



SEATTLE CITY COUNCIL

Legislative Summary

CB 119009

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Title: AN ORDINANCE relating to the permission granted to Fremont Dock Co. by Ordinance 121706 to use and occupy a portion of Fremont Avenue North under the Fremont Bridge North Approach lying north of the Lake Washington Ship Canal and south of the former Burlington Northern Main Line Right-of-Way; amending the legal description in Exhibit A to Ordinance 121706; providing for the acceptance of the permit and conditions; 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: Att A - Exhibit A to Ordinance 121706

Drafter: amy.gray@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	06/21/2017	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	06/21/2017	sent for review	Council President's Office			
1	Council President's Office	06/22/2017	sent for review	Sustainability and Transportation Committee			
<p>Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee</p> <p>Notes:</p>							
1	Full Council	06/26/2017	referred	Sustainability and Transportation Committee			

CITY OF SEATTLE

ORDINANCE 125352

COUNCIL BILL 119009

AN ORDINANCE relating to the permission granted to Fremont Dock Co. by Ordinance 121706 to use and occupy a portion of Fremont Avenue North under the Fremont Bridge North Approach lying north of the Lake Washington Ship Canal and south of the former Burlington Northern Main Line Right-of-Way; amending the legal description in Exhibit A to Ordinance 121706; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 121706 permission was granted to Fremont Dock Co. (“Permittee”) to use and occupy a portion of Fremont Avenue North under the Fremont Bridge North Approach and lying north of the Lake Washington Ship Canal and south of the former Burlington Northern Main Line Right-of-Way; and

WHEREAS, the Permittee has applied for permission to use and occupy a modified portion of Fremont Avenue North under the Fremont Bridge North Approach lying north of the Lake Washington Ship Canal and south of the former Burlington Northern Main Line Right-of-Way, and further described below as the “Use Area” (or PP3), and this area is further described in Attachment A to this ordinance at page 3 and shown on a map on page 4; use of PP3 is offered in exchange for the granting of a 25-foot-wide easement across Permittee’s property for access to the Fremont Bridge North Approach; and

WHEREAS, The City of Seattle has also entered into an agreement with Fremont Dock Co. to allow the Seattle Department of Transportation (SDOT) to use a portion of Fremont Avenue North under the Fremont Bridge North approach that is privately owned, and this area is further described in Attachment A to this ordinance at page 5 and a map of the use area at page 6 of Attachment A (also referred to as PP4); and

1 WHEREAS, Ordinance 121706 needs to be amended to meet current permit term requirements;
2 and

3 WHEREAS, on February 11, 2016, the Seattle City Council passed Ordinance 124986 granting
4 permission to the Permittee to occupy the public right-of-way, and the Permittee was
5 required to submit to a covenant agreement and certification of insurance; and

6 WHEREAS, the Permittee failed to file with the Director of Transportation their letter of
7 acceptance of the terms of the permit conferred by Ordinance 124986, and the permission
8 must be deemed lapsed and forfeited under the terms of Section 5 of Ordinance 124986;
9 and

10 WHEREAS, the adoption of this ordinance is the culmination of the approval process for the Use
11 Area to legally occupy a portion of the public right-of-way; NOW, THEREFORE,

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

13 Section 1. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Ordinance 121706 are
14 amended as follows:

15 Section 1. **Permission.** Subject to the terms and conditions of this ordinance, The
16 City of Seattle (“City”) grants permission ((is hereby granted)) (also referred to in this
17 ordinance as a permit) to the Fremont Dock Co., and its successors and assigns ((;
18 (Permittee))) as approved by the Director of the Seattle Department of Transportation
19 (“Director”) according to Section 12 of this ordinance (the party named above and each
20 such approved successor and assign are referred to as “Permittee”), to use and occupy a
21 portion of Fremont Avenue North under the Fremont Bridge North Approach ~~((and))~~
22 lying ~~((between the northerly margin))~~ north of the Lake Washington Ship Canal and
23 ~~((the southerly boundary))~~ south of the former Burlington Northern Main Line Right-of-

1 Way and described in (~~(Exhibit)~~) Attachment A to this ordinance at page 3 ("PP3") (the
2 "Use Area"), (~~(-)~~) adjacent in whole or in part to the property legally described as:

3 That certain parcel of land situated in the City of Seattle, County of King, State of
4 Washington, within the Southeast Quarter of Section 18, Township 25 North
5 Range 4 East, W.M., that portion of Fremont Avenue North under the bridge
6 approach for the Fremont Avenue Bridge, described as follows:

7 Commencing at the centerline intersection of Fremont Avenue North and North
8 34th Street; thence along the centerline of said North 34th Street, North 77°29'54"
9 West 39.73 feet to the northerly projection of the westerly right-of-way line of
10 said Fremont Avenue North;

11 Thence along said northerly projection, South 00°09'34" West 122.71 feet to the
12 intersection with the northwesterly projection of the northwesterly line of Block
13 84 of Denny & Hoyt's Supplemental Plat to the City of Seattle according to the
14 plat thereof recorded in Volume 3 of Plats, Page 3, records of said county and the
15 True Point of Beginning;

16 Thence along said westerly right-of-way line, South 00°09'34" West 241.66 feet
17 to the westerly projection of an existing chain link fence

18 Thence along said westerly projection and along said existing chain link fence,
19 South 89°39'02" East 80.00 feet to the easterly right-of-way line of said Fremont
20 Avenue North;

21 Thence along said easterly right-of-way line, North 00°09'34" East 224.40 feet to
22 said northwesterly projection of the northwesterly line of Block 84;

23 Thence along said northwesterly projection, North 77°29'04" West 81.90 feet to
24 the True Point of Beginning.

25 Section 2. **Term.** The permission (~~(herein)~~) granted to Permittee (~~(shall be)~~) is for
26 a term of ten (~~((10))~~) years (~~(, commencing at the completion of the Fremont Bridge~~
27 ~~Approaches Project as determined by the Director of Transportation (Director) (the~~
28 ~~"Commencement Date"))~~) starting on February 25, 2008, and ((terminating)) ending at
29 11:59 p.m. on the last day of the tenth year, ((from the Commencement Date. The
30 Permittee shall have the option to extend this Permit for two (2) additional ten (10) year
31 terms.)) Upon written application ((of)) made by the Permittee at least ((thirty (30)) 180

1 days before expiration of the ~~((then applicable))~~ term, the Director ~~((shall))~~ or the City
2 Council may renew the permit ~~((for a successive ten (10) year term))~~ twice, each time for
3 a successive ten-year term, subject to the right of the City to require the removal of the
4 Use Area or to revise by ordinance any of the terms and conditions of the permission
5 granted by this ordinance. The total term of the permission, ~~((as originally granted and~~
6 ~~thus extended))~~ including renewals, shall not exceed ~~((thirty (30)))~~ 30 years. ~~((subject to~~
7 ~~the right of the City of Seattle (City) by ordinance or otherwise to revise any of the terms~~
8 ~~and conditions contained herein at the time of renewal. Permittee shall have the option~~
9 ~~not to extend this Permit by not filing a new acceptance.))~~ The Permittee shall submit any
10 application for a new permission no later than 180 days prior to the expiration of the
11 then-existing term.

12 Section 3. **Protection of utilities.** The permission granted is ~~((hereby))~~ subject to
13 the Permittee bearing the expense of any protection, support, or relocation of existing
14 utilities deemed necessary by the ~~((owner))~~ owners of the ~~((utility))~~ utilities, and the
15 Permittee being responsible for any damage to the utilities due to ~~((any of Permittee's))~~
16 the construction, repair, reconstruction, ~~((or))~~ maintenance ~~((activities related to its use~~
17 ~~and occupancy))~~ operation, or removal of the Use Area and for any consequential
18 damages that may result from any damage to utilities or interruption in service caused by
19 any of the foregoing. ~~((And such protection, support, relocation, repair, reconstruction~~
20 ~~and maintenance shall be done at Permittee's sole cost and expense with the Permittee~~
21 ~~being responsible at Permittee's sole cost and expense for any subsequent damage to the~~
22 ~~utilities due to any of the Permittee's construction, repair, reconstruction or maintenance~~
23 ~~activities related to its use and occupancy.))~~

1 Section 4. Removal for public use or for cause. The permission granted
2 ((hereby)) is subject to ~~((the primary and secondary))~~ use of the street right-of-way or
3 other public place (collectively, “public place”) by the City and the public ~~((of the~~
4 ~~Fremont Avenue North street right-of-way))~~ for travel, ~~((and))~~ utility purposes, and other
5 public uses or benefits. ~~((the))~~ The City expressly reserves the right ~~((upon thirty (30)~~
6 ~~days written notice))~~ to deny renewal, or terminate the permission at any time prior to
7 expiration of the initial term or any renewal term, and require the Permittee to remove
8 ~~((Permittee’s use and occupancy))~~ the Use Area, or any part thereof or installation on the
9 public place, at the Permittee’s sole cost and expense in the event that:

10 (a) The City Council determines by ordinance that the space ~~((used and))~~
11 occupied by the ~~((Permittee))~~ Use Area is necessary for any ~~((primary or secondary))~~
12 public use or benefit ~~((;))~~ or that ~~((Permittee’s use and occupancy))~~ the Use Area
13 interferes with any ~~((primary or secondary))~~ public use or benefit ~~((a City determination~~
14 ~~that the space is necessary for a primary or secondary public use or benefit shall be~~
15 ~~conclusive or final)))~~; or

16 (b) The City determines that use of the Use Area has been abandoned; or
17 ~~((b))~~ (c) The City determines that any term or condition of this ordinance
18 has been violated, and ~~((such))~~ the violation has not been corrected by the Permittee by
19 the compliance date after a written ~~((notice of the violation has been issued by the City~~
20 ~~and Permittee has had thirty (30) days to cure such alleged noncompliance))~~ request by
21 the City to correct the violation (unless a notice to correct is not required due to an
22 immediate threat to the health or safety of the public).

1 A City Council determination that the space is needed for, or the Use Area
2 interferes with, a public use or benefit is conclusive and final without any right of the
3 Permittee to resort to the courts to adjudicate the matter.

4 Section 5. **Permittee's obligation to remove and restore.** ~~((In the event that))~~ If
5 the permission ((hereby)) granted ((extends to its termination in thirty (30) years,)) is not
6 renewed at the expiration of a term, or if the permission expires without an application
7 for a new permission being granted, or if the City ((orders removal of Permittee's use and
8 occupancy pursuant to the terms of this ordinance)) terminates the permission, then
9 within ((ninety (90))) 90 days after ((such)) the expiration ((;)) or termination ((or order
10 of removal, or prior to the date stated in the "Order to Remove," as the case may be)) of
11 the permission, or prior to any earlier date stated in an ordinance or order requiring
12 removal of the Use Area, the Permittee shall, at its own expense, remove ((its use and
13 occupancy and shall place all portions of the space under the Fremont Bridge North
14 Approach that may have been disturbed for any part of Permittee's use and occupation,))
15 the Use Area and all of the Permittee's equipment and property from the public place and
16 replace and restore all portions of the public place that may have been disturbed for any
17 part of the Use Area in as good condition for public use as ((it was)) existed prior to ((the
18 use,)) construction of the Use Area and in at least as good condition in all respects as the
19 abutting portions ((thereof. Whereupon, the Director shall promptly issue a certificate
20 discharging the Permittee from responsibility under this ordinance for occurrences after
21 the date of such discharge and such issuance shall not be unreasonably withheld,
22 conditioned or delayed)) of the public place as required by SDOT right-of-way
23 restoration standards.

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

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

16 Section 6. **Repair or reconstruction.** The Use Area shall remain the exclusive
17 responsibility of the Permittee and the Permittee shall maintain the Use Area in good and
18 safe condition for the protection of the public. ~~The Permittee shall not ((commence its use~~
19 ~~and occupancy of)) reconstruct or repair~~ the Use Area except in strict accordance with
20 plans and specifications approved by the Director. ~~((Permittee shall submit its plans and~~
21 ~~specifications to the Director and the Director shall review such plans in a timely~~
22 ~~manner.))~~ The Director may, in ~~((his/her))~~ the Director's judgment, ~~((may))~~ order
23 ~~((reconstruction, relocation, readjustment or repair of))~~ the Use Area reconstructed or

1 repaired at the Permittee's (~~((own))~~) cost and expense because of: the deterioration or
2 unsafe condition (~~((s, grade separations, or))~~) of the Use Area; the installation,
3 construction, reconstruction, maintenance, operation, or repair of any (~~((and all))~~)
4 municipally-owned public utilities; (~~((;))~~) or for any other cause. (~~((; resulting from the~~
5 ~~Permittee's use and occupation of the Use Area.))~~)

6 Section 7. **Failure to correct unsafe condition.** After written notice to the
7 Permittee (~~((;))~~) and failure of the Permittee to correct an unsafe (~~((or risk prone))~~) condition
8 within the time stated in (~~((such))~~) the notice, the Director may order the Use Area be
9 closed or removed at the Permittee's expense if the Director deems that (~~((it))~~) the Use
10 Area has become unsafe or creates a risk of injury to the public. (~~((In a situation in~~
11 ~~which))~~) If there is an immediate threat to the health or safety of the public, (~~((written))~~) a
12 notice to correct is not required. (~~((, and the Director may summarily close the Use Area;~~
13 ~~In the event any such closure is the result of conditions or events beyond the control of~~
14 ~~the Permittee, then the current term of the permit shall be extended by the same number~~
15 ~~of days that the Use Area is closed.))~~)

16 Section 8. **Continuing obligations.** Notwithstanding (~~((the))~~) termination or
17 expiration of the permission granted, (~~((herein,))~~) or closure or removal of (~~((Permittee's~~
18 ~~use and occupancy))~~) the Use Area, the Permittee shall remain bound by all of its
19 obligations under this ordinance until (~~((i) the Use Area is cleared and restored in a~~
20 ~~manner and to a condition satisfactory to the Director; and (ii))~~) the Director (~~((certifies~~
21 ~~that Permittee has discharged its obligations herein, and such certification shall not be~~
22 ~~unreasonably withheld, conditioned or delayed))~~) has issued a certification that the
23 Permittee has fulfilled its removal and restoration obligations under Section 5 of this

1 ordinance. Notwithstanding the issuance of that certification, the Permittee shall continue
2 to be bound by the obligations in Section 9 of this ordinance and shall remain liable for
3 any unpaid fees assessed under Sections 13A and 13B of this ordinance.

4 Section 9. **Release, hold harmless, indemnification, and duty to defend.** ~~((The~~
5 ~~Use area shall remain the exclusive responsibility of Permittee.)) The Permittee, by
6 ~~((acceptance of))~~ accepting the terms of this ordinance, ~~((and the permission hereby~~
7 ~~granted,))~~ releases the City, its officials, officers, employees, and agents from any and all
8 claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every
9 kind and description arising out of or by reason of the Use Area or this ordinance,
10 including but not limited to claims resulting from injury, damage, or loss to the Permittee
11 or the Permittee's property. ~~((and does covenant and agree for itself, its successors and~~
12 ~~assigns, with the City, to at all times protect and save))~~~~

13 The Permittee agrees to at all times defend, indemnify, and hold harmless ~~((The))~~
14 the City, its officials, officers, employees, and agents from and against all claims, actions,
15 suits, liability, loss, costs, expense, ~~((or damages of every kind and description, including~~
16 ~~reasonable attorney))~~ attorneys' fees, ~~((and necessary litigation expenses incurred by the~~
17 ~~City))~~ or damages of every kind and description, ~~((f))~~ excepting only ~~((such))~~ damages
18 that may result from the sole negligence of the City ~~((t))~~ which may accrue to, be asserted
19 by, or be suffered by any person or ~~((persons and/or))~~ property ~~((or properties))~~
20 including, without limitation, damage, death, or injury to ~~((Permittee, its))~~ members of
21 the public or to the Permittee's officers, agents, employees, contractors, invitees, tenants,
22 ~~((and))~~ tenants' invitees, licensees, or its successors and assigns, arising out of or by
23 reason of;

1 (a) ~~((Permittee's use and occupation))~~ the existence, condition, construction,
2 reconstruction, modification, maintenance, operation, use, or removal of the Use
3 Area ~~((;))~~ or any portion thereof, or ~~((by reason of anything that has been done, or may at~~
4 ~~any time be done))~~ the use, occupation, or restoration of the public place or any portion
5 thereof by the Permittee ~~((, its successors or assigns,))~~ or any other person or entity;

6 (b) anything that has been done or may at any time be done by the Permittee
7 by reason of this ordinance; ~~((, or by reason of Permittee, its successors and assigns,))~~ or

8 (c) the Permittee failing or refusing to strictly comply with ~~((each and))~~ every
9 provision of this ordinance;
10 or arising out of or by reason of the Use Area or this ordinance in any other way.

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

1 the extent of the negligence of the Permittee or the Permittee's agents, contractors, or
2 employees. ~~((or its successors and assigns.~~

3 Permittee specifically and expressly agrees to waive Permittee's and Permittee's
4 successors' and assigns' immunity under industrial insurance, Title 51 of the Revised
5 Code of Washington, to the extent necessary to provide the City with a full and complete
6 indemnity from claims made by employees of Permittee or Permittee's successors and
7 assigns. Permittee, on behalf of Permittee and Permittee's successors and assigns,
8 specifically and expressly agrees that such waiver of immunity was mutually negotiated
9 by the parties.))

10 Section 10A. **Insurance.** For as long as the Permittee ~~((, its successors and~~
11 ~~assigns, shall))~~ exercises any permission granted by this ordinance and until ~~((Permittee's~~
12 ~~use and occupancy is entirely removed and discontinued and Permittee discharged by~~
13 ~~order of))~~ the Director has issued a certification that the Permittee has fulfilled its
14 removal and restoration obligations ~~((as provided in))~~ under Section 5 of this ordinance,
15 the Permittee shall ~~((unless the City and Permittee mutually agree that insurance is~~
16 ~~unavailable at a reasonable cost))~~ obtain and maintain in full force and effect, at its own
17 cost and expense, insurance ~~((policies which protect))~~ and/or self-insurance that protects
18 the Permittee and the City from any and all claims and risks of ~~((any))~~ loss from perils
19 ~~((which))~~ that can be insured against under commercial general liability (CGL) insurance
20 ~~((contracts and fire insurance policies, including any extended coverage endorsements~~
21 ~~thereto which are customarily available from time to time for))~~ policies in conjunction
22 with:

1 (a) construction, reconstruction, modification, operation, maintenance, use,
2 ~~((or))~~ existence, ~~((of Permittee's use and occupancy permitted by this ordinance and of~~
3 ~~any and all portions of the Use Area))~~ or removal of the Use Area or any portion thereof,
4 as well as restoration of any disturbed areas of the public place in connection with
5 removal of the Use Area;

6 (b) the Permittee's activity upon or the use or occupation of the ~~((Use Area, as~~
7 ~~well as))~~ public place described in Section 1 of this ordinance; and

8 (c) ~~((any and all))~~ claims and risks in ~~((conjunction))~~ connection with ~~((and~~
9 ~~activity))~~ activities performed by the Permittee by virtue of the permission granted by this
10 ordinance.

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

19 Minimum limits of liability shall be \$2,000,000 ~~((each occurrence combined~~
20 ~~single limit bodily injury and property damage and))~~ per Occurrence; \$4,000,000
21 ~~((annual aggregate))~~ General Aggregate; \$4,000,000 Products/Completed Operations
22 Aggregate, including Premises Operation; Personal/Advertising Injury; Contractual
23 Liability. Coverage shall ~~((specifically apply to the Use Area under the Fremont Bridge~~

1 ~~North Approach exposure. The policy shall~~) include ~~((the))~~ “The City of Seattle, its
2 ~~((elected and appointed))~~ officers, officials, employees, and agents” as additional
3 insureds ~~((either by designated additional insured endorsement or by blanket additional~~
4 ~~insured policy wording, either of which shall expressly provide such additional insured~~
5 ~~status for the City in its role of governmental permitting))~~ for primary and non-
6 contributory limits of liability subject to a Separation of Insureds clause. ~~((Coverage shall~~
7 ~~be on a primary basis and not contributory with any insurance or self insurance that the~~
8 ~~City may maintain. Evidence of current coverage shall be maintained on file with the~~
9 ~~City’s Risk Manager in the form of a copy of certification of property and liability~~
10 ~~insurance coverage, including an actual copy of the designated additional insured~~
11 ~~endorsement to the commercial general liability insurance policy or of the blanket~~
12 ~~additional insured wording forming a part thereof. Whenever in the judgment of the~~
13 ~~City’s Risk Manager, the coverage’s or limits of such insurance filed pursuant to the~~
14 ~~provisions hereof shall be deemed insufficient to fully protect the City, Permittee shall,~~
15 ~~upon written demand by the Risk Manager, furnish additional insurance in such amount~~
16 ~~as may be specified by the Risk Manager.))~~

17 Within 60 days after the effective date of this ordinance, the Permittee shall
18 provide to the City, or cause to be provided, certification of insurance coverage including
19 an actual copy of the blanket or designated additional insured policy provision per the
20 ISO CG 20 12 endorsement or equivalent. The insurance coverage certification shall be
21 delivered or sent to the Director or to the Seattle Department of Transportation (SDOT) at
22 an address as the Director may specify in writing from time to time. The Permittee shall

1 provide a certified complete copy of the insurance policy to the City promptly upon
2 request.

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

14 In the event that the Permittee assigns or transfers the permission granted by this
15 ordinance, the Permittee shall maintain in effect the insurance required under this section
16 until the Director has approved the assignment or transfer pursuant to Section 12 of this
17 ordinance.

18 Section 10B. **Adjustment of insurance requirements.** The Director may adjust
19 minimum liability insurance levels during the term of this permission. If the Director
20 determines that an adjustment is necessary to fully protect the interests of the City, the
21 Director shall notify the Permittee of the new requirements in writing. The Permittee
22 shall, within 60 days of the date of the notice, provide proof of the adjusted insurance
23 levels to the Director.

1 Section 11. **Contractor insurance.** The Permittee shall contractually require that
2 any and all of its contractors (~~(and subcontractors at all tiers that)~~) performing
3 (~~(construction)~~) work on (~~(the Use Area)~~) any premises as contemplated by this
4 permit (~~(s)~~) name (~~(the)~~) "The City of Seattle, its officers, officials, employees, and
5 agents" as (~~(an)~~) additional insureds (~~(on all policies of commercial general liability~~
6 ~~insurance for such project(s), and)~~) for primary and non-contributory limits of liability on
7 all CGL, Automobile and Pollution liability insurance and/or self-insurance. The
8 Permittee shall also include in all contract documents (~~(for such projects(s))~~) with its
9 contractors a third-party beneficiary provision extending to the City construction
10 indemnities and warranties granted to the Permittee, (~~(to the City as well.)~~)

11 Section 12. **Consent for and conditions of assignment or transfer.** (~~(Permittee,~~
12 ~~its successors and assigns shall not assign or transfer any privileges conferred)~~) The
13 permission granted by this ordinance shall not be assignable or transferable by operation
14 of law; nor shall the Permittee transfer, assign, mortgage, pledge, or encumber the same
15 without the Director's consent, (~~(of the City)~~) which (~~(consent)~~) the Director shall not
16 (~~(be)~~) unreasonably (~~(withheld, conditioned or delayed)~~) refuse. (~~(If permission is~~
17 ~~granted, the assignee or transferee shall be bound)~~) The Director may approve assignment
18 or transfer of the permission granted by this ordinance to a successor entity only if the
19 successor or assignee has accepted in writing all of the terms and conditions of (~~(this~~
20 ~~ordinance and Fremont Dock Co. shall be released therefrom)~~) the permission granted by
21 this ordinance; has provided, at the time of the acceptance, the bond and certification of
22 insurance coverage required under this ordinance; and has paid any fees due under
23 Sections 13A and 13B of this ordinance. (~~(This consent requirement does not apply to~~

1 ~~any lessees or sublessees of Fremont Dock Co.))~~ Upon the Director's approval of an
2 assignment or transfer, the rights and obligations conferred on the Permittee by this
3 ordinance shall be conferred on the successors and assigns. Any person or entity seeking
4 approval for an assignment or transfer of the permission granted by this ordinance shall
5 provide the Director with a description of the current and anticipated use of the Use Area.

6 Section 13A. **Inspection fees.** The Permittee (~~(, its successors and assigns,))~~ shall,
7 as provided by SMC Chapter 15.76 or successor provision, pay (~~(to)~~) the City
8 (~~(reasonable costs))~~ the amounts charged by the City to inspect the Use Area during
9 construction, reconstruction, repair, annual safety inspections, and at other times deemed
10 necessary by the City. An inspection or approval of the Use Area by the City shall not be
11 construed as a representation, warranty, or assurance to the Permittee or any other person as
12 to (~~(ensure))~~ the safety, (~~(of the use and occupancy, under the direction of the Director, as~~
13 ~~provided by Seattle Municipal Code Chapter 15.76))~~ soundness, or condition of the Use
14 Area. Any failure by the City to require correction of any defect or condition shall not in any
15 way limit the responsibility or liability of the Permittee.

16 Section 13B. **Annual Fee.** In consideration for a non-exclusive 25-foot-wide
17 easement across the Permittee's property, as recorded under King County Record No.
18 2005307001886, an annual fee for the Use Fee will not be assessed. If the easement is
19 ever rescinded or revoked by the Permittee, an annual fee according to the Street Use
20 Permit Fee Schedule term permit fee methodology shall be issued by the Director, and
21 annually thereafter, for privileges granted by this ordinance.

22 Section 13C. **Obligations run with the Property.** The obligations and conditions
23 imposed on the Permittee by and through this ordinance are covenants that run with the

1 Section 2. Exhibit A to Ordinance 121706, legally describing the areas to be used by
2 Fremont Dock Co., is amended as shown in Attachment A to this ordinance.

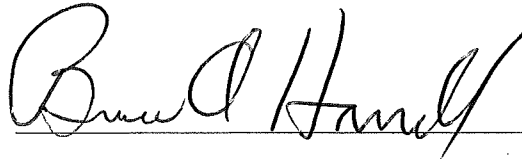
3 Section 3. **Section titles.** Section titles are for convenient reference only and do not
4 modify or limit the text of a section.

5 Section 4. **Acceptance of terms and conditions.** The Permittee shall deliver to the
6 Director its written signed acceptance of the terms of this ordinance within 60 days after the
7 effective date of this ordinance. The Director shall file the written acceptance with the City
8 Clerk. If no such acceptance is received within that 60-day period, the privileges conferred by
9 this ordinance shall be deemed declined or abandoned and the permission granted deemed lapsed
10 and forfeited and the Permittee shall, at its own expense, remove the Use Area and all of the
11 Permittee's equipment and property and replace and restore all portions of the public place as
12 provided in Section 5 of Ordinance 121706, and as further amended by this ordinance.

13 Section 5. **Ratify and confirm.** Any act taken by the City or the Permittee pursuant to the
14 authority and in compliance with the conditions of this ordinance but prior to the effective date
15 of the ordinance is ratified and confirmed.

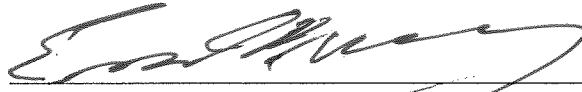
1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 17th day of July, 2017,
5 and signed by me in open session in authentication of its passage this 17th day of
6 July, 2017.

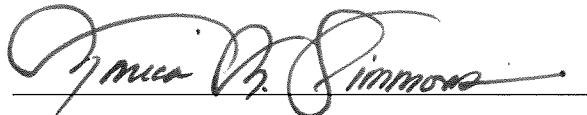
7 

8 President _____ of the City Council

9 Approved by me this 26th day of July, 2017.

10 
11 Edward B. Murray, Mayor

12 Filed by me this 21st day of July, 2017.

13 
14 Monica Martinez Simmons, City Clerk

15 (Seal)

16
17
18
19 Attachments:
20 Attachment A: Exhibit A to Ordinance 121706

Attachment A: Exhibit A to Ordinance 121706

PERMIT AREA TO FREMONT DOCK COMPANY- PP1
PARCEL NO. 197320-0230-09

THOSE PORTION OF BLOCKS 82, 83 AND 84 DENNY AND HOYT'S SUPPLEMENTAL PLAT TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 3, IN KING COUNTY, WASHINGTON, AND OF VACATED STREETS AND ALLEYS ABUTTING THEREON; LOT F, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NUMBER 9801013, RECORDED UNDER RECORDING NUMBER 9803239017; LOCATED IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 25 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY WASHINGTON AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH MARGIN OF NORTH 34TH STREET, FORMERLY KNOWN AS EWING STREET AND EWING AVENUE, AS ESTABLISHED BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 269361 WITH NORTHERLY PROLONGATION OF THE EAST MARGIN OF FREMONT AVENUE NORTH DESCRIBED AS THE EAST LINE OF THE WEST 7.00 FEET OF BLOCK 84, DENNY AND HOYT'S SUPPLEMENTAL PLAT TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 3, IN KING COUNTY, WASHINGTON, CONDEMNED BY THE CITY OF SEATTLE ON AUGUST 16, 1909 FOR THE WIDENING OF FREMONT AVENUE NORTH UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 62184 AS PROVIDED FOR IN THE CITY OF SEATTLE ORDINANCE NUMBER 17629;
THENCE SOUTH 1°18'03" WEST ALONG SAID NORTHERLY PROLONGATION, A DISTANCE OF 82.01 FEET TO THE SOUTHERLY MARGIN OF THE BURLINGTON NORTHERN INC., RIGHT-OF-WAY FOR ITS FORMER SUMAS BRANCH AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 76°20'28" WEST ALONG SAID SOUTH MARGIN, A DISTANCE OF 81.90 FEET TO THE WESTERLY MARGIN OF FREMONT AVENUE NORTH AS CONDEMNED ON AUGUST 16, 1909, UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 62184 AND AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 17629;
THENCE SOUTH 1°18'03" WEST ALONG SAID WEST MARGIN, A DISTANCE OF 114.71 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 80.02 FEET TO SAID EAST MARGIN OF FREMONT AVENUE NORTH;
THENCE NORTH 1°18'03" EAST ALONG SAID EAST MARGIN, A DISTANCE OF 95.37 FEET TO THE TRUE POINT OF BEGINNING;

THE ABOVE DESCRIBED CONTAINING 8,403 SQUARE FEET MORE OR LESS.

PERMIT AREA TO FREMONT DOCK COMPANY - (PP1)
PARCEL NO. 197320-0230-09



SCALE: 1"=30'

Former BNRR R/W

POC

N 34TH ST

N01°18'03"E
82.01'

N76°20'28"W
51.90'

40'

FREMONT AVE N

N01°18'03"E
95.37'

PARCEL B
BLA # 98066835
REC. NO. # 20000502900009

N01°18'03"W
114.71'

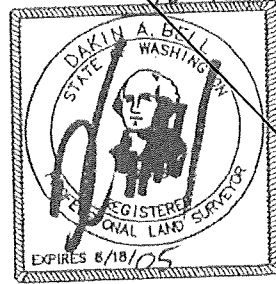
LOT A
CITY LLA # 9700157
REC. NO. # 9706050452

N90°00'00"W
80.02'

BASIS OF BEARING: NAD 83/01,
WASIL NORTH ZONE

cts
Engineers, Inc.

1412-112th Avenue N.E. Suite 102
Bellevue, Washington 98004 (425) 455-7622



PERMIT AREA TO FREMONT DOCK COMPANY- PP3
PARCEL NO. 197320-0230-09

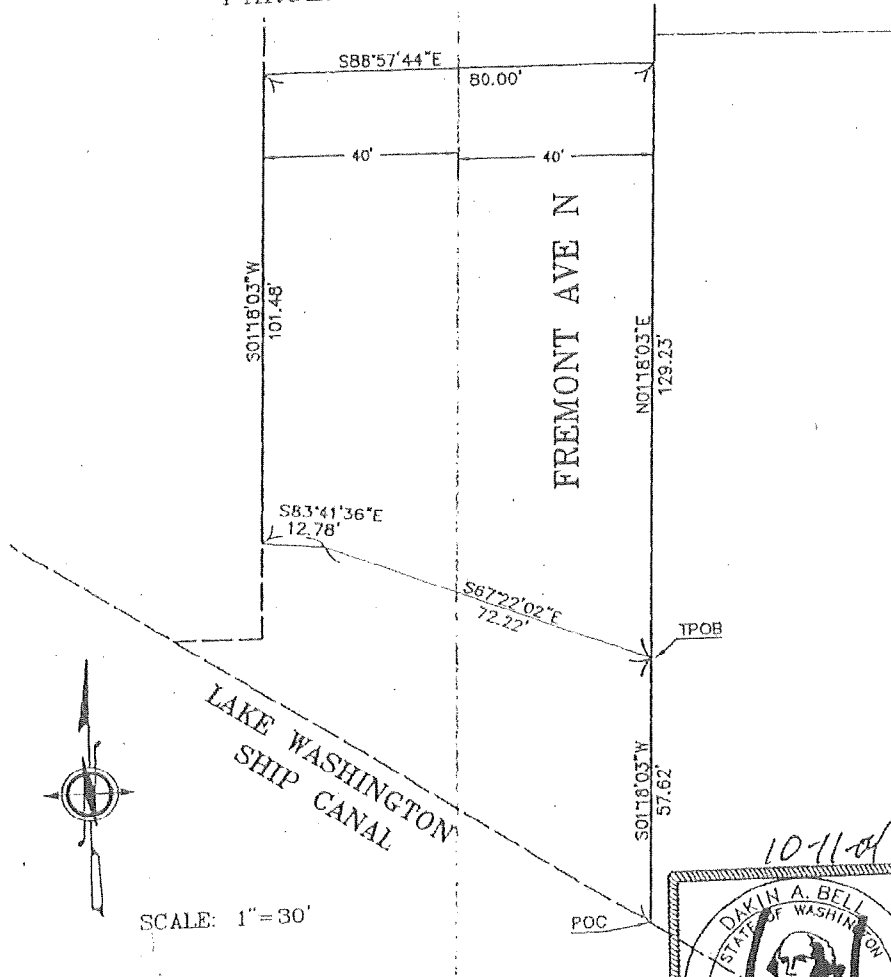
THOSE PORTIONS OF BLOCKS 81 AND 84 DENNY AND HOYT'S SUPPLEMENTAL PLAT TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 3, IN KING COUNTY, WASHINGTON, AND OF VACATED STREETS AND ALLEYS ABUTTING THEREON; LOT F, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NUMBER 9801013, RECORDED UNDER RECORDING NUMBER 9803239017; LOCATED IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 25 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY WASHINGTON AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH MARGIN OF THE LAKE WASHINGTON SHIP CANAL AS CONDEMNED NOVEMBER 25, 1898, UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 21942 WITH THE EAST MARGIN OF FREMONT AVENUE NORTH BEING DESCRIBED AS THE EAST LINE OF THE WEST 7.00 FEET OF BLOCK 84, DENNY AND HOYT'S SUPPLEMENTAL PLAT TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 3, IN KING COUNTY, WASHINGTON, CONDEMNED BY THE CITY OF SEATTLE ON AUGUST 16, 1909 FOR THE WIDENING OF FREMONT AVENUE NORTH UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 62184 AS PROVIDED FOR IN THE CITY OF SEATTLE ORDINANCE NUMBER 17629;
THENCE NORTH 1°18'03" EAST ALONG SAID EAST MARGIN, A DISTANCE OF 57.62 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 1°18'03" EAST ALONG SAID EAST MARGIN, A DISTANCE OF 129.23 FEET;
THENCE NORTH 88°57'44" WEST, A DISTANCE OF 80.00 FEET TO THE WEST MARGIN OF FREMONT AVENUE NORTH AS CONDEMNED BY THE CITY OF SEATTLE ON AUGUST 16, 1909 FOR THE WIDENING OF FREMONT AVENUE NORTH UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 62184 AS PROVIDED FOR IN THE CITY OF SEATTLE ORDINANCE NUMBER 17629;
THENCE SOUTH 1°18'03" WEST, A DISTANCE OF 101.48 FEET;
THENCE SOUTH 83°41'36" EAST, A DISTANCE OF 12.78 FEET
THENCE SOUTH 67°22'02" EAST, A DISTANCE OF 72.22 FEET TO THE TRUE POINT OF BEGINNING;

THE ABOVE DESCRIBED CONTAINING 9,099 SQUARE FEET MORE OR LESS.

PERMIT AREA TO FREMONT DOCK COMPANY - (PP3)
PARCEL NO. 197320-0230-09

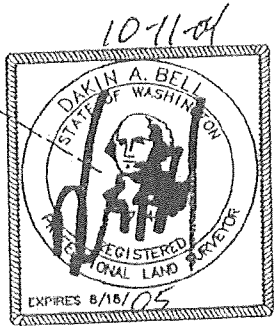


SCALE: 1" = 30'

cts
Engineers, Inc.

1412-112th Avenue N.E. Suite 102
Bellevue, Washington 98004 (425) 455-7622

BASIS OF BEARING: NAD 83/91,
WASH. NORTH ZONE



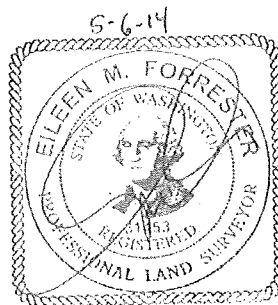
**Legal Description
Street Use Permit Area (PP4)
Under the Fremont Avenue Bridge Approach**

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON, WITHIN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M., TOGETHER WITH THAT PORTION OF BLOCKS 82, 83 AND 84, DENNY & HOYT'S SUPPLEMENTAL PLAT ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 3, RECORDS OF KING COUNTY; TOGETHER WITH THAT PORTION OF VACATED N. 32ND STREET, PURSUANT TO ORDINANCE NO'S. 45989 AND 76425; TOGETHER WITH THAT PORTION OF THE VACATED ALLEY, BETWEEN SAID BLOCKS 82 AND 83, PURSUANT TO ORDINANCE NO. 10471; ALL BEING A PORTION OF FREMONT AVENUE NORTH UNDER THE BRIDGE APPROACH FOR THE FREMONT AVENUE BRIDGE, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF FREMONT AVENUE NORTH AND NORTH 34TH STREET;
THENCE ALONG THE CENTERLINE OF SAID NORTH 34TH STREET, NORTH 77°29'54" WEST, 39.73 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID FREMONT AVENUE NORTH;
THENCE ALONG SAID NORTHERLY PROJECTION AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 00°09'34" WEST, 138.99 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 00°09'34" WEST, 215.38 FEET;
THENCE SOUTH 89°39'02" EAST 80.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID FREMONT AVENUE NORTH;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, NORTH 00°09'34" EAST, 216.38 FEET;
THENCE SOUTH 89°37'49" WEST, 80.01 FEET TO THE TRUE POINT OF BEGINNING.

Containing: 17,271 square feet, more or less.

Exhibit "B" attached and by this reference made a part hereof.



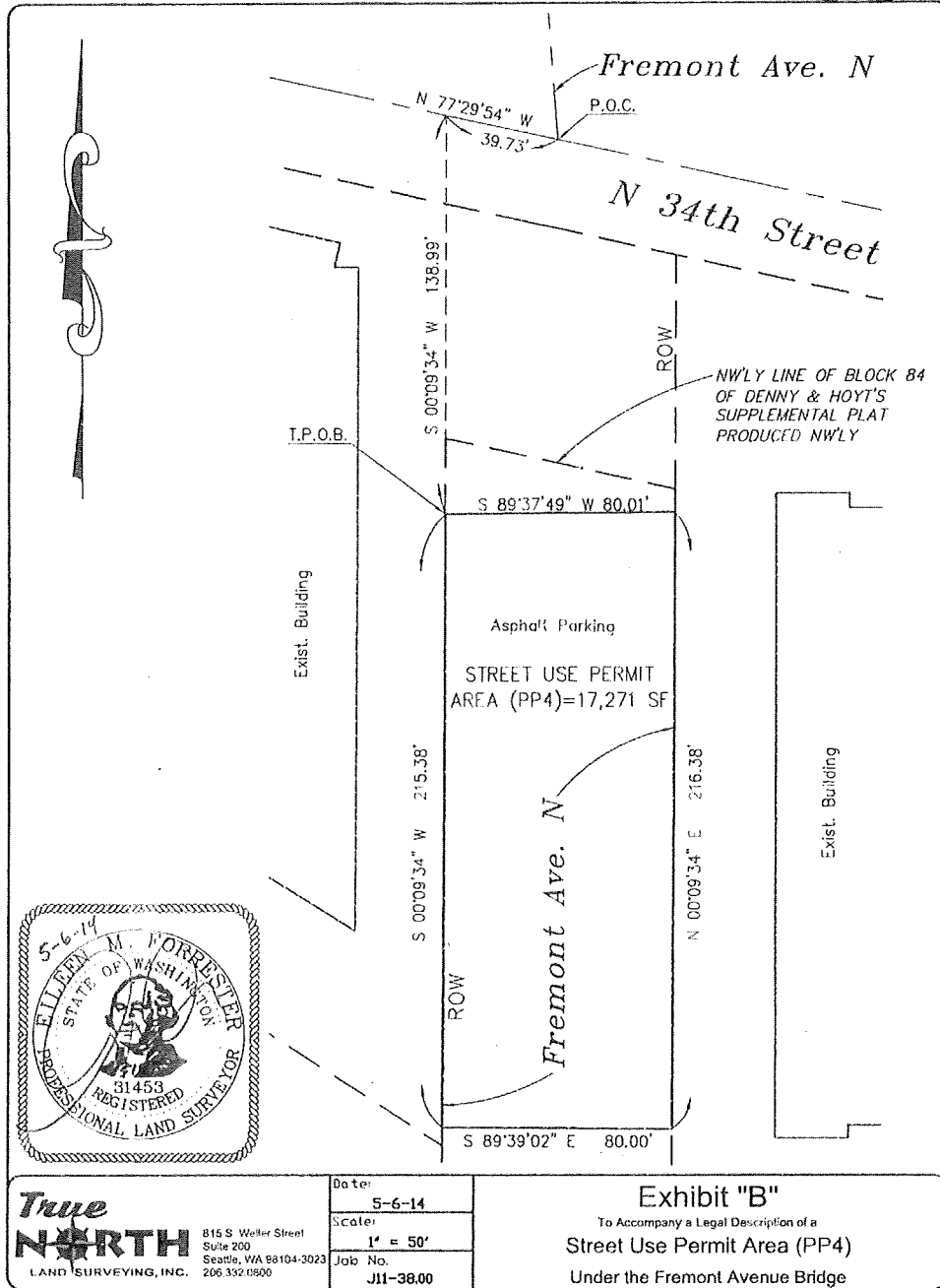


EXHIBIT A