



SEATTLE CITY COUNCIL

Legislative Summary

CB 119456

Record No.: CB 119456

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125771

In Control: City Clerk

File Created: 12/21/2018

Final Action: 02/13/2019

Title: AN ORDINANCE granting National Railroad Passenger Corporation permission to construct, maintain, and operate below-grade utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: adam.schaefer@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	01/15/2019	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	01/15/2019	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	01/17/2019	sent for review	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
	Notes:						

Legislative Summary Continued (CB 119456)

1	City Council	01/28/2019	referred	Sustainability and Transportation Committee	
1	Sustainability and Transportation Committee	01/29/2019	pass		Pass
	Action Text: The Committee recommends that City Council pass the Council Bill (CB).				
	In Favor: 3 Chair O'Brien, Vice Chair Johnson, Member Sawant				
	Opposed: 0				
1	City Council	02/04/2019	passed		Pass
	Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:				
	Notes:				
	In Favor: 8 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant				
	Opposed: 0				
1	City Clerk	02/06/2019	submitted for Mayor's signature	Mayor	
1	Mayor	02/13/2019	Signed		
1	Mayor	02/13/2019	returned	City Clerk	
1	City Clerk	02/13/2019	attested by City Clerk		
	Action Text: The Ordinance (Ord) was attested by City Clerk.				
	Notes:				

CITY OF SEATTLE

ORDINANCE 125771

COUNCIL BILL 119456

AN ORDINANCE granting National Railroad Passenger Corporation permission to construct, maintain, and operate below-grade utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

WHEREAS, National Railroad Passenger Corporation has applied for permission to construct below-grade utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South; and

WHEREAS, the below-grade utility lines will separate waste systems from the existing combined storm and sewage waste systems; direct industrial waste water generated by locomotive maintenance activities in the new locomotive shop to an existing waste water treatment plant; and provide 480 volts of shore power to idle trains during layovers, reducing idling, diesel pollution, and fuel consumption; and

WHEREAS, the Seattle City Council conceptually approved utility lines under Resolution 31835; and

WHEREAS, adopting this ordinance is the culmination of the approval process for the utility lines to legally occupy a portion of the public right-of-way; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 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 National Railroad Passenger Corporation, and its parent, affiliates, and successors ("Amtrak"), and assigns as approved by the Director of the Seattle Department of Transportation ("Director")

1 according to Section 14 of this ordinance (Amtrak and each such approved successor and assign
2 is referred to as the "Permittee"), to construct, maintain, and operate below-grade utility lines
3 (collectively the "Utility Lines"), under and across South Holgate Street, east of Occidental
4 Avenue South and west of 3rd Avenue South, adjacent in whole or in part to the property legally
5 described as:

6 THAT PORTION OF LOTS 2 THROUGH 6 OF BLOCK 294 OF THE UNRECORDED
7 PLAT OF SEATTLE TIDELANDS, CURRENTLY ON FILE WITH THE COMMISSIONER
8 OF PUBLIC LANDS IN OLYMPIA, WASHINGTON, LYING WITHIN THE NORTHWEST
9 QUARTER OF SECTION 8, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., MORE
10 PARTICULARLY DESCRIBED AS FOLLOWS:

11 COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 294;
12 THENCE NORTH 88°52'08" WEST, A DISTANCE OF 250.00 FEET ALONG THE
13 NORTH LINE OF SAID BLOCK 294;
14 THENCE SOUTH 01°08'14" WEST, A DISTANCE OF 81.03' TO THE TRUE POINT
15 OF BEGINNING; BEGINNING AT SAID TRUE POINT OF BEGINNING;
16 THENCE CONTINUING SOUTH 01°08'14" WEST, A DISTANCE OF 274.52 FEET;
17 THENCE SOUTH 22°34'17" WEST, A DISTANCE OF 4.80 FEET TO THE SOUTH
18 LINE OF LOT 6 OF SAID BLOCK 294;
19 THENCE ALONG SAID SOUTH LINE LOT 6 NORTH 88°52'16" WEST, A
20 DISTANCE OF 107.83 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE
21 TO THE RIGHT, OF WHICH THE RADIUS POINT LIES SOUTH 67°40'13" EAST, A
22 RADIAL DISTANCE OF 2,923.22 FEET;
23 THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE
24 00°30'25", A DISTANCE OF 25.86 FEET;
25 THENCE NORTH 22°50'11" EAST, A DISTANCE OF 94.52 FEET;
26 THENCE NORTH 22°34'33" EAST, A DISTANCE OF 89.14 FEET TO A POINT OF
27 CURVE TO THE LEFT HAVING A RADIUS OF 10,000.00 FEET AND A CENTRAL
28 ANGLE OF 00°30'38";
29 THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 90.22 FEET TO THE
30 TRUE POINT OF BEGINNING.
31 CONTAINING 15,210 SQUARE FEET OR 0.35 ACRES, MORE OR LESS.

32
33 The Utility Lines are for separating waste systems from the existing combined storm and
34 sewage waste systems; directing industrial waste water generated by locomotive maintenance
35 activities in the new locomotive shop to an existing waste water treatment plant; and providing
36 480 volts of shore power to idle trains during layovers, reducing idling, diesel pollution, and fuel
37 consumption.

1 Section 2. **Term.** The permission granted to the Permittee is for a term of ten years
2 starting on the effective date of this ordinance and ending at 11:59 p.m. on the last day of the
3 tenth year. Upon written application made by the Permittee at least 180 days before the then-
4 existing term expires, the Director or the City Council may renew the permit twice, each time for
5 a successive ten-year term, subject to the right of the City to require the removal of the Utility
6 Lines or to revise by ordinance any of the terms and conditions of the permission granted by this
7 ordinance. The total term of this permission including renewals shall not exceed 30 years. The
8 Permittee shall submit any application for a new permission no later than 180 days before the
9 then-existing term expires.

10 Section 3. **Protection of utilities.** The permission granted is subject to the Permittee
11 bearing the expense of protecting, supporting, or relocating any existing utilities deemed
12 necessary by the utilities' owners, and the Permittee being responsible for any damage to the
13 utilities due to constructing, repairing, reconstructing, maintaining, operating, or removing the
14 Utility Lines and for any consequential damages that may result from any damage to utilities or
15 interruption in service caused by constructing, repairing, reconstructing, maintaining, operating,
16 or removing the Utility Lines.

17 Section 4. **Removal for public use or for cause.** The permission granted is subject to use
18 of the street right-of-way or other public place (collectively the "public place") by the City and
19 the public for travel, utility purposes, or other public uses or benefits. The City expressly
20 reserves the right to deny a renewal or terminate the permission at any time before the initial
21 term or any renewal term expiring, and require the Permittee to remove all or a part of the Utility
22 Lines in the public place at the Permittee's sole cost and expense if:

1 (a) The City Council determines by ordinance that the space occupied by the Utility
2 Lines is necessary for any public use or benefit or that the Utility Lines interfere with any public
3 use or benefit; or

4 (b) The Director determines that use of the Utility Lines have been abandoned; or

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

9 A City Council determination that the space is needed for or the Utility Lines interfere
10 with a public use or benefit is conclusive and final without any right of the Permittee to resort to
11 the courts to adjudicate the matter.

12 Section 5. **Permittee's obligation to remove and restore.** If the permission granted is
13 not renewed at the term's expiration, or if the permission expires without an application for a
14 new permission being granted, or if the City terminates the permission; then within 90 days or
15 within a reasonable time period as determined by the Director, whichever is longer; after the
16 expiration or termination of the permission, or prior to any earlier date stated in an ordinance or
17 in an order requiring that the Utility Lines be removed; the Permittee shall at its own expense
18 remove the Utility Lines from the public place. The Permittee shall replace and restore all
19 portions of the public place that may have been disturbed by removing the Utility Lines, in as
20 good condition for public use as existed before constructing the Utility Lines and in at least as
21 good condition in all respects as the abutting portions of the public place as required by Seattle
22 Department of Transportation (SDOT) right-of-way restoration standards.

1 Failure to remove the Utility Lines as required by this section is a violation of Chapter
2 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of
3 Chapter 15.90 does not limit any remedies available to the City under this ordinance or any other
4 authority. If the Permittee does not timely fulfill its obligations under this section, the City may
5 in its sole discretion remove the Utility Lines and restore the public place at the Permittee's
6 expense, and collect the expense in any manner provided by law.

7 Upon the Permittee completing the removal and restoration in accordance with this
8 section, or upon the City completing the removal and restoration and the Permittee's payment to
9 the City for the City's removal and restoration costs, the Director shall issue a certification that
10 the Permittee has fulfilled its removal and restoration obligations under this ordinance. Upon
11 prior notice to the Permittee and entry of written findings that it is in the public interest, the
12 Director may in the Director's sole discretion, conditionally or absolutely excuse the Permittee
13 from compliance with all or any of the Permittee's obligations under this section.

14 Section 6. **Repair or reconstruction.** The Utility Lines shall remain the exclusive
15 responsibility of the Permittee and the Permittee shall maintain the Utility Lines in good and safe
16 condition for the protection of the public, including other below-grade facilities. The Permittee
17 shall not reconstruct or repair the Utility Lines including, but not limited to, adding to or
18 replacing the Utility Lines, except in strict accordance with plans and specifications approved by
19 the Director, in consultation with other City departments. The Director may, in the Director's
20 judgment, order the Utility Lines reconstructed or repaired at the Permittee's cost and expense
21 because of: the deterioration or unsafe condition of the Utility Lines; the installation,
22 construction, reconstruction, maintenance, operation, or repair of any municipally-owned public
23 utilities; or for any other cause.

1 **Section 7. Failure to correct unsafe condition.** After written notice to the Permittee and
2 failure of the Permittee to correct an unsafe condition within the time stated in the notice, the
3 Director may order the Utility Lines to be closed or removed at the Permittee's expense if the
4 Director deems that the Utility Lines have become unsafe or have created a risk of injury to the
5 public. If there is an immediate threat to the health or safety of the public, a notice to correct is
6 not required.

7 **Section 8. Continuing obligations.** Notwithstanding the permission granted terminating
8 or expiring, or closing or removing the Utility Lines, the Permittee shall remain bound by all
9 obligations under this ordinance until the Director has issued a certification that the Permittee has
10 fulfilled its removal and restoration obligations under Section 5 of this ordinance. The Permittee
11 shall continue to be bound by the obligations in Section 9 of this ordinance and shall remain
12 liable for any unpaid fees assessed under Section 17 of this ordinance until the Permittee has
13 fulfilled its obligations under Section 5 of this ordinance.

14 **Section 9. Release, hold harmless, indemnification, and duty to defend.** The
15 Permittee, by accepting the terms of this ordinance, releases the City, its officials, officers,
16 employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense,
17 attorneys' fees, or damages of every kind and description arising out of or by reason of the
18 Utility Lines or this ordinance, including but not limited to claims resulting from injury, damage,
19 or loss to the Permittee or the Permittee's property.

20 The Permittee agrees to at all times defend, indemnify and hold harmless the City, its
21 officials, officers, employees, and agents from and against all claims, actions, suits, liability,
22 loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only
23 damages that may result from the sole negligence of the City, its officials, officers, employees

1 and agents that may accrue to, be asserted by, or be suffered by any person or property including,
2 without limitation, damage, death, or injury to members of the public or to the Permittee's
3 officers, agents, employees, contractors, invitees, tenants, tenants' invitees, licensees, or
4 successors and assigns, arising out of or by reason of:

5 (a) Continuing the existence, maintaining the condition, constructing, reconstructing,
6 modifying, maintaining, operating, using, or removing the Utility Lines or any portion, or using,
7 occupying, or restoring the public place or any portion by the Permittee;

8 (b) Anything that has been done or may at any time be done by the Permittee by
9 reason of this ordinance; or

10 (c) The Permittee failing or refusing to strictly comply with every provision of this
11 ordinance.

12 If any suit, action, or claim of the nature described above is filed, instituted, or begun
13 against the City, the Permittee shall upon written notice from the City, defend the City with
14 counsel reasonably acceptable to the City at the sole cost and expense of the Permittee; and if a
15 judgment is rendered against the City in any suit or action, the Permittee shall fully satisfy the
16 judgment within 90 days after the action or suit has been finally determined, if determined
17 adversely to the City. If it is determined by a court of competent jurisdiction that Revised Code
18 of Washington (RCW) 4.24.115 applies to this ordinance; and if the claims or damages are
19 caused by or result from the concurrent negligence of the City, its agents, contractors, or
20 employees, and the Permittee, its agents, contractors, or employees; this indemnity provision
21 shall be valid and enforceable only to the extent of the negligence of the Permittee or the
22 Permittee's agents, contractors, or employees.

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

7 (a) Constructing, reconstructing, modifying, operating, maintaining, using,
8 continuing the existence, or removing the Utility Lines or any portion, and restoring any
9 disturbed areas of the public place in connection with removing the Utility Lines;

10 (b) The Permittee's activity on or using or occupying the public place described in
11 Section 1 of this ordinance; and

12 (c) Claims and risks in connection with activities performed by the Permittee by
13 virtue of the permission granted by this ordinance.

14 Minimum insurance requirements are CGL insurance written on an occurrence form at least as
15 broad as the Insurance Services Office (ISO) CG 00 01. The City requires insurance coverage to
16 be placed with an insurer admitted and licensed to conduct business in Washington State or with
17 a surplus lines carrier pursuant to chapter 48.15 RCW. If coverage is placed with any other
18 insurer or is partially or wholly self-insured, the insurer(s) or self-insurance is subject to approval
19 by the City's Risk Manager.

20 Minimum limits of liability shall be \$2,000,000 per Occurrence; \$4,000,000 General
21 Aggregate; \$2,000,000 Products/Completed Operations Aggregate, including Premises
22 Operation; Personal/Advertising Injury; and Contractual Liability. Coverage shall include "The

City of Seattle, its officers, officials, employees and agents” as additional insureds for primary and non-contributory limits of liability subject to a Separation of Insureds clause.

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

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

If the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the insurance required under this section until the Director has approved the assignment or transfer pursuant to Section 14 of this ordinance.

Section 11. Contractor insurance. The Permittee shall contractually require that any and all of its contractors performing work on any premises contemplated by this permit name “The

1 City of Seattle, its officers, officials, employees and agents” as additional insureds for primary
2 and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance,
3 and self-insurance.

4 **Section 12. Performance bond.** Within 60 days after the effective date of this ordinance,
5 the Permittee shall deliver to the Director for filing with the City Clerk a sufficient bond
6 executed by a surety company authorized and qualified to do business in the State of Washington
7 that is in the amount of \$151,000, and conditioned with a requirement that the Permittee shall
8 comply with every provision of this ordinance and with every order the Director issues under this
9 ordinance. The Permittee shall ensure that the bond remains in effect until the Director has issued
10 a certification that the Permittee has fulfilled its removal and restoration obligations under
11 Section 5 of this ordinance. An irrevocable letter of credit approved by the Director in
12 consultation with the City Attorney’s Office may be substituted for the bond. If the Permittee
13 assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in
14 effect the bond or letter of credit required under this section until the Director has approved the
15 assignment or transfer pursuant to Section 14 of this ordinance.

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

22 **Section 14. Consent for and conditions of assignment or transfer.** When the Property
23 is transferred, the permission granted by this ordinance shall be assignable and transferable by

1 operation of law pursuant to Section 20 of this ordinance. Prior to transfer, the successor owner
2 of the Property shall accept in writing all of the terms and conditions of the permission granted
3 by this ordinance, and the new owner of the Property shall be conferred with the rights and
4 obligations of Permittee by this ordinance. Other than a transfer to a new owner of the Property,
5 Permittee shall not transfer, assign, mortgage, pledge, or encumber the same without the
6 Director's consent. The Director may approve assignment or transfer of the permission granted
7 by this ordinance to a successor entity only if the successor or assignee has accepted in writing
8 all of the terms and conditions of the permission granted by this ordinance; has provided, at the
9 time of acceptance, the bond and certification of insurance coverage required under this
10 ordinance; and has paid any fees due under Section 15 and Section 17 of this ordinance. Upon
11 the Director's approval of an assignment or transfer, the rights and obligations conferred on the
12 Permittee by this ordinance shall be conferred on the successors and assigns from and after the
13 effective date of the assignment or transfer. Upon assignment or transfer, the Permittee shall be
14 released from all obligations conferred on the Permittee by this ordinance that arise after the
15 assignment or transfer. The release shall have no effect on the Permittee's obligations conferred
16 by this ordinance during the period the Permittee was subject to this ordinance. Any person or
17 entity seeking approval for an assignment or transfer of the permission granted by this ordinance
18 shall provide the Director with a description of the current and anticipated use of the Utility
19 Lines.

20 Section 15. **Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or
21 successor provision, pay the City the amounts charged by the City to inspect the Utility Lines
22 during construction, reconstruction, repair, annual safety inspections, and at other times deemed
23 necessary by the City. An inspection or approval of the Utility Lines by the City shall not be

1 construed as a representation, warranty, or assurance to the Permittee or any other person as to the
2 safety, soundness, or condition of the Utility Lines. Any failure by the City to require correction of
3 any defect or condition shall not limit the Permittee's responsibility or liability in any way.

4 Section 16. **Inspection reports.** The Permittee shall submit to the Director or to SDOT at
5 an address specified by the Director, an inspection report that:

6 (a) Describes any damages or possible repairs, beyond routine maintenance, to any
7 element of the Utility Lines; and

8 (b) Prioritizes all repairs and establishes a timeframe for making repairs.

9 A report meeting the above requirements shall be submitted within 10 days after the
10 Permittee becomes aware of any failure or operating problem in the Utility Lines. If, however,
11 there is indication that a failure in the Utility Lines poses a threat to the public place, the
12 Permittee shall notify the Director promptly after the threat is known to the Permittee. All
13 reconstructions or repairs shall be reviewed by the Director as provided for in Section 6 of this
14 ordinance. If a natural disaster or other event may have damaged the Utility Lines, the Director
15 may require that additional reports be submitted by a date established by the Director. The
16 Permittee has the duty of monitoring the condition of and maintaining the Utility Lines. The
17 responsibility to submit reports periodically or as required by the Director does not waive or alter
18 any of the Permittee's other obligations under this ordinance. The receipt of any reports by the
19 Director shall not create any duties on the part of the Director. Any failure by the Director to
20 require a report or to require action after receiving any report shall not waive or limit the
21 obligations of the Permittee under this ordinance.

22 Section 17. **Annual fee.** Beginning on the effective date of this ordinance and annually
23 thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the

1 Director, an annual fee of \$1,044.00, or as adjusted annually thereafter, for the privileges granted
2 by this ordinance.

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

11 Section 18. **Compliance with other laws.** The Permittee shall construct, maintain, and
12 operate the Utility Lines in compliance with all applicable federal, state, County, and City laws
13 and regulations. Without limitation, in all matters pertaining to the Utility Lines, the Permittee
14 shall comply with the City's laws prohibiting discrimination in employment and contracting
15 including Seattle's Fair Employment Practices Ordinance, SMC Chapter 14.04, and Fair
16 Contracting Practices Code, SMC Chapter 14.10, or successor provisions to the extent such laws,
17 ordinances, codes and/or successor provisions are applicable to Permittee.

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

1 Permittee shall not start constructing the Utility Lines before the Permittee delivers its written
2 signed acceptance of the terms of this ordinance and provides the bond and certification of
3 insurance coverage required by this ordinance and the covenant agreement required by Section
4 20 of this ordinance.

5 Section 20. **Obligations run with the Property.** The obligations and conditions imposed
6 on the Permittee by this ordinance are covenants that run with the land and bind the subsequent
7 owners of the property adjacent to the Utility Lines and legally described in Section 1 of this
8 ordinance (the “Property”), regardless of if the Director has approved an assignment or transfer
9 of the permission granted by this ordinance to subsequent owners. At the Director’s request, the
10 Permittee shall provide to the Director a current title report showing the identity of all owners of
11 the Property and all encumbrances on the Property. The Permittee shall, within 60 days of the
12 effective date of this ordinance and before conveying any interest in the Property, deliver to the
13 Director upon a form supplied by the Director, a covenant agreement imposing the obligations
14 and conditions in this ordinance, signed and acknowledged by the Permittee and any other
15 owners of the Property, that has been recorded with the King County Recorder’s Office. The
16 Director shall file the recorded covenant agreement with the City Clerk. The covenant agreement
17 shall reference this ordinance by its ordinance or Council Bill number. At the request of the
18 Director, the Permittee shall cause encumbrances on the Property to be subordinated to the
19 covenant agreement.

20 Section 21. **Section titles.** Section titles are for convenient reference only and do not
21 modify or limit the text of a section.

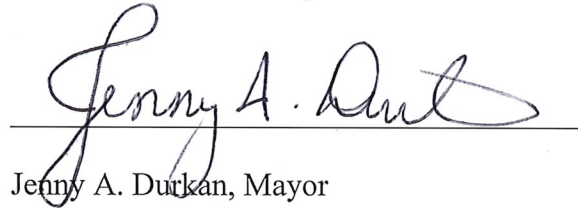
Section 22. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 4th day of February, 2019,
and signed by me in open session in authentication of its passage this 4th day of
February, 2019.



President _____ of the City Council

Approved by me this 13th day of February, 2019.


Jenny A. Durkan, Mayor

Filed by me this 13th day of February, 2019.



Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Seattle Department of Transportation	Amy Gray/206-386-4638	Christie Parker/206-684-5211

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE granting National Railroad Passenger Corporation permission to construct, maintain, and operate below-grade utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Summary and background of the Legislation:

This legislation follows the conceptual approval granted by City Council by Resolution 31835 and will allow National Railroad Passenger Corporation (Amtrak) to construct, install, and maintain below-grade private utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South, located in the SODO neighborhood.

The utility lines permit is for a term of ten years commencing on the effective date of the ordinance, with two renewable ten-year terms. The legislation specifies the conditions under which authorization is granted and provides for acceptance of the permit and conditions.

Amtrak is to pay the City of Seattle an annual fee of \$1,044.00 commencing on the effective date of the ordinance, and annually thereafter. Adjustments to the annual fee may be made every year and if so made shall be calculated in accordance with a term permit fee schedule adopted by City Council by Ordinance 123485. An Annual Fee Assessment Summary is attached for reference.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes **X** No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? **X** Yes ___ No

Appropriation change (\$):	General Fund \$		Other \$	
	2019	2020	2019	2020

Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2019	2020	2019	2020
			\$1,044	TBD
Positions affected:	No. of Positions		Total FTE Change	
	2019	2020	2019	2020

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
No.

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

If the legislation is not enacted by the City Council, the City of Seattle will not receive the annual fee of \$1,044.00. As previously stated, the City of Seattle has the option to adjust the fee amount on an annual basis.

3.d. Appropriations

☐ This legislation adds, changes, or deletes appropriations.

3.e. Revenues/Reimbursements

☒ This legislation adds, changes, or deletes revenues or reimbursements.
Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2019 Revenue	2020 Estimated Revenue
Transportation Fund 13000	SDOT	Annual Fee	\$1,044.00	TBD
TOTAL			\$1,044.00	TBD

Is this change one-time or ongoing?
On-Going

Revenue/Reimbursement Notes: The 2019 fee is based on 2019 King County Assessor land value.

3.f. Positions

☐ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
No.
- b. **Is a public hearing required for this legislation?**
No.
- c. **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**
No.
- d. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- e. **Does this legislation affect a piece of property?**
Yes, the property located at 187 South Holgate Street and legally described in Section 1 of the Council Bill.
- f. **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 for this piece of legislation. This legislation does not impact vulnerable or historically disadvantaged communities.
- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**
N/A

List attachments/exhibits below:

Summary Attachment A – Amtrak Utility Lines Area Map

Summary Attachment B – Amtrak Utility Lines Annual Fee Assessment Summary

STATE OF WASHINGTON -- KING COUNTY

--SS.

370836

No. 125769 125770 125771

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:ORDINANCE 125763

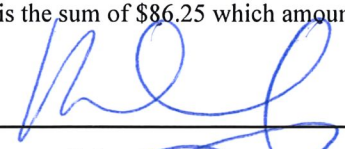
was published on

02/27/19

The amount of the fee charged for the foregoing publication is the sum of \$86.25 which amount has been paid in full.

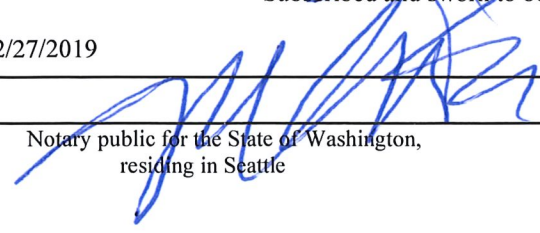


Affidavit of Publication



Subscribed and sworn to before me on

02/27/2019



Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on February 04, 2019, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125763

Council Bill 119453

AN ORDINANCE relating to land use and zoning; amending Ordinance 125733 to correct a clerical error regarding a condition of approval of the University of Washington's 2018 Seattle Campus Master Plan.

Ordinance 125769

Council Bill 119458

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125770

Council Bill 119455

AN ORDINANCE relating to City streets; changing the name of the portion of Aurora Avenue North between Denny Way and Harrison Street to 7th Avenue North, and changing the name of the portion of Aurora Avenue between Battery Street and Denny Way to Borealis Avenue; and superseding prior ordinances to the extent inconsistent.

Ordinance 125771

Council Bill 119456

AN ORDINANCE granting National Railroad Passenger Corporation permission to construct, maintain, and operate below-grade utility lines under and across South Holgate Street, east of Occidental Avenue South and west of 3rd Avenue South; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Date of publication in the Seattle Daily Journal of Commerce, February 27, 2019.

2/27(370836)