City Clerk a sufficient bond executed by a surety company authorized and qualified to do business in the State of Washington that is: in the amount of ((~~\$1,000,000~~)) \$1,025,000, and conditioned with a requirement that the Permittee shall comply with every provision of this ordinance and with every order the Director issues under this ordinance. The Permittee shall ensure that the bond amount remains in effect until the Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 7 of this ordinance. An irrevocable letter of credit approved by the Director in consultation with the City Attorney's Office may be substituted for the bond. In the event that the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the bond or letter of credit required until the Director has approved the assignment or transfer pursuant to Section 14 of this ordinance.

13B. **Adjustment of insurance and bond requirements.** The Director may adjust minimum liability insurance levels and surety bond requirements during the term of this permission. If the Director determines that an adjustment is necessary to fully protect the interests of the City, the Director shall notify the Permittee of the new requirements in writing. The Permittee shall, within 60 days of the date of the notice, provide proof of the adjusted insurance and surety bond levels to the Director.

* * *

15. **Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or successor provisions, pay the City the amounts charged by the City to inspect the open space improvements during construction, reconstruction, repair, annual safety inspections, and at other times as deemed necessary by the City. An inspection or approval of the open space improvements by the

1 City shall not be construed as a representation, warranty, or other assurance to the Permittee or
2 any other person as to the safety, soundness, or condition of the open space improvements. Any
3 failure by the City to require correction of any defect or condition shall not in any way limit the
4 responsibility or liability of the Permittee. Beginning on October 13, ((2014)) 2017, and annually
5 thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the
6 Director, an annual fee of ((~~\$21,840.00~~)) \$29,937.60, or as adjusted thereafter, for the privileges
7 granted by this ordinance.

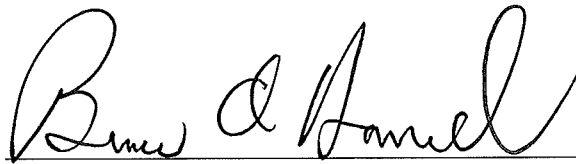
8 Adjustments to the annual fee shall be made in accordance with a term permit fee
9 schedule adopted by City Council and may be made every year. In the absence of a schedule, the
10 Director may only increase or decrease the previous year's fee to reflect inflationary changes so
11 as to charge the fee in constant dollar terms. This adjustment will be calculated by adjusting the
12 previous year's fee by the percentage change between the two most recent year-end values
13 available from the Consumer Price Index for the Seattle-Tacoma-Bremerton Area, All Urban
14 Consumers, All Products, Not Seasonally Adjusted. All payments shall be made to the City
15 Finance Director for credit to the Transportation Operating Fund.

16 * * *

17 Section 2. **Acceptance of terms and conditions.** The Permittee shall deliver to the
18 Director its written signed acceptance of the terms of this ordinance within 60 days after the
19 effective date of this ordinance. The Director shall file the written acceptance with the City
20 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
21 this ordinance shall be deemed declined or abandoned and the permission deemed lapsed and
22 forfeited.

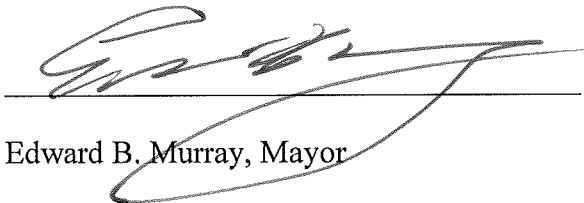
Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 30th day of January, 2017, and signed by me in open session in authentication of its passage this 30th day of January, 2017.



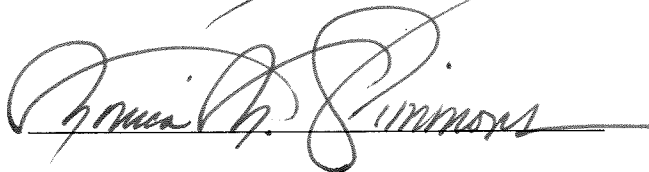
President _____ of the City Council

Approved by me this 2nd day of February, 2017.



Edward B. Murray, Mayor

Filed by me this 2nd day of February, 2017.



Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
Seattle Department of Transportation	Amy Gray/386-4638	Christie Parker/684-5211

1. BILL SUMMARY

Legislation Title: AN ORDINANCE amending Ordinance 124874; modifying the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street for First and Utah Street Associates, LLC; and ratifying and confirming certain prior acts.

Summary and background of the Legislation: This legislation amends Ordinance 124874 for First & Utah Street Associates to modify the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street to include stairs and ramps providing ingress and egress to the commercial properties adjacent to the public place. The total square footage of open space is not changed in this ordinance. The bond and annual fee amounts have been amended to account for the modification of use to include stairs and ramps. The bond is amended from \$1,000,000 to \$1,025,000 and the annual fee is amended to address the greater degree of alienation of the stairs and ramps as compared to open space improvements.

2. CAPITAL IMPROVEMENT PROGRAM

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

3. SUMMARY OF FINANCIAL IMPLICATIONS

 X This legislation has direct financial implications.

Budget program(s) affected:	General Fund \$		Other \$	
	2017	2018	2017	2018
Estimated \$ Appropriation change:				
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2017	2018	2017	2018
	\$29,937.60	TBD		
Positions affected:	No. of Positions		Total FTE Change	
	2017	2018	2017	2018
Other departments affected:				

3.a. Appropriations

 This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

X This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2017 Revenue	2018 Estimated Revenue
Transportation Operating Fund	SDOT	Annual Fee	\$29,937.60	TBD
TOTAL			\$29,937.60	TBD

Revenue/Reimbursement Notes: The 2017 annual fee is based on the 2017 land values as assessed by King County and includes the stairs, ramps, and the open space improvements. The 2018 fee will be based on 2018 King County Assessment values.

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?
Yes, if the legislation is not enacted by City Council, the City of Seattle will not receive the adjusted annual fee of \$29,937.60.
- c) Does this legislation affect any departments besides the originating department?
No.
- d) Is a public hearing required for this legislation?
No.
- e) Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?
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, the First & Utah Street Associates, LLC property over and across Utah Avenue South between South Stacy Street and South Lander Street.
- 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?

There are no perceived implications for the principles of the Race and Social Justice Initiative. This legislation does not impact vulnerable or historically disadvantaged communities.

- 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.**
N/A

- j) **Other Issues:** N/A

List attachments/exhibits below:

Attachment A – First & Utah Street Associates Annual Fee Assessment Summary

Attachment A - First & Utah Street Associates Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 11/15/16

Summary:
Land Value: \$75/SF
2017 Permit Fee:
\$29,937.60

I. Property Description:

New stairs and ramps in existing plaza and open space improvements over and across Utah Avenue South, between South Stacy Street and South Lander Street. The stairs and ramps area is **1,128 square feet** and the remaining open space improvements area is **40,872 square feet**.

Applicant:

First & Utah Street Associates, LLC

Abutting Parcels, Property Size, Assessed Value:

1. Parcel 7666207220; Lot size: 234,300 square feet

Tax year 2017 Appraised Land Value: \$17,572,500

Average 2017 Tax Assessed Land Value: \$75/SF

2. Parcel 7666207230; Lot size: 97,680 square feet

Tax year 2017 Appraised Land Value \$7,326,000

Average 2017 Tax Assessed Land Value: \$75/SF

II. Annual Fee Assessment:

The 2017 permit fee is calculated as follows:

Stairs and Ramps:

$(\$75/\text{SF}) \times (1,128 \text{ SF}) \times (80\%) \times (8\%) = \$5,412.38$ where 80% is the degree of alienation for structures and 8% is the annual rate of return.

Open Space Improvements:

$(\$75/\text{SF}) \times (40,872 \text{ SF}) \times (10\%) \times (8\%) = \$24,523.45$ where 10% is the degree of alienation for public plazas and 8% is the annual rate of return.

Fee methodology authorized under Ordinance 123485, as amended by Ordinances 123585, 123907, and 124532.

STATE OF WASHINGTON -- KING COUNTY

--SS.

346287

No. 125249,20,51,52,53,54,55

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.

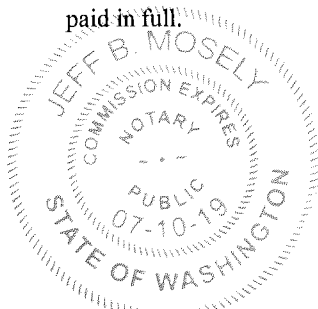
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCE

was published on

02/14/17

The amount of the fee charged for the foregoing publication is the sum of \$208.65 which amount has been paid in full.



A handwritten signature in black ink, appearing to be "M. B. Mosely", written over a horizontal line.

Subscribed and sworn to before me on

02/14/2017

A handwritten signature in black ink, appearing to be "Jeff B. Mosely", written over a horizontal line.
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on January 30, 2017, and published below by title only, will be mailed upon request, or can be accessed at <https://seattle.legistar.com/Legislation.aspx>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

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

Ordinance 125249

AN ORDINANCE amending Ordinance 124874; modifying the use of the open space improvements over and across Utah Avenue South between South Stacy Street and South Lander Street for First and Utah Street Associates, LLC; and ratifying and confirming certain prior acts.

Ordinance 125250

AN ORDINANCE relating to Seattle Public Utilities; harmonizing the City Position List and the Seattle Municipal Code; amending Sections 3.32.010, 3.32.020 and 3.32.030 of the Seattle Municipal Code, and adding a new Section 3.32.011 to the Seattle Municipal Code.

Ordinance 125251

AN ORDINANCE amending Section 15.04.100 of the Seattle Municipal Code to allow the Director of Transportation the authority to credit certain use fees in exchange for voluntary transportation improvements of equal value in the public right-of-way.

Ordinance 125252

AN ORDINANCE accepting various deeds for street or alley purposes and a limited purpose easement for public access, use, and maintenance; laying off, opening, widening, extending, and establishing portions of rights of way; placing the real property conveyed by said deeds and easement under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming certain prior acts. (This ordinance concerns the following rights of way: the alley in Block 21, North Seattle; University Way Northeast, Northeast 50th Street, and Brooklyn Avenue Northeast abutting Block 6, University Heights; the alley in Block 24, Addition to the Town of Seattle, as laid out by A. A. Denny (Commonly known as A. A. Denny's 3rd Addition to the City of Seattle); the alley in Block 23 and Block 51, Second Addition to the Town of Seattle as laid off by the Heirs of Sara A. Bell, (deceased) (Commonly known as Heirs of Sarah A. Bell's 2nd Addition to the City of Seattle); the alley in Block 4, University Heights; the alley in Block 12, North Seattle; the alley in Block 91, Woodlawn Addition to Green Lake; the alley in Block

18, University Park Addition to the City of Seattle; the alley in Section 5, Township 24 North, Range 4 East, W. M.; the alley in Block 50, Boston Co's Plat of West Seattle; the alley in Block 15, Hillman City Addition to the City of Seattle, Division Number 6; the alley in Block 2, Harvard Heights; the alley in Block 46, Central Seattle; South Holgate Street abutting Block 46, Central Seattle; the alley in Block 82, D. T. Denny's Home Addition to the City of Seattle; the alley in Block 5, Supplemental Plat of Blocks 5-8 & 17 of Eastern Addition; the alley in Block 25, Brooklyn Addition to Seattle; the alley in Block 2, Capitol Hill Addition to the City of Seattle, Division No. 1; the alley in Block 107, David T. Denny's First Addition to North Seattle; Mercer Street abutting Block 107, David T. Denny's First Addition to North Seattle; and public access to public benefit areas in the Yesler Terrace Community Platt as set forth in King County Recording Number 20141209001425.)

Ordinance 125253

AN ORDINANCE relating to the City's traffic code; amending Sections 11.14.660, 11.60.570, 11.66.025, 11.60.240, 11.60.370,

11.60.420, 11.82.180, 11.84.020 and 11.84.400 of the Seattle Municipal Code, adding Sections 11.14.083 and 11.66.060 to the Seattle Municipal Code and repealing Sections 11.86.020 and 11.86.040 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

Ordinance 125254

AN ORDINANCE relating to the City's criminal code; amending Sections 3.33.030, 12A.08.140, 12A.08.170, 12A.10.150, 12A.14.010, 12A.14.160, and 12A.16.040 of the Seattle Municipal Code; adding Sections 12A.08.165, 12A.08.180, 12A.08.190, and 12A.10.160 to the Seattle Municipal Code; and repealing Sections 6.36.010, 6.36.020, 6.36.030, 6.36.040, 6.36.050, 6.36.060, 6.36.070, and 6.36.080 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

Ordinance 125255

AN ORDINANCE relating to the City Light Department; accepting statutory warranty deeds to the Swan property in King County, Washington, the Bettys Family Trust, Bettys Trust, Crossman, Farm and Fowl, LLC, Frol, James, Jones, Learned's Little Houses, LLC, Nelson, Trowbridge, and Weatherburn properties in Skagit County, Washington, and the Watkins et al. property in Snohomish County, Washington; accepting a quit claim deed to Skagit Land Trust properties in Skagit County, for salmon habitat protection purposes; declaring certain real property rights surplus and no longer required for providing public utility service or other municipal purposes; ratifying the grants of Deeds of Right to the State of Washington on the Bettys Family Trust, Bettys Trust, Crossman, Frol, Jones, Nelson, and Watkins et al. properties for salmon recovery and conservation purposes; placing said lands under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, February 14, 2017.
2/14(346287)