



# CITY OF SEATTLE

## City Council

### Agenda

**Tuesday, January 10, 2023**

**2:00 PM**

**Council Chamber, City Hall  
600 4th Avenue  
Seattle, WA 98104**

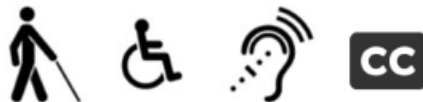
**Debora Juarez, Council President  
Lisa Herbold, Member  
Andrew J. Lewis, Member  
Tammy J. Morales, Member  
Teresa Mosqueda, Member  
Sara Nelson, Member  
Alex Pedersen, Member  
Kshama Sawant, Member  
Dan Strauss, Member**

**Chair Info: 206-684-8805; [Debora.Juarez@seattle.gov](mailto:Debora.Juarez@seattle.gov)**

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# CITY OF SEATTLE

## City Council Agenda

**January 10, 2023 - 2:00 PM**

### **Meeting Location:**

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

### **Committee Website:**

<http://www.seattle.gov/council>

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Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to all Councilmembers at [Council@seattle.gov](mailto:Council@seattle.gov)

### **A. CALL TO ORDER**

### **B. ROLL CALL**

### **C. PRESENTATIONS**

### **D. PUBLIC COMMENT**

*Members of the public may sign up to address the Council for up to 2 minutes on matters on this agenda; total time allotted to public comment at this meeting is 20 minutes.*

**E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:**

*Introduction and referral to Council committees of Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF) for committee recommendation.*

[IRC 375](#)

January 10, 2022

**Attachments:** [Introduction and Referral Calendar](#)

**F. APPROVAL OF THE AGENDA****G. APPROVAL OF CONSENT CALENDAR**

*The Consent Calendar consists of routine items. A Councilmember may request that an item be removed from the Consent Calendar and placed on the regular agenda.*

**Journal:**

1. [Min 408](#) January 3, 2023

**Attachments:** [Minutes](#)

**Bills:**

2. [CB 120490](#) AN ORDINANCE appropriating money to pay certain claims for the week of December 26, 2022 through December 30, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.

**H. COMMITTEE REPORTS**

*Discussion and vote on Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF).*

**CITY COUNCIL:**

1. [Res 32078](#) A RESOLUTION affirming The City of Seattle's support for the Iranian people engaged in peaceful protest for their fundamental human rights; condemning the Iranian security forces' violation of the rights of women and girls; affirming the rights of local Iranian-American, immigrant, and refugee communities to assemble without fear of persecution; and calling on Governor Inslee, President Biden, and Seattle-based businesses to take specific actions to support the Iranian people.

**Supporting Documents:** [Summary and Fiscal Note](#)

**NEIGHBORHOODS, EDUCATION, CIVIL RIGHTS, AND CULTURE COMMITTEE:**

2. [CB 120312](#) AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

**The Committee recommends that City Council do not pass the Council Bill (CB).**

**In Favor: 4 - Morales, Lewis, Nelson, Strauss**

**Opposed: None**

**Supporting Documents:** [Summary and Fiscal Note](#)  
[Summary Ex A - Vicinity Map of Seattle-First National Bank](#)  
[Proposed Substitute](#)  
[Proposed Amendment B2](#)  
[Proposed Amendment B](#)

**PUBLIC ASSETS AND HOMELESSNESS COMMITTEE:**

3. [CB 120489](#) AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Lewis, Mosqueda, Herbold, Juarez, Morales**

**Opposed: None**

**Attachments:** [Att 1 - Non-Government Agreement](#)

**Supporting**

**Documents:**

[Summary and Fiscal Note](#)

[Summary Ex 1 - Site Maps of the Japanese Garden](#)

4. [CB 120483](#) AN ORDINANCE relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass as amended the Council Bill (CB).**

**In Favor: 5 - Lewis, Mosqueda, Herbold, Juarez, Morales**

**Opposed: None**

**Attachments:** [Att 1 - DNRP Report on E20CT029S v2](#)

[Att 2 - DNRP Report on E21CT024S](#)

**Supporting**

**Documents:**

[Summary and Fiscal Note](#)

#### I. ITEMS REMOVED FROM CONSENT CALENDAR

#### J. ADOPTION OF OTHER RESOLUTIONS

#### K. OTHER BUSINESS

#### L. ADJOURNMENT



## Legislation Text

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**File #:** IRC 375, **Version:** 1

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January 10, 2022



## Introduction and Referral Calendar

List of proposed Council Bills (CB), Resolutions (Res), Appointments (Appt) and Clerk Files (CF) to be introduced and referred to a City Council committee

Record No.	Title	Committee Referral
<b><u>By: Mosqueda</u></b>		
1. <a href="#">CB 120490</a>	AN ORDINANCE appropriating money to pay certain claims for the week of December 26, 2022 through December 30, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.	City Council
<b><u>By: No Sponsor Required</u></b>		
2. <a href="#">CB 120491</a>	AN ORDINANCE approving and confirming the plat of "The Dao" in portions of the Northeast Quarter of Southeast Quarter of Section 28, Township 24 North, Range 4 East, W.M., in King County, Washington.	City Council
<b><u>By: Lewis</u></b>		
3. <a href="#">CB 120492</a>	AN ORDINANCE relating to the maintenance and operations for the Waterfront Park and Public Spaces; authorizing the Superintendent of Seattle Parks and Recreation to delegate certain Central Waterfront maintenance, operations, and management to the Seattle Center Department; delegating authority to the Seattle Center Director to enforce Waterfront Park and Public Spaces Rules; and authorizing an extension of the existing Pilot Agreement with Friends of Waterfront Seattle.	Public Assets and Homelessness Committee
<b><u>By: Pedersen</u></b>		
4. <a href="#">CB 120493</a>	AN ORDINANCE relating to use of bus and shuttle vehicle zones by private employer shuttle vehicles; making permanent the Seattle Department of Transportation's Employer Shared Transit Stop pilot program; amending Sections 11.14.070, 11.14.567, 11.14.568, 11.14.670, 11.16.120, 11.23.034, 11.31.121, 11.72.050, 11.72.357, and 11.74.130 of the Seattle Municipal Code; and adopting a Transit and Mobility Fee Schedule.	Transportation and Seattle Public Utilities



## Legislation Text

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**File #:** Min 408, **Version:** 1

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January 3, 2023



# SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor  
Seattle, WA 98104



## Journal of the Proceedings of the Seattle City Council

Tuesday, January 3, 2023

2:00 PM

Council Chamber, City Hall

600 4th Avenue

Seattle, WA 98104

### City Council

*Debora Juarez, Council President*

*Lisa Herbold, Member*

*Andrew J. Lewis, Member*

*Tammy J. Morales, Member*

*Teresa Mosqueda, Member*

*Sara Nelson, Member*

*Alex Pedersen, Member*

*Kshama Sawant, Member*

*Dan Strauss, Member*

Chair Info: 206-684-8805; [Debora.Juarez@seattle.gov](mailto:Debora.Juarez@seattle.gov)

**A. CALL TO ORDER**

The City Council of The City of Seattle met in the Council Chamber in Seattle, Washington, on January 3, 2023, pursuant to the provisions of the City Charter. The meeting was called to order at 2:01 p.m., with Council President Juarez presiding.

**B. ROLL CALL**

**Present:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**C. PRESENTATIONS**

There were none.

**D. PUBLIC COMMENT**

The following individuals addressed the Council:

Saghar Amini  
Negheen Kamkar  
Golbon Murandiz  
Arezan Bagan  
Ali Nasersaeid  
Sarvenaz Sheikh  
Karla Mohtashemi  
Leanne Olson  
Michael Herschenson

By unanimous consent, the Council Rules were suspended to extend the Public Comment period for an additional 30 minutes.

Tom Rasmussen  
Deb Barker  
Eugenia Woo  
Alex Tsimmerman  
Susanna McIntyre  
Howard Gale  
Jeff Murdock  
Naseem Ghazanfari  
Susan Boyle  
Tara Hedayati  
Chris Moore  
David Petersen

**E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:****ACTION 1:**

Motion was made and duly seconded to adopt the proposed Introduction and Referral Calendar.

**ACTION 2:**

Motion was made by Councilmember Sawant, duly seconded and carried, to amend the proposed Introduction and Referral Calendar by introducing Appointments 02434 and 02435, and by referring them to the Sustainability and Renters' Rights Committee.

Appointment 02434, the Appointment of Dan Godfrey as member, Seattle Renters' Commission, for a term to February 28, 2024.

Appointment 02435, the Appointment of Atif Osmani as member, Seattle Renters' Commission, for a term to February 28, 2024.

**ACTION 3:**

Motion was made and duly seconded to adopt the proposed Introduction and Referral Calendar as amended.

**IRC 374****January 3, 2023**

**The Motion carried, and the Introduction and Referral Calendar (IRC) was adopted as amended by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**F. APPROVAL OF THE AGENDA**

Motion was made, duly seconded and carried, to adopt the proposed Agenda.

**G. APPROVAL OF CONSENT CALENDAR**

Motion was made, duly seconded and carried, to adopt the Consent Calendar.

**Journal:****1.     [Min 407](#)     December 13, 2022**

**The item was adopted on the Consent Calendar by the following vote, and the President signed the Minutes:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**Bills:****2.     [CB 120485](#)     AN ORDINANCE appropriating money to pay certain claims for the week of December 5, 2022 through December 9, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

**The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**3.     [CB 120486](#)     AN ORDINANCE appropriating money to pay certain claims for the week of December 12, 2022 through December 16, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

**The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

4.     [CB 120488](#)     **AN ORDINANCE appropriating money to pay certain claims for the week of December 19, 2022 through December 23, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

**The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**Appointments:**

**ECONOMIC DEVELOPMENT, TECHNOLOGY, AND CITY LIGHT COMMITTEE:**

5.     [Appt 02423](#)     **Appointment of Andrea M. Friedman as member, Seattle Music Commission, for a term to August 31, 2024.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

6.     [Appt 02424](#)     **Appointment of Julius Caesar Robinson as member, Seattle Music Commission, for a term to August 31, 2025.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

7. [Appt 02384](#) **Reappointment of Jovino Santos Neto as member, Seattle Music Commission, for a term to August 31, 2025.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

8. [Appt 02385](#) **Reappointment of Jessica Toon as member, Seattle Music Commission, for a term to August 31, 2025.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

9. [Appt 02386](#) **Reappointment of Nick Vaerewyck as member, Seattle Music Commission, for a term to August 31, 2025.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

10. [Appt 02387](#) **Reappointment of Shannon Welles as member, Seattle Music Commission, for a term to August 31, 2025.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 3 - Nelson, Sawant, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**NEIGHBORHOODS, EDUCATION, CIVIL RIGHTS, AND CULTURE  
COMMITTEE:**

11. [Appt 02420](#) **Appointment of Miriam Hinden as member, Ballard Avenue Landmark District Board, for a term to June 30, 2024.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor:** 4 - Morales, Lewis, Nelson, Strauss

**Opposed:** None

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda,  
Nelson, Pedersen, Sawant, Strauss

**Opposed:** None



12. [Appt 02421](#) **Appointment of Anthony R. Salazar as member, Ballard Avenue Landmark District Board, for a term to June 30, 2023.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Morales, Lewis, Nelson, Strauss**

**Opposed: None**

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss**

**Opposed: None**

13. [Appt 02426](#) **Appointment of Brett Pepowski as member, Seattle LGBTQ Commission, for a term to April 30, 2024.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Morales, Lewis, Nelson, Strauss**

**Opposed: None**

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss**

**Opposed: None**

14. [Appt 02425](#) **Reappointment of Nathaniel Higby as member, Seattle LGBTQ Commission, for a term to April 30, 2024.**

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Morales, Lewis, Nelson, Strauss**

**Opposed: None**

**The item was confirmed on the Consent Calendar by the following vote:**

**In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss**

**Opposed: None**

**PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE:**

15.     [Appt 02422](#)   Appointment of Mary Ruffin as member, Community Police Commission, for a term to December 31, 2024.

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 5 - Herbold, Lewis, Mosqueda, Nelson, Pedersen

Opposed: None

The item was confirmed on the Consent Calendar by the following vote:

In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

**H. COMMITTEE REPORTS****PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE:**

1.     [Appt 02417](#)   Appointment of Adrian Z. Diaz as Seattle Police Chief.

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 5 - Herbold, Lewis, Mosqueda, Nelson, Pedersen

Opposed: None

The Appointment was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Strauss

Opposed: 1 - Sawant

The Council President invited Chief Diaz to address the Council.

**ECONOMIC DEVELOPMENT, TECHNOLOGY, AND CITY LIGHT COMMITTEE:**

2. [CB 120430](#) **AN ORDINANCE relating to the City Light Department; authorizing the General Manager and Chief Executive Officer to convey an easement to the City of Shoreline; and accepting the payment of fair market value for the easement.**
- The Committee recommends that City Council pass the Council Bill (CB).**
- In Favor: 3 - Nelson, Sawant, Strauss**
- Opposed: None**
- The Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):**
- In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss**
- Opposed: None**
3. [CB 120461](#) **AN ORDINANCE relating to the City Light Department; declaring certain real property rights surplus to utility needs; authorizing the General Manager and Chief Executive Officer to execute an agreement for the City to grant an easement over a portion of the City's fee-owned transmission corridor near 19541 Stone Ave N in Shoreline, Washington; accepting payment for the true and full value of the easement being granted from Ann and Paul Michel, wife and husband; and ratifying and confirming certain prior acts.**
- The Committee recommends that City Council pass the Council Bill (CB).**
- In Favor: 3 - Nelson, Sawant, Strauss**
- Opposed: None**
- The Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):**
- In Favor: 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss**
- Opposed: None**

4. [CB 120481](#) **AN ORDINANCE relating to the City Light Department; approving a ten-year franchise to construct, operate, maintain, replace, and repair an electrical light and power system in, across, over, along, under, through, and below certain designated public rights-of-way in unincorporated King County; and ratifying and confirming certain prior acts.**

**The Committee recommends that City Council pass as amended the Council Bill (CB).**

**In Favor: 3 - Nelson, Sawant, Strauss**

**Opposed: None**

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

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed: None**

**NEIGHBORHOODS, EDUCATION, CIVIL RIGHTS, AND CULTURE COMMITTEE:**

5. [CB 120312](#) **AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.**

**The Committee recommends that City Council do not pass the Council Bill (CB).**

**In Favor: 4 - Morales, Lewis, Nelson, Strauss**

**Opposed: None**

Motion was made by Councilmember Morales and duly seconded, to postpone Council Bill 120312 until January 10, 2023.

**The Motion carried, and the Council Bill (CB) was postponed until January 10, 2023 by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed: None**

**I. ITEMS REMOVED FROM CONSENT CALENDAR****J. ADOPTION OF OTHER RESOLUTIONS**

6.     [Res 32078](#)     **A RESOLUTION affirming The City of Seattle’s support for the Iranian people engaged in peaceful protest for their fundamental human rights; condemning the Iranian security forces’ violation of the rights of women and girls; affirming the rights of local Iranian-American, immigrant, and refugee communities to assemble without fear of persecution; and calling on Governor Inslee, President Biden, and Seattle-based businesses to take specific actions to support the Iranian people.**

Motion was made by Councilmember Juarez and duly seconded, to postpone Resolution 32078 until January 10, 2023.

**The Motion carried, and the Resolution (Res) was postponed until January 10, 2023 by the following vote:**

**In Favor:** 9 - Juarez, Herbold, Lewis, Morales, Mosqueda, Nelson, Pedersen, Sawant, Strauss

**Opposed:** None

**K. OTHER BUSINESS**

There was none.

**L. ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 3:33 p.m.

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Linda Barron, Deputy City Clerk

Signed by me in Open Session, upon approval of the Council, on January 10, 2023.

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Debora Juarez, Council President of the City Council

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Elizabeth M. Adkisson, Interim City Clerk



## Legislation Text

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**File #:** CB 120490, **Version:** 1

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### CITY OF SEATTLE

### ORDINANCE \_\_\_\_\_

### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE appropriating money to pay certain claims for the week of December 26, 2022 through December 30, 2022 and ordering the payment thereof; and ratifying and confirming certain prior acts.  
**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Payment of the sum of \$ 21,944,074.14 on PeopleSoft 9.2 mechanical warrants numbered 4100649282 - 4100651404 plus manual or cancellation issues for claims, e-payables of \$49,213.61 on PeopleSoft 9.2 9100012850 - 9100012868 and electronic financial transactions (EFT) in the amount of \$95,737,067.12 are presented to the City Council under RCW 42.24.180 and approved consistent with remaining appropriations in the current Budget as amended.

Section 2. RCW 35.32A.090(1) states, “There shall be no orders, authorizations, allowances, contracts or payments made or attempted to be made in excess of the expenditure allowances authorized in the final budget as adopted or modified as provided in this chapter, and any such attempted excess expenditure shall be void and shall never be the foundation of a claim against the city.”

Section 3. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 4. 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 10th day of January, 2023, and signed by me in open session in authentication of its passage this 10th day of January, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved /    returned unsigned /    vetoed this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Elizabeth M. Adkisson, Interim City Clerk

(Seal)





## Legislation Text

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**File #:** Res 32078, **Version:** 1

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### CITY OF SEATTLE

### RESOLUTION \_\_\_\_\_

A RESOLUTION affirming The City of Seattle’s support for the Iranian people engaged in peaceful protest for their fundamental human rights; condemning the Iranian security forces’ violation of the rights of women and girls; affirming the rights of local Iranian-American, immigrant, and refugee communities to assemble without fear of persecution; and calling on Governor Inslee, President Biden, and Seattle-based businesses to take specific actions to support the Iranian people.

WHEREAS, on September 16, 2022, a 22-year-old Kurdish-Iranian woman named Mahsa Jina Amini passed away in the custody of a division of Iran’s security force called the “Morality Police” following a three-day coma due to wounds, including bone fracture, hemorrhage, and cerebral edema - consistent with severe beating - inflicted by the police for purportedly wearing a hijab improperly; and

WHEREAS, witness reports, including video footage of Mahsa Jina Amini’s violent arrest by the Morality Police for allegedly violating Islamic Republic of Iran’s strict dress code, sparked widespread protests for justice in Iran; and

WHEREAS, Amini’s death ignited protests in the streets of Iran by ordinary people calling for a full-fledged revolution with their rally cry of: “woman, life, freedom” (translated from Farsi “zan, zendegi, azadi”); and

WHEREAS, this revolution is led by women of Iran and mobilized by women, men, and children seeking freedom of speech, expression, and other basic human rights without fear of persecution or retaliation by Iran’s Islamic Republic; and

WHEREAS, the news of Mahsa's death in 2022 spread to cities around the world - including Seattle - inspiring marches to amplify the voices of Iranian women and show support for countless other Iranians sacrificing their lives for basic human rights; and

WHEREAS, Iran’s Islamic Republic regime continues to violate international law despite overwhelming evidence of constant human rights violations; and

WHEREAS, the people of Iran have been oppressed by the Islamic Republic of Iran for over 40 years through brutal crackdowns on peaceful protests and the eventual removal of Internet access to silence protestors and prevent their organizing; and

WHEREAS, 227 of 290 members of Iran’s parliament called the protestors “Mohareb,” which means “Enemy of God” and carries the death penalty, and as such called on the judiciary to sentence protestors with the death penalty; and

WHEREAS, the people of Iran demand basic human rights such as freedom of expression without fear of retaliation or violence, and they call for international protection by leaders such as the United Nations (U.N.); and

WHEREAS, since 1979 Iran has been called the ‘Islamic Republic of Iran’, but the Islamic religion has become a scapegoat for barbaric forms of control by a patriarchal dictatorship upon women and girls, youth, ethnically diverse, and LGBTQIA communities in Iran subject to imprisonment, torture, and killing for simply living their lives peacefully; and

WHEREAS, the rise in power of the Islamic Republic of Iran forced many Iranians to flee their homeland in search of a better life, and members of the Iranian diaspora now constitute an important part of Seattle’s diverse population, contributing to its thriving economy; and

WHEREAS, the Associated Students of the University of Washington located in Seattle have unanimously passed a resolution that supports an immediate pause of the Joint Comprehensive Plan of Action (JCPOA) negotiations, and discredits the National Iranian American Council (NIAC) as a lobbying arm of the Islamic Republic of Iran; and

WHEREAS, the Islamic Republic of Iran is a member of the U.N. with the responsibility to uphold the values of the Universal Declaration of Human Rights, and on November 24, 2022, the U.N. Human Rights

Council (UNHRC) body held an urgent session and created a new fact-finding mission to investigate the human rights violations by the Islamic Republic of Iran; and

WHEREAS, the U.N. took action to terminate Iran's membership in the U.N. Commission on the Status of Women on December 14, 2022; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR  
CONCURRING, THAT:**

Section 1. The Seattle City Council stands in solidarity with the people of Iran that are engaged in legitimate and peaceful protests against an oppressive, corrupt government known as the Islamic Republic of Iran; respects the rich history and diverse culture of the Iranian diaspora and inclusion of their voices in decisions that impact their community; fully supports the efforts by the people of Iran to promote the establishment of basic freedoms that build the foundation for the emergence of a freely elected, open, and democratic political system; and supports the right of Iranian dissidents to assemble, without fear of persecution and violence, whether in Iran, Seattle, or internationally.

Section 2. The Seattle City Council demands that the Iran's Islamic Republic regime abide by its international obligations with respect to human rights and civil liberties - including freedoms of assembly, speech, and press without threat of violence or retaliation - and condemns Iran's Islamic Republic regime's decades-long patterns of human rights violations against the Iranian people, significant corruption, and destabilizing activities abroad.

Section 3. The Seattle City Council: will motivate local technological and business sectors to protect internet access and tools for organizers in Iran and in the Seattle area; calls on local and international Seattle-based companies to reject requests by the regime to cutoff the Iranian people from social media and other communications platforms; calls on the Seattle-based business, technology, and arts communities to leverage their business networks to support Seattle Iranian grassroots organizers in their daily efforts to amplify voices of Iranian people with tangible tools such as meeting space, advertising, and social media support; and offer

space to amplify the voices of Iranian people; and commends the statements of support for Iran protests from the Washington State electorate, community leaders, and key partners.

Section 4. The Seattle City Council applauds and stands with the Associated Students of the University of Washington for their leadership in speaking up for their Iranian peers. The Seattle City Council: calls on Washington State Governor Inslee and the Washington State Legislature to clearly and proactively support the Iranian people's right to live in a free society; encourages the government of the United States to provide assistance to the Iranian people to have free and uninterrupted access to the internet, including by broadening General License D-1; urges the Federal Bureau of Investigation to conduct investigations on organizations such as the National Iranian American Council for their corrupt influence on U.S. foreign policy; urges the U.S. President and the U.S. Secretary of State to work with the international community, such as the United Nations, to ensure that violations of human rights are part of all formal and informal multilateral or bilateral discussions with and regarding Iran; and urges Congress and the Biden Administration to work to convene emergency sessions of the United Nations Security Council and the United Nations Human Rights Council to condemn the ongoing human rights violations perpetrated by the Iranian regime and establish a mechanism by which the Security Council can monitor and respond to such violations.

Section 5. The City of Seattle stands in solidarity with the people of Iran in their fight for basic freedoms, and thereby joins the global movement to amplify the voices of people of Iran in their Revolution recognized as “Zan, Zendegi, Azadi,” a rally cry translated from Farsi for “Woman, Life, Freedom,” in honor of the sacrifice and resistance of Iranian people in the face of ongoing human rights violations by a tyrannical regime formally known as the Islamic Republic of Iran.

Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and signed by  
me in open session in authentication of its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

The Mayor concurred the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Elizabeth M. Adkisson, Interim City Clerk

(Seal)

Attachments:

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
Legislative	Robert Young	

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

### **1. BILL SUMMARY**

**Legislation Title:** A RESOLUTION affirming The City of Seattle’s support for the Iranian people engaged in peaceful protest for their fundamental human rights; condemning the Iranian security forces’ violation of the rights of women and girls; affirming the rights of local Iranian-American, immigrant, and refugee communities to assemble without fear of persecution; and calling on Governor Inslee, President Biden, and Seattle-based businesses to take specific actions to support the Iranian people.

**Summary and Background of the Legislation:** On September 16, 2022, a 22-year-old Kurdish-Iranian woman named Mahsa Jina Amini passed away in the custody of a division of Iran’s security force called the “Morality Police” following a three-day coma due to wounds, including bone fracture, hemorrhage, and cerebral edema – consistent with severe beating – inflicted by the police for purportedly wearing a hijab improperly. Witness reports, including video footage of Mahsa Jina Amini’s violent arrest by the Morality Police for allegedly violating Islamic Republic of Iran’s strict dress code, sparked widespread protests for justice in Iran. Amini’s death ignited protests in the streets of Iran by ordinary people calling for a full-fledged revolution with their rally cry of: “woman, life, freedom” (translated from Farsi “zan, zendegi, azadi”).

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?** ☐ Yes ☒ No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill.  
Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

<b>Project Name:</b>	<b>Project I.D.:</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date:</b>	<b>Total Project Cost Through 2028:</b>

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?** ☐ Yes ☒ No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

<b>Appropriation change (\$):</b>	<b>General Fund \$</b>		<b>Other \$</b>	
	<b>2023</b>	<b>2024</b>	<b>2023</b>	<b>2024</b>

Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024

**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**

**Are there financial costs or other impacts of *not* implementing the legislation? No**

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

### 3.a. Appropriations

**— This legislation adds, changes, or deletes appropriations.**

Fund Name and Number	Dept	Budget Control Level Name/Number*	2023 Appropriation Change	2024 Estimated Appropriation Change
TOTAL				

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

**Appropriations Notes:**

### 3.b. 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	2023 Revenue	2024 Estimated Revenue
TOTAL				

**Revenue/Reimbursement Notes:**

### 3.c. Positions

**\_\_\_\_\_ This legislation adds, changes, or deletes positions.**  
**Total Regular Positions Created, Modified, or Abrogated through This Legislation,**  
**Including FTE Impact:**

Position # for Existing Positions	Position Title & Department*	Fund Name & Number	Program & BCL	PT/FT	2023 Positions	2023 FTE	Does it sunset? (If yes, explain below in Position Notes)
<b>TOTAL</b>							

\* List each position separately.

**Position Notes:**

### 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. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation? No
- d. Does this legislation affect a piece of property? No
- e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?
- f. Climate Change Implications
  1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way? No
  2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects. No
- 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

**Summary Attachments (if any):**





## Legislation Text

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**File #:** CB 120312, **Version:** 1

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### CITY OF SEATTLE

### ORDINANCE \_\_\_\_\_

### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

WHEREAS, the Landmarks Preservation Ordinance, Chapter 25.12 of the Seattle Municipal Code (SMC), establishes a procedure for the designation and preservation of sites, improvements, and objects having historical, cultural, architectural, engineering, or geographic significance; and

WHEREAS, the Landmarks Preservation Board (“Board”), after a public meeting on September 20, 2006, voted to approve the nomination of the improvement located at 566 Denny Way and the site on which the improvement is located (which are collectively referred to as the “Seattle-First National Bank Building”) for designation as a landmark under SMC Chapter 25.12; and

WHEREAS, after a public meeting on November 1, 2006, the Board voted to approve the designation of the Seattle-First National Bank Building under SMC Chapter 25.12; and

WHEREAS, on November 17, 2021, the Board and the Seattle-First National Bank Building’s owner agreed to controls and incentives to be applied to specific features or characteristics of the designated landmark; and

WHEREAS, the Board recommends that the City Council enact a designating ordinance approving the controls and incentives; NOW, THEREFORE,

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

Section 1. Designation. Under Seattle Municipal Code (SMC) 25.12.660, the designation by the Landmarks Preservation Board (“Board”) of the improvement located at 566 Denny Way and the site on which the improvement is located (which are collectively referred to as the “Seattle-First National Bank Building”) is acknowledged.

A. Legal Description. The Seattle-First National Bank Building is located on the property legally described as:

Lots 3, 4, 5 and 6, Block 68, of D.T. Denny’s Park Addition to the City of Seattle, as per plat recorded in Volume 2 of Plats, page 46, records of King County. Except the East 12 feet condemned in King County Superior Court, Cause No. 193437 for Sixth Avenue, as provide by City of Seattle Ordinance No. 50890.

B. Specific Features or Characteristics Designated. Under SMC 25.12.660.A.2, the Board designated the following specific features or characteristics of the Seattle-First National Bank Building:

1. The site.
2. The exterior of the 1950 Building.

C. Basis of Designation. The designation was made because the Seattle-First National Bank Building is more than 25 years old; has significant character, interest, or value as a part of the development, heritage, or cultural characteristics of the City, state, or nation; has integrity or the ability to convey its significance; and satisfies the following SMC 25.12.350 provisions:

1. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, City, state, or nation (SMC 25.12.350.C).
2. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction (SMC 25.12.350.D).
3. It is an outstanding work of a designer or builder (SMC 25.12.350.E).
4. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of

such neighborhood or the city (SMC 25.12.350.F).

Section 2. Controls. The following controls are imposed on the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation:

A. Certificate of Approval Process.

1. Except as provided in subsection 2.A.2 or subsection 2.B of this ordinance, the owner must obtain a Certificate of Approval issued by the Board according to SMC Chapter 25.12, or the time for denying a Certificate of Approval must have expired, before the owner may make alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation.

2. No Certificate of Approval is required for the following:

a. Any in-kind maintenance or repairs of the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation.

b. Installation, removal, or alteration (including repair) of underground irrigation and underground utilities, provided that the site is restored in kind.

c. Installation, removal, alteration, maintenance, or repair of rooftop mechanical equipment.

d. The installation, alteration, or removal of exterior security lighting, video cameras, and security system equipment.

e. Removal of trees less than 6 inches in diameter measured 4-1/2 feet above ground.

f. Removal or replacement, or both, of shrubs, perennials, annuals, and landscaping rocks in existing locations.

B. City Historic Preservation Officer (CHPO) Approval Process.

1. The CHPO may review and approve alterations or significant changes to the features or characteristics listed in subsection 2.B.3 of this ordinance according to the following procedure:

a. The owner shall submit to the CHPO a written request for the alterations or significant changes, including applicable drawings or specifications.

b. If the CHPO, upon examination of submitted plans and specifications, determines that the alterations or significant changes are consistent with the purposes of SMC Chapter 25.12, the CHPO shall approve the alterations or significant changes without further action by the Board.

2. If the CHPO does not approve the alterations or significant changes, the owner may submit revised materials to the CHPO, or apply to the Board for a Certificate of Approval under SMC Chapter 25.12. The CHPO shall transmit a written decision on the owner's request to the owner within 14 days of receipt of the request. Failure of the CHPO to timely transmit a written decision constitutes approval of the request.

3. CHPO approval of alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation is available for the following:

a. Removal of trees more than 6 inches in diameter measured 4-1/2 feet above ground, identified as a hazard by an International Society of Arboriculture (ISA) Certified Arborist.

b. For the specified features and characteristics of the landmark, the addition or elimination of ducts, conduits, HVAC vents, grills, pipes, panels, weatherheads, wiring, meters, utility connections, downspouts and gutters, and other similar mechanical, electrical and telecommunications elements necessary for the normal operation of the building or site.

c. Installation, removal, or alteration of exterior light fixtures, other than lighting excluded in subsection 2.A.2.d of this ordinance.

d. Installation, removal, or alteration of exterior building signage and site signage.

e. Installation of improvements for safety or accessibility compliance.

f. Installation of fire and life safety equipment.

g. Replacement of non-original windows and doors.

h. Changes to exterior paint colors.

i. Alterations to drive-through window and any related drive-through equipment.

j. Emergency repairs or measures (including immediate action to secure the area, install temporary equipment, and employ stabilization methods as necessary to protect the public's safety, health, and welfare) to address hazardous conditions with adverse impacts to the buildings or site as related to a seismic or other unforeseen event. Following such an emergency, the owner shall adhere to the following:

1) The owner shall immediately notify the City Historic Preservation Officer and document the conditions and actions the owner took.

2) If temporary structural supports are necessary, the owner shall make all reasonable efforts to prevent further damage to historic resources.

3) The owner shall not remove historic building materials from the site as part of the emergency response.

4) In consultation with the City Historic Preservation Officer and staff, the owner shall adopt and implement a long-term plan to address any damage through appropriate solutions.

Section 3. Incentives. The following incentives are granted on the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation:

A. Uses not otherwise permitted in a zone may be authorized in a designated landmark by means of an administrative conditional use permit issued under SMC Title 23.

B. Certain exceptions to or exemptions from regulations in SMC Title 23 may be available, either by virtue of the zoning designation applicable to the Landmark or its status as a Landmark.

C. Exceptions to certain of the requirements of the Seattle Building Code and the Seattle Energy Code, adopted by SMC Chapter 22.101, may be authorized according to the applicable provisions.

D. Special tax valuation for historic preservation may be available under chapter 84.26 RCW upon application and compliance with the requirements of that statute.

Section 4. Enforcement of this ordinance and penalties for its violation are as provided in SMC 25.12.910.

Section 5. The Seattle-First National Bank Building is added alphabetically to Section II, Buildings, of the Table of Historical Landmarks contained in SMC Chapter 25.32.

Section 6. The City Clerk is directed to record a certified copy of this ordinance with the King County Recorder's Office, deliver two certified copies to the CHPO, and deliver one copy to the Director of the Seattle Department of Construction and Inspections. The CHPO is directed to provide a certified copy of this ordinance to the Seattle-First National Bank Building's owner.

Section 7. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2022, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved /    returned unsigned /    vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Monica Martinez Simmons, City Clerk

(Seal)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Neighborhoods	Sarah Sodt/206-684-0380	Miguel Jimenez/206-684-5805

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

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

#### **Summary and Background of the Legislation:**

The attached legislation acknowledges the designation of the Seattle-First National Bank Building as a historic landmark by the Landmarks Preservation Board, imposes controls, grants incentives, and adds the Seattle First National Bank Building to the Table of Historical Landmarks contained in SMC Chapter 25.32. The legislation does not have a financial impact.

The Seattle-First National Bank Building was constructed in 1950. The property is located in the Denny Regrade neighborhood. A Controls and Incentives Agreement has been signed by the owner and has been approved by the Landmarks Preservation Board. The controls in the agreement apply to the site, and the exterior of the building, but do not apply to any in-kind maintenance or repairs of the designated features.

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      ☐ Yes ☒ No

**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.

**Are there financial costs or other impacts of *not* implementing the legislation?**  
No.



#### 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. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
No.
- d. **Does this legislation affect a piece of property?**  
Yes, see attached map.
- e. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**  
There are no known negative impacts to vulnerable or historically disadvantaged communities. A language access plan is not anticipated.
- f. **Climate Change Implications**
1. **Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**  
This legislation supports the sustainable practice of preserving historic buildings and their embodied energy. Reuse and restoration of a building or structure reduces the consumption of new natural resources, and the carbon emissions associated with new construction. Preservation also avoids contributing to the ever-growing landfills.
  2. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**  
Many historic buildings possess materials and craftsmanship that cannot be duplicated today. When properly maintained and improved, they will benefit future generations, and surpass the longevity of most of today's new construction. They can also support upgraded systems for better energy performance, and these investments typically support local or regional suppliers, and labor industries.
- 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)?**  
No new initiative or programmatic expansion.

#### **Summary Attachments:**

Summary Exhibit A – Vicinity Map of the Seattle-First National Bank Building



Note: This map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

Amendment A Version #1 to CB 120312  
DON Seattle-First National Bank Landmark Designation ORD

**Sponsor:** Councilmember Morales

Remove Controls and Incentives from Seattle-First National Bank

**Effect:** This amendment would substitute version 2 to CB 120312 for version 1b. Version 2 would remove the proposed controls and incentives from the bill. The building would be designated a landmark, but no controls would be applied, and significant changes to the structure or redevelopment of the site would be permitted without requiring a Certificate of Approval from the Seattle Landmarks Preservation Board. In addition, no financial or land use incentives would be available to the property owners to encourage them to retain the structure.

See the attached edits to the bill.

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

..body

WHEREAS, the Landmarks Preservation Ordinance, Chapter 25.12 of the Seattle Municipal

Code (SMC), establishes a procedure for the designation and preservation of sites, improvements, and objects having historical, cultural, architectural, engineering, or geographic significance; and

WHEREAS, the Landmarks Preservation Board (“Board”), after a public meeting on September 20, 2006, voted to approve the nomination of the improvement located at 566 Denny Way and the site on which the improvement is located (which are collectively referred to as the “Seattle-First National Bank Building”) for designation as a landmark under SMC Chapter 25.12; and

WHEREAS, after a public meeting on November 1, 2006, the Board voted to approve the designation of the Seattle-First National Bank Building (~~“Building”~~) under SMC Chapter 25.12; and

WHEREAS, on November 17, 2021, the Board and the Seattle-First National Bank Building’s owner agreed to controls and incentives to be applied to specific features or characteristics of the designated landmark; and

WHEREAS, the Board (~~recommends~~) recommended that the City Council enact a designating ordinance approving the controls and incentives;

WHEREAS, since the original designation of the Building, the Uptown Urban Center has been rezoned, and the area that the Building is located in has been rezoned to allow significantly larger buildings, including residential development; and

WHEREAS, the Building is one of a number of buildings designed and built using the same prototype, many of which still stand; and

WHEREAS, the benefits of allowing development on this site outweigh the preservation of the Building; NOW, THEREFORE,

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

Section 1. Designation. Under Seattle Municipal Code (SMC) 25.12.660, the designation by the Landmarks Preservation Board (“Board”) of the improvement located at 566 Denny Way and the site on which the improvement is located (which are collectively referred to as the “Seattle-First National Bank Building”) is acknowledged.

A. Legal Description. The Seattle-First National Bank Building is located on the property legally described as:

Lots 3, 4, 5 and 6, Block 68, of D.T. Denny’s Park Addition to the City of Seattle, as per plat recorded in Volume 2 of Plats, page 46, records of King County. Except the East 12 feet condemned in King County Superior Court, Cause No. 193437 for Sixth Avenue, as provide by City of Seattle Ordinance No. 50890.

B. Specific Features or Characteristics Designated. Under SMC 25.12.660.A.2, the Board designated the following specific features or characteristics of the Seattle-First National Bank Building:

1. The site.
2. The exterior of the 1950 Building.

C. Basis of Designation. The designation was made because the Seattle-First National Bank Building is more than 25 years old; has significant character, interest, or value as a part of

the development, heritage, or cultural characteristics of the City, state, or nation; has integrity or the ability to convey its significance; and satisfies the following SMC 25.12.350 provisions:

1. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, City, state, or nation (SMC 25.12.350.C).

2. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction (SMC 25.12.350.D).

3. It is an outstanding work of a designer or builder (SMC 25.12.350.E).

4. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or the city (SMC 25.12.350.F).

Section 2. Controls. ~~((The following))~~ No controls are imposed on the features or characteristics of the Seattle-First National Bank Building ~~(((that were designated by the Board for preservation:)))~~

~~A. Certificate of Approval Process.~~

~~1. Except as provided in subsection 2.A.2 or subsection 2.B of this ordinance, the owner must obtain a Certificate of Approval issued by the Board according to SMC Chapter 25.12, or the time for denying a Certificate of Approval must have expired, before the owner may make alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation.~~

~~2. No Certificate of Approval is required for the following:~~

~~a. Any in-kind maintenance or repairs of the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation.~~

~~b. Installation, removal, or alteration (including repair) of underground irrigation and underground utilities, provided that the site is restored in kind.~~

~~c. Installation, removal, alteration, maintenance, or repair of rooftop mechanical equipment.~~

~~d. The installation, alteration, or removal of exterior security lighting, video cameras, and security system equipment.~~

~~e. Removal of trees less than 6 inches in diameter measured 4 1/2 feet above ground.~~

~~f. Removal or replacement, or both, of shrubs, perennials, annuals, and landscaping rocks in existing locations.~~

~~B. City Historic Preservation Officer (CHPO) Approval Process.~~

~~1. The CHPO may review and approve alterations or significant changes to the features or characteristics listed in subsection 2.B.3 of this ordinance according to the following procedure:~~

~~a. The owner shall submit to the CHPO a written request for the alterations or significant changes, including applicable drawings or specifications.~~

~~b. If the CHPO, upon examination of submitted plans and specifications, determines that the alterations or significant changes are consistent with the purposes of SMC Chapter 25.12, the CHPO shall approve the alterations or significant changes without further action by the Board.~~

~~2. If the CHPO does not approve the alterations or significant changes, the owner may submit revised materials to the CHPO, or apply to the Board for a Certificate of Approval under SMC Chapter 25.12. The CHPO shall transmit a written decision on the owner's request to the owner within 14 days of receipt of the request. Failure of the CHPO to timely transmit a written decision constitutes approval of the request.~~

~~3. CHPO approval of alterations or significant changes to the features or characteristics of the Seattle First National Bank Building that were designated by the Board for preservation is available for the following:~~

~~a. Removal of trees more than 6 inches in diameter measured 4 1/2 feet above ground, identified as a hazard by an International Society of Arboriculture (ISA) Certified Arborist.~~

~~b. For the specified features and characteristics of the landmark, the addition or elimination of ducts, conduits, HVAC vents, grills, pipes, panels, weatherheads, wiring, meters, utility connections, downspouts and gutters, and other similar mechanical, electrical and telecommunications elements necessary for the normal operation of the building or site.~~

~~c. Installation, removal, or alteration of exterior light fixtures, other than lighting excluded in subsection 2.A.2.d of this ordinance.~~

~~d. Installation, removal, or alteration of exterior building signage and site signage.~~

~~e. Installation of improvements for safety or accessibility compliance.~~

~~f. Installation of fire and life safety equipment.~~

~~g. Replacement of non-original windows and doors.~~

~~h. Changes to exterior paint colors.~~

~~i. Alterations to drive through window and any related drive through equipment.~~

~~j. Emergency repairs or measures (including immediate action to secure the area, install temporary equipment, and employ stabilization methods as necessary to protect the public's safety, health, and welfare) to address hazardous conditions with adverse impacts to the buildings or site as related to a seismic or other unforeseen event. Following such an emergency, the owner shall adhere to the following:~~



~~1) The owner shall immediately notify the City Historic Preservation Officer and document the conditions and actions the owner took.~~

~~2) If temporary structural supports are necessary, the owner shall make all reasonable efforts to prevent further damage to historic resources.~~

~~3) The owner shall not remove historic building materials from the site as part of the emergency response.~~

~~4) In consultation with the City Historic Preservation Officer and staff, the owner shall adopt and implement a long-term plan to address any damage through appropriate solutions.))~~

Section 3. Incentives. No ~~((The following))~~ incentives are granted on the features or characteristics of the Seattle-First National Bank Building ~~((that were designated by the Board for preservation:~~

~~A. Uses not otherwise permitted in a zone may be authorized in a designated landmark by means of an administrative conditional use permit issued under SMC Title 23.~~

~~B. Certain exceptions to or exemptions from regulations in SMC Title 23 may be available, either by virtue of the zoning designation applicable to the Landmark or its status as a Landmark.~~

~~C. Exceptions to certain of the requirements of the Seattle Building Code and the Seattle Energy Code, adopted by SMC Chapter 22.101, may be authorized according to the applicable provisions.~~

~~D. Special tax valuation for historic preservation may be available under chapter 84.26 RCW upon application and compliance with the requirements of that statute.~~

~~Section 4. Enforcement of this ordinance and penalties for its violation are as provided in SMC 25.12.910.))~~

1           Section ~~((5))~~4. The Seattle-First National Bank Building is added alphabetically to  
2 Section II, Buildings, of the Table of Historical Landmarks contained in SMC Chapter 25.32.

3           Section ~~((6))~~5. The City Clerk is directed to record a certified copy of this ordinance with  
4 the King County Recorder's Office, deliver two certified copies to the CHPO, and deliver one  
5 copy to the Director of the Seattle Department of Construction and Inspections. The CHPO is  
6 directed to provide a certified copy of this ordinance to the Seattle-First National Bank  
7 Building's owner.

Section ~~((7))~~ 6. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved /      returned unsigned /      vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Amendment B Version #2 to CB 120312  
DON Seattle-First National Bank Landmark Designation ORD

Sponsor: Councilmember Herbold

Add Controls and Incentives to the Seattle-First National Bank, excluding the surface parking lot

**Effect:** This amendment would substitute version 3a to CB 120312 for version 2, as proposed under Amendment A. Version 3 would return the proposed controls and incentives to the bill, but would exclude the surface parking lot and areas between the surface parking and the street from those controls. The building would be designated a landmark and significant changes to the structure or redevelopment of the included site would require a Certificate of Approval from the Seattle Landmarks Preservation Board. In addition, financial or land use incentives would be available to the property owners to encourage them to retain the structure, including the ability to transfer development rights and transfer development potential; or to receive an additional 1 FAR for development that incorporates the landmark on-site.

See the attached edits to the bill.

Note:

In the following attachment, the following combinations of color and underlining have the following meanings:

Red single underline or ~~single strikethrough~~: amendment in substitute version 1 that is carried forward under this amendment

Red dotted underline: language that is deleted in substitute version 1 that is retained under this amendment

Blue double underline: new language under this amendment

~~Blue double strikethrough~~: new language in substitute version 1 that is deleted under this amendment

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to historic preservation; imposing controls upon the Seattle-First National Bank Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

..body

WHEREAS, the Landmarks Preservation Ordinance, Chapter 25.12 of the Seattle Municipal

Code (SMC), establishes a procedure for the designation and preservation of sites, improvements, and objects having historical, cultural, architectural, engineering, or geographic significance; and

WHEREAS, the Landmarks Preservation Board (“Board”), after a public meeting on September 20, 2006, voted to approve the nomination of the improvement located at 566 Denny Way and the site on which the improvement is located (which are collectively referred to as the “Seattle-First National Bank Building”) for designation as a landmark under SMC Chapter 25.12; and

WHEREAS, after a public meeting on November 1, 2006, the Board voted to approve the designation of the Seattle-First National Bank Building (~~“Building”~~) under SMC Chapter 25.12; and

WHEREAS, on November 17, 2021, the Board and the Seattle-First National Bank Building’s owner agreed to controls and incentives to be applied to specific features or characteristics of the designated landmark; and

WHEREAS, the Board (~~“recommends”~~) ~~recommended~~ that the City Council enact a designating ordinance approving the controls and incentives;

1 WHEREAS, since the original designation of the Building, the Uptown Urban Center has been  
2 rezoned, and the area that the Building is located in has been rezoned to allow  
3 significantly larger buildings, including residential development; and

4 WHEREAS, the Uptown Urban Center rezone included a specific objective to “Retain  
5 landmarks and other historic buildings by allowing transfer of development rights in  
6 exchange for funding to support building preservation.” (Uptown Rezone  
7 Recommendation Director’s Report, p. 5, July 12, 2017); and

8 WHEREAS, since the original designation of the Building, the Uptown Urban Center has been  
9 rezoned, and the Seattle Mixed-Uptown 160 (SM-UP 160) zone that the Building is  
10 located in provides for incentives to preserve landmarks, including increased FAR for  
11 projects that preserve a landmark on-site, and provisions that allow for the transfer of  
12 development rights (TDR) and the transfer of development potential (TDP) from  
13 designated landmarks to other sites in the SM-UP 160 zone (SMC 23.48.723); and

14 WHEREAS, the Building is one of a number of buildings designed and built using the same  
15 prototype, many of which still stand; and

16 ~~((WHEREAS, the benefits of allowing development on this site outweigh the preservation of the~~  
17 ~~Building))~~

18 WHEREAS, the City Council wishes to achieve the goal of maximizing the potential for housing  
19 in this neighborhood and supports the landmarking of this Building; and

20 WHEREAS, if the surface parking lot to the north of the Building were to be redeveloped while  
21 preserving the landmarked Building, an additional 1 FAR would be allowed under the  
22 SM-UP 160 zone, providing for more housing or non-residential development to be built

on the site than could be built offsite through TDP or on the site if the building were not  
landmarked and were demolished; and

WHEREAS, an even larger building could be built on the site if an arts facility were incorporated  
into a future project on the site; NOW, THEREFORE,

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

Section 1. Designation. Under Seattle Municipal Code (SMC) 25.12.660, the designation  
by the Landmarks Preservation Board (“Board”) of the improvement located at 566 Denny Way  
and the site on which the improvement is located (which are collectively referred to as the  
“Seattle-First National Bank Building”) is acknowledged.

A. Legal Description. The Seattle-First National Bank Building is located on the property  
legally described as:

Lots 3, 4, 5 and 6, Block 68, of D.T. Denny’s Park Addition to the City of Seattle, as per  
plat recorded in Volume 2 of Plats, page 46, records of King County. Except the East 12  
feet condemned in King County Superior Court, Cause No. 193437 for Sixth Avenue, as  
provide by City of Seattle Ordinance No. 50890.

B. Specific Features or Characteristics Designated. Under SMC 25.12.660.A.2, the Board  
designated the following specific features or characteristics of the Seattle-First National Bank  
Building:

1. The site.
2. The exterior of the 1950 Building.

C. Basis of Designation. The designation was made because the Seattle-First National  
Bank Building is more than 25 years old; has significant character, interest, or value as a part of  
the development, heritage, or cultural characteristics of the City, state, or nation; has integrity or  
the ability to convey its significance; and satisfies the following SMC 25.12.350 provisions:

1. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, City, state, or nation (SMC 25.12.350.C).

2. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction (SMC 25.12.350.D).

3. It is an outstanding work of a designer or builder (SMC 25.12.350.E).

4. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or the city (SMC 25.12.350.F).

Section 2. Controls. ~~((No))~~ The following controls are imposed on the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation, provided that no controls are imposed on the parking area to the north of the structure or any portion of the site between the surface parking area and 6<sup>th</sup> Avenue North, except for the drive-through on the east side of the building, the signpost, and the breezeway structure connecting the signpost to the Building;

A. Certificate of Approval Process.

1. Except as provided in subsection 2.A.2 or subsection 2.B of this ordinance, the owner must obtain a Certificate of Approval issued by the Board according to SMC Chapter 25.12, or the time for denying a Certificate of Approval must have expired, before the owner may make alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building, subject to controls ~~((that were designated by the Board for preservation))~~.

2. No Certificate of Approval is required for the following:



1 a. Any in-kind maintenance or repairs of the features or characteristics of  
2 the Seattle-First National Bank Building that were designated by the Board for preservation.

3 b. Installation, removal, or alteration (including repair) of underground  
4 irrigation and underground utilities, provided that the site is restored in kind.

5 c. Installation, removal, alteration, maintenance, or repair of rooftop  
6 mechanical equipment.

7 d. The installation, alteration, or removal of exterior security lighting,  
8 video cameras, and security system equipment.

9 e. Removal of trees less than 6 inches in diameter measured 4-1/2 feet  
10 above ground.

11 f. Removal or replacement, or both, of shrubs, perennials, annuals, and  
12 landscaping rocks in existing locations.

13 B. City Historic Preservation Officer (CHPO) Approval Process.

14 1. The CHPO may review and approve alterations or significant changes to the  
15 features or characteristics listed in subsection 2.B.3 of this ordinance according to the following  
16 procedure:

17 a. The owner shall submit to the CHPO a written request for the alterations  
18 or significant changes, including applicable drawings or specifications.

19 b. If the CHPO, upon examination of submitted plans and specifications,  
20 determines that the alterations or significant changes are consistent with the purposes of SMC  
21 Chapter 25.12, the CHPO shall approve the alterations or significant changes without further  
22 action by the Board.

2. If the CHPO does not approve the alterations or significant changes, the owner may submit revised materials to the CHPO, or apply to the Board for a Certificate of Approval under SMC Chapter 25.12. The CHPO shall transmit a written decision on the owner's request to the owner within 14 days of receipt of the request. Failure of the CHPO to timely transmit a written decision constitutes approval of the request.

3. CHPO approval of alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation is available for the following:

a. Removal of trees more than 6 inches in diameter measured 4-1/2 feet above ground, identified as a hazard by an International Society of Arboriculture (ISA) Certified Arborist.

b. For the specified features and characteristics of the landmark, the addition or elimination of ducts, conduits, HVAC vents, grills, pipes, panels, weatherheads, wiring, meters, utility connections, downspouts and gutters, and other similar mechanical, electrical and telecommunications elements necessary for the normal operation of the building or site.

c. Installation, removal, or alteration of exterior light fixtures, other than lighting excluded in subsection 2.A.2.d of this ordinance.

d. Installation, removal, or alteration of exterior building signage and site signage.

e. Installation of improvements for safety or accessibility compliance.

f. Installation of fire and life safety equipment.

g. Replacement of non-original windows and doors.

h. ~~Changes to exterior paint colors.~~

i. ~~Alterations to drive-through window and any related drive-through equipment.~~

j. ~~Emergency repairs or measures (including immediate action to secure the area, install temporary equipment, and employ stabilization methods as necessary to protect the public's safety, health, and welfare) to address hazardous conditions with adverse impacts to the buildings or site as related to a seismic or other unforeseen event. Following such an emergency, the owner shall adhere to the following:~~

1) ~~The owner shall immediately notify the City Historic Preservation Officer and document the conditions and actions the owner took.~~

2) ~~If temporary structural supports are necessary, the owner shall make all reasonable efforts to prevent further damage to historic resources.~~

3) ~~The owner shall not remove historic building materials from the site as part of the emergency response.~~

4) ~~In consultation with the City Historic Preservation Officer and staff, the owner shall adopt and implement a long-term plan to address any damage through appropriate solutions.~~

Section 3. Incentives. ~~((No)) The following~~ incentives are granted on the features or characteristics of the Seattle-First National Bank Building ~~that were designated by the Board for preservation:~~

A. ~~Uses not otherwise permitted in a zone may be authorized in a designated landmark by means of an administrative conditional use permit issued under SMC Title 23.~~

~~B. Certain exceptions to or exemptions from regulations in SMC Title 23 may be available, either by virtue of the zoning designation applicable to the Landmark or its status as a Landmark.~~

~~C. Exceptions to certain of the requirements of the Seattle Building Code and the Seattle Energy Code, adopted by SMC Chapter 22.101, may be authorized according to the applicable provisions.~~

~~D. Special tax valuation for historic preservation may be available under chapter 84.26 RCW upon application and compliance with the requirements of that statute.~~

~~Section 4. Enforcement of this ordinance and penalties for its violation are as provided in SMC 25.12.910.~~

Section ~~((4))~~5. The Seattle-First National Bank Building is added alphabetically to Section II, Buildings, of the Table of Historical Landmarks contained in SMC Chapter 25.32.

Section ~~((5))~~6. The City Clerk is directed to record a certified copy of this ordinance with the King County Recorder's Office, deliver two certified copies to the CHPO, and deliver one copy to the Director of the Seattle Department of Construction and Inspections. The CHPO is directed to provide a certified copy of this ordinance to the Seattle-First National Bank Building's owner.

Section ~~((6))~~7. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved /    returned unsigned /    vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Amendment B Version #1 to CB 120312  
DON Seattle-First National Bank Landmark Designation ORD

Sponsor: Councilmember Herbold

Remove the surface parking area for the Seattle-First National Bank building from the designated features of the landmark

**Effect:** This amendment would remove the surface parking area on the north side of the Seattle-First National Bank building from the designated features of the landmark. Development would be permitted on the parking area, but controls and incentives would continue to apply to the building on the site, the sign post, the drive-through area, and landscaping between the building and the street.

This would allow for the use of the landmark building FAR bonus, which allows for an additional FAR for development that preserves a landmark on the same site.

1. Amend the recitals as follows:

\* \* \*

WHEREAS, after a public meeting on November 1, 2006, the Board voted to approve the designation of the Seattle-First National Bank Building ("Building") under SMC Chapter 25.12; and

WHEREAS, on November 17, 2021, the Board and the Seattle-First National Bank Building's owner agreed to controls and incentives to be applied to specific features or characteristics of the designated landmark; and

WHEREAS, the Board ~~((recommends))~~ recommended that the City Council enact a designating ordinance approving the controls and incentives; and

WHEREAS, the Building is located in the Uptown Urban Center which was rezoned in 2017; a specific objective of the rezone legislation was to "Retain landmarks and other historic buildings by allowing transfer of development rights in exchange for funding to support

building preservation.” (Uptown Rezone Recommendation Director’s Report, p. 5, July 12, 2017); and

WHEREAS, since the original designation of the Building, the Uptown Urban Center has been rezoned, and the Seattle Mixed-Uptown 160 (SM-UP 160) zone that the Building is located in has been rezoned to provide for incentives to preserve landmarks, including increased FAR for projects that preserve a landmark on-site, and provisions that allow for the transfer of development rights (TDR) and the transfer of development potential (TDP) from designated landmarks to other sites in the SM-UP 160 zone (SMC 23.48.723); and

WHEREAS, the City Council wishes to achieve the goal of maximizing the potential for housing in this neighborhood and supports the landmarking of this Building; and

WHEREAS, if the surface parking lot to the north of the Building were to be redeveloped while preserving the landmarked Building, an additional 1 FAR would be allowed under the SM-UP 160 zone, providing for more housing or non-residential development to be built on the site than could be built offsite through TDP or on the site if the building were not landmarked and were demolished; and

WHEREAS, an even larger building could be built on the site if an arts facility were incorporated into a future project on the site; NOW, THEREFORE,

2. Amend Section 2 to CB 120312 as follows:

Section 2. Controls. The following controls are imposed on the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation, provided that no controls are imposed on the parking area to the north of the structure or any portion of the site between the surface parking area and 6<sup>th</sup> Avenue North, except for the drive-

through on the east side of the building, the signpost, and the breezeway structure connecting the signpost to the Building:

A. Certificate of Approval Process.

1. Except as provided in subsection 2.A.2 or subsection 2.B of this ordinance, the owner must obtain a Certificate of Approval issued by the Board according to SMC Chapter 25.12, or the time for denying a Certificate of Approval must have expired, before the owner may make alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building subject to controls ~~((that were designated by the Board for preservation))~~.

2. No Certificate of Approval is required for the following:

a. Any in-kind maintenance or repairs of the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation.

b. Installation, removal, or alteration (including repair) of underground irrigation and underground utilities, provided that the site is restored in kind.

c. Installation, removal, alteration, maintenance, or repair of rooftop mechanical equipment.

d. The installation, alteration, or removal of exterior security lighting, video cameras, and security system equipment.

e. Removal of trees less than 6 inches in diameter measured 4-1/2 feet above ground.

f. Removal or replacement, or both, of shrubs, perennials, annuals, and landscaping rocks in existing locations.

B. City Historic Preservation Officer (CHPO) Approval Process.



1. The CHPO may review and approve alterations or significant changes to the features or characteristics listed in subsection 2.B.3 of this ordinance according to the following procedure:

a. The owner shall submit to the CHPO a written request for the alterations or significant changes, including applicable drawings or specifications.

b. If the CHPO, upon examination of submitted plans and specifications, determines that the alterations or significant changes are consistent with the purposes of SMC Chapter 25.12, the CHPO shall approve the alterations or significant changes without further action by the Board.

2. If the CHPO does not approve the alterations or significant changes, the owner may submit revised materials to the CHPO, or apply to the Board for a Certificate of Approval under SMC Chapter 25.12. The CHPO shall transmit a written decision on the owner's request to the owner within 14 days of receipt of the request. Failure of the CHPO to timely transmit a written decision constitutes approval of the request.

3. CHPO approval of alterations or significant changes to the features or characteristics of the Seattle-First National Bank Building that were designated by the Board for preservation is available for the following:

a. Removal of trees more than 6 inches in diameter measured 4-1/2 feet above ground, identified as a hazard by an International Society of Arboriculture (ISA) Certified Arborist.

b. For the specified features and characteristics of the landmark, the addition or elimination of ducts, conduits, HVAC vents, grills, pipes, panels, weatherheads, wiring, meters, utility connections, downspouts and gutters, and other similar mechanical,

electrical and telecommunications elements necessary for the normal operation of the building or site.

c. Installation, removal, or alteration of exterior light fixtures, other than lighting excluded in subsection 2.A.2.d of this ordinance.

d. Installation, removal, or alteration of exterior building signage and site signage.

e. Installation of improvements for safety or accessibility compliance.

f. Installation of fire and life safety equipment.

g. Replacement of non-original windows and doors.

h. Changes to exterior paint colors.

i. Alterations to drive-through window and any related drive-through equipment.

j. Emergency repairs or measures (including immediate action to secure the area, install temporary equipment, and employ stabilization methods as necessary to protect the public's safety, health, and welfare) to address hazardous conditions with adverse impacts to the buildings or site as related to a seismic or other unforeseen event. Following such an emergency, the owner shall adhere to the following:

1) The owner shall immediately notify the City Historic Preservation Officer and document the conditions and actions the owner took.

2) If temporary structural supports are necessary, the owner shall make all reasonable efforts to prevent further damage to historic resources.

3) The owner shall not remove historic building materials from the site as part of the emergency response.

Lish Whitson  
City Council  
January 6, 2023  
D#2b

4) In consultation with the City Historic Preservation Officer and staff, the owner shall adopt and implement a long-term plan to address any damage through appropriate solutions.

\* \* \*



## Legislation Text

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**File #:** CB 120489, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.

WHEREAS, Seattle Parks and Recreation (“SPR”) desires to develop the Seattle Japanese Garden (“Garden”), located within the Washington Park Arboretum (“Arboretum”), to ensure its long-term sustainability and preserve the cultural connection the Garden provides; and

WHEREAS, in 2014 SPR and the Japanese Garden Society undertook an Optimal Operations Study (“Study”) to determine how best to operate and support the Garden, and the Study concluded that operation by a nonprofit entity would best serve the Garden’s long-term needs; and

WHEREAS, the Arboretum Foundation (“Foundation”), a Washington nonprofit corporation, was selected in 2016 to support the Garden through programming, marketing, membership support, event delivery, marketing, and fundraising; and

WHEREAS, SPR’s Superintendent was authorized to enter into an agreement with the Foundation via Ordinance 124979; and

WHEREAS, the Foundation, in partnership with SPR, has worked since 2016 to provide high quality educational and culturally relevant community programs and events, and significantly fundraise for capital projects, at the Garden in an effort to leverage resources and to expand access and improve the user experience at the Garden; and

WHEREAS, at the conclusion of the initial agreement the Foundation was selected by SPR through a Letter of

Interest application process to continue fundraising, event, and program support for the Garden and has committed to providing substantial public benefits in the new agreement; and

WHEREAS, the City desires to enter into a new agreement to continue its productive working relationship with the Foundation to enhance the operations and sustainability of the Garden as authorized by the attached Non-Government Agreement; NOW, THEREFORE,

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

Section 1. The Superintendent of Parks and Recreation or the Superintendent's designee is authorized for and on behalf of The City of Seattle to negotiate an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden operation that is consistent with the terms and conditions contained in Attachment 1 to this ordinance.

Section 2. 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 10 days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved /    returned unsigned /    vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Elizabeth M. Adkisson, Interim City Clerk

(Seal)

**Attachments:**

Attachment 1 - Non-Government Agreement for the Support and Development of the Seattle Japanese Garden between The City of Seattle Acting By and Through Seattle Parks and Recreation and the Arboretum Foundation



**Attachment 1**  
**Non-Government Agreement for the Support and Development of the Seattle Japanese Garden**  
**Between**  
**THE CITY OF SEATTLE**  
**ACTING BY AND THROUGH**  
**SEATTLE PARKS AND RECREATION**  
**And**  
**THE ARBORETUM FOUNDATION**

THIS AGREEMENT for the Support and Development of the Seattle Japanese Garden (Agreement) is dated \_\_\_\_\_, 2022 and is entered into by and between The City of Seattle (City), a Washington municipal corporation, through Seattle Parks and Recreation (SPR), as represented by the Superintendent; and the Arboretum Foundation (Foundation), a nonprofit organization of the State of Washington and authorized to do business in the State of Washington.

WHEREAS, The Seattle Japanese Garden (Japanese Garden), an important educational and cultural park space for the community, is located in the Washington Park Arboretum and is owned and operated by SPR; and

WHEREAS, SPR is committed to offering safe and welcoming opportunities for residents and visitors to play, learn, contemplate and build community; and

WHEREAS, SPR and the Foundation entered into a six-year Support and Development Agreement for the Japanese Garden on January 16, 2016 which supported increased attendance, expanded programming and community access, and private fundraising on behalf of the Japanese Garden; and

WHEREAS, SPR and the Foundation entered into a one-year extension of the 2016 Agreement on November 3, 2021 due to pandemic-related operating uncertainties; and

WHEREAS, the Foundation is well-known and supported by the community, with a proven track record in marketing, fundraising, endowment, event coordination and membership support, all of which are characteristics recommended in the SPR's 2014 Optimal Operations Study for a support organization for the Japanese Garden; and

WHEREAS, SPR and the Foundation desire to further develop the Japanese Garden, improve the visitor experience, and increase equity and access; and

WHEREAS, SPR and the Foundation share a commitment to value, respect and expand on the Japanese Garden's traditional emphasis on culturally relevant events and activities and a goal of increasing the public benefit of the Japanese Garden to the community as further detailed in Exhibit A; and

WHEREAS, SPR and the Foundation desire to utilize each other’s expertise to ensure the Japanese Garden has a long and sustainable future;

NOW, THEREFORE, SPR and the Foundation agree to the following:

**1. TERM OF AGREEMENT:**

The term of this agreement shall commence on January 1, 2023, and shall terminate no later than December 31, 2032 unless SPR and the Foundation agree in writing to extend the term of the Agreement for no more than five years on or before September 30, 2032.

**2. ROLES, RESPONSIBILITIES AND FINANCIAL STRUCTURE**

SPR is engaging the Foundation to support the Japanese Garden as an independent entity. The parties will be acting in their individual capacities, not as agents, employees, partners, joint ventures or associates of one another. The roles and responsibilities of the two parties are outlined below:

Category	Seattle Park and Recreation (SPR) shall:	Arboretum Foundation (Foundation) shall:
<b>General</b>		
<b>Mutual Recognition</b>	Recognize the Foundation as the primary support organization for the Seattle Japanese Garden for the duration of this Agreement, responsible for programming, operating and conducting events, fundraising, membership program, volunteer coordination, branding and marketing subject to SPR oversight and approval and consistent with City park policy.	Recognize SPR, acting on behalf of the City, as the owner and operator of the Japanese Garden.
<b>Roles</b>	Operate, maintain, and manage the Japanese Garden including grounds, entry gatehouse and buildings associated with the garden.	In close collaboration with SPR, assume the role as the primary nonprofit support organization for the Japanese Garden, responsible for programming, operating and conducting events, fundraising, membership program, volunteer coordination, branding and marketing.
<b>Policy Development</b>	Provide input and guidance on policy issues when requested by the Foundation. Review and provide additional clarity if necessary for policies regarding the garden rental fee, alcohol rules for sponsorship events, and inclement weather policies. Review donor recognition	Provide input and support to SPR on policy issues pertinent to the Japanese Garden and communication of these policies to the public.  Provide input to SPR on appropriate donor recognition and support implementation.



	policies as applied to the Japanese Garden.	
<b>Steering Committee</b>	Participate in Japanese Garden Steering Committee meetings.	Support the Japanese Garden Steering Committee under the Arboretum Foundation Board of Directors that will meet 8-10 times annually to discuss public programming, marketing, fundraising, capital projects, endowment support, equity, and membership programs.
<b>Finance</b>		
<b>Revenue Sharing</b>  (Exhibit C includes a revenue sharing summary)	<p>Retain the first \$425,000 of gate revenue annually which will include daily admission, membership and other agreed on categories of revenue excluding merchandise and donations. \$3,600 of the above amount is assumed to cover SPR staffing for approximately 2-4 Foundation fundraising events.</p> <p>Retain 50% of all gate revenue annually from \$500,001-\$750,000.</p> <p>Retain 40% of all gate revenue annually beyond the first \$750,000.</p> <p>City payment of Annual Support Payment and additional payments below shall be contingent on City legislative appropriation of funding sufficient for such payment. The Superintendent will request such annual appropriation from City Council.</p> <p>On a semi-annual basis, SPR will provide to Foundation a report of attendance at the Japanese Garden and gate revenue received, along</p>	Provide event reports, year-end financials, and an annual report to SPR. In January of each year provide a work plan to SPR. The annual report shall include a reporting of public benefits included in Exhibit A.

	<p>with the balance of annual gate revenue not retained by SPR (“Gate Percentage Share”) as set out above.</p> <p><u>Mid-Year Payment:</u> SPR will pay the Foundation \$75,000 in Annual Support Payment through one payment of \$75,000 in July along with any donations and merchandise revenue collected for the months of January through June.</p> <p><u>End-of-Year Payment:</u> By January 10th of each year, SPR will pay Foundation 50% share of gate revenue earned between \$500,001-\$750,000 plus 60% of any additional gate revenue earned beyond \$750,000, along with any donations and merchandise revenue collected July-December.</p>	
<b>Fees and Charges</b>	<p>After consultation with Foundation and community stakeholders, set bi-annual fees and charges for Japanese Garden entry and programs for Seattle City Council review and approval. The City will strive to balance equity, access, sustainability, and revenue goals in determining fee levels.</p>	<p>Support SPR in the development of bi-annual fees and charges that balance equity, access, sustainability, and revenue goals.</p>
<b>Membership</b>	<p>Approve a membership program. Work collaboratively with Foundation to offer and grow a membership program. Agree annually on a communication plan for members. Evaluate results of membership options study and consider alternative membership program options.</p>	<p>Develop and implement a Japanese Garden membership program with agreement from SPR about the annual pass and membership fee structure. Work collaboratively with SPR to offer and grow a membership program. Develop and administer membership benefits. Agree annually on a communication plan for members. Sponsor study to evaluate alternate membership options.</p>

<b>Fundraising</b>	So long as fundraising revenue continues to be deployed to Japanese Garden programming and/or capital needs, SPR will provide the Tateuchi Room, entrance plaza or Garden free of charge for an agreed upon number of days and times per year for fundraising and donor recognition purposes. Provide an agreed upon number of day passes to the Foundation for Japanese Garden fundraising purposes.	Work with SPR to develop a fundraising/endowment/asset preservation plan for the Japanese Garden and recognition program to support garden programming, maintenance, capital improvements, and special projects.
<b>Fundraising Event Support</b>	Events other than the Moon Viewing and Garden Party (or similar separately ticketed events up to four events a year) will be considered shared revenue generating events and included in the semi-annual calculation for revenue sharing. New events or changes in the existing event calendar will need to be approved by both parties. For fundraising events, provide parking support, pre-event coordination and maintenance, and post-event clean up assistance.	Moon Viewing and Garden Party or similar separately ticketed events will be revenue-generating events for the Foundation, up to four a year unless otherwise agreed. New events or changes in the existing event calendar will need to be approved by both parties. Provide on-line ticketing for revenue-generating events for the Foundation. Provide event staff and equipment as necessary. Provide after-event reports to Steering Committee. Provide \$3,600 annual staffing allowance for fundraising event support, which is incorporated in the base amount retained by SPR as part of the overall revenue settlement.
<b>Merchandise</b>	At SPR's reasonable discretion, sell merchandise to members of the public through the Gatehouse point-of-sale system. Remit merchandise proceeds to Foundation (less sales taxes) as part of bi-annual settlement process. Retain 10% of revenues to support administrative expenses.	Work with Unit 86 Garden volunteers to approve, manage, update, and maintain merchandise. 10% of annual merchandise revenue will go to SPR as part of the bi-annual settlement process.
<b>Programs</b>		

<b>Coordination</b>	<p>Agree to coordination meeting plan that supports the operations and programming of the Japanese Garden including pre and peak season.</p> <p>Provide at least an annual collaboration opportunity with key SPR leadership contact, at SPR Division Director or equivalent staff level.</p>	<p>Agree to coordination meeting plan that supports the operations and programming of the Japanese Garden including pre and peak season. Solicit input on monthly Steering Committee agenda items.</p> <p>Attend collaboration opportunity with SPR Division Directors or equivalent staff level.</p> <p>Agree to annual performance measures.</p>
<b>Education and Cultural Enrichment Programs</b>	<p>SPR and the Foundation will agree on an annual “free access” calendar for use of the Tateuchi Room, Tea House and Japanese Garden for cultural enrichment and education programs.</p> <p>Agree on operational hours and number of days available for this purpose.</p>	<p>SPR and the Foundation will agree on an annual “free access” calendar for use of the Tateuchi Room, Tea House and Japanese Garden for cultural enrichment and education programs. Develop a public education and cultural enrichment program. Provide a draft event calendar for the following year by the end of October each year. Align program metrics with public benefit, equity, and access goals. Provide post programming write-ups to support internal and external messaging.</p>
<b>Tea Groups</b>	<p>Sell tickets to public tea ceremonies through the Gatehouse point-of-sale system. Enter into agreements with third-party tea groups as appropriate and consistent with then-current City parks policies.</p>	<p>Work with local tea groups to offer public and private tea ceremonies in the Shoseian Tea House on a regular schedule.</p>
<b>Staffing</b>	<p>City will be responsible for cashier operations including facility rentals, and for a minimum of 0.5 FTE supervisory support.</p>	<p>Provide a Japanese Garden Program Manager. Provide additional staffing as needed to support programming, events, fundraising, marketing, membership and tour guide coordination.</p>

<b>Alcohol</b>	Review and determine in SPR's reasonable discretion, based on then-current City parks policies, whether to approve an annual schedule of events including alcohol sales or service presented by the Foundation.	Submit an annual schedule of events including alcohol sales or service to SPR for review.
<b>Volunteers</b>	Provide training and onsite support for maintenance volunteers. Provide safety training for garden volunteers.	Recruit, coordinate and train volunteers and tour guides. Organize public and private tours. Recruit maintenance stewards. Provide quarterly total volunteer hours.
<b>Community Access and Outreach</b>	Work with the Foundation to develop an annual community outreach plan that supports the SPR's Race and Social Justice Initiative (RSJI) and goals related to equity and access. These opportunities include free first Thursdays, Family Saturdays, Seattle Public School outreach and new community outreach initiatives.	Work with SPR to develop an annual community outreach plan that supports the Foundation's and SPR's goals related to public benefits, equity, and access. These opportunities include free first Thursdays, Family Saturdays, Seattle Public School outreach, and new community outreach initiatives.
<b>Marketing</b>	Work with the Foundation to maintain consistent branding and a mission statement.	Work with the SPR to maintain consistent branding and a mission statement. Develop and implement a branding and marketing strategy. Maintain a robust social media presence. Coordinate with SPR and City communications team as relevant.
<b>Website and Social Media</b>	Maintain the Japanese Garden website on the SPR site and ensure it is linked to the Japanese Garden website that is maintained by the Foundation.	Maintain a Japanese Garden website. Maintain and grow the Garden's social media presence. Provide timely edits and updates.
<b>Infrastructure</b>		

<b>Capital Improvements</b>	Develop and maintain a prioritized list of periodic maintenance and Capital Improvement Projects and potential matching fund sources. SPR will maintain discretion to determine whether and when capital improvement projects are necessary and desirable at the Japanese Garden except where authority is otherwise provided by the Arboretum and Botanical Garden Committee under the Master Plan.	Work with SPR on prioritizing Capital Improvement Project funding and completion of special projects. When so requested by SPR, provide funds to SPR or SPR-approved vendors per mutual agreement in support of approved projects. Comply with applicable federal, state and City public works laws and regulations, including bidding and prevailing wage requirements.
<b>Japanese Garden Closures</b>	Recognize both parties are aligned in attempting to schedule planned closures in a manner to limit impacts on access, revenues, and programs. Consult with the Foundation, in advance when possible, regarding proposed closures to receive input about stakeholders about impacts and ways to minimize negative effects of any closures SPR determines to be necessary.	Provide input to SPR on potential closures and support communication about closures, recognizing optimal closure times can be impacted by moving variables such as garden conditions, resource availability, city and federal laws, and related factors.
<b>Tateuchi Room Use and Rental</b>	Provide Tateuchi Room rental and usage for the Foundation on an agreed upon schedule.	Work with SPR to develop a calendar for Tateuchi Room rental.
<b>Computers, Tech, Workspaces</b>	SPR will provide internet connections and collaborate with Foundation on identifying regular workstation dates and times for Foundation staff at the Japanese Garden as available.	Foundation will provide computers and technology for Foundation staff.
<b>Safety Plan</b>	Work with SPR's Emergency Manager to develop and revise Japanese Garden Safety Plan, including emergency egress in the back of the Garden. Provide training opportunities for staff and volunteers. Post safety information in Tateuchi Room and other Garden locations.	Support SPR in the development and communication of a Japanese Garden Safety Plan. Collaborate with SPR on safety training.

### **3. NONDISCRIMINATION**

The parties agree to and will comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers. Failure to comply with any of the terms of these provisions shall be a material breach of this permit.

### **4. INDEMNIFICATION**

The City hereby agrees to indemnify, save harmless and defend Foundation from any and all losses, claims, actions or damage arising out of bodily injury or death to persons and damage to property suffered by any person or entity by reason of or resulting from any act or omission of the City or any of its officers, agents, or employees in connection with use or occupancy of the Property; but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence or intentional misconduct of the City, its authorized officers, agents, or employees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. The City's obligations under this indemnification Section 4 shall not exceed the appropriation authorized at the time the City must fulfill its indemnity obligations and nothing in this Agreement may be considered as ensuring that the City will appropriate sufficient funds in the future to fulfill its indemnity obligations. Appropriated funds that are subject to this indemnity obligation include, but are not limited to, funds in the City's self-insurance program and in the Judgment Claims Subfund (00126) established by Ordinance 124088, and future moneys appropriated for the same purposes.

The Foundation hereby agrees to indemnify, save harmless and defend the City from any and all losses, claims, actions or damages arising out of bodily injury or death to persons and damage to property suffered by any person or entity by reason of or resulting from any act or omission of Foundation or any of its officers, agents, or employees in connection with use or occupancy of the Property but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence or intentional misconduct of Foundation, its authorized officers, agents, or employees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

### **5. INSURANCE**

#### **A. STANDARD INSURANCE COVERAGES AND LIMITS OF LIABILITY REQUIRED:**

- 1. Commercial General Liability (CGL)** or equivalent insurance including coverage for:  
Premises/Operations, Products/Completed Operations, Personal/Advertising Injury, Contractual and top Gap/Employers Liability (coverage may be provided under a separate policy). Minimum limit of liability shall be  
\$ 2,000,000 each occurrence Combined Single Limit bodily injury and property damage ("CSL")  
\$2,000,000 Products/Completed Operations Aggregate  
\$4,000,000 General Aggregate  
\$2,000,000 each accident/disease—policy limit/disease—each employee stop gap/Employer's Liability  
\$2,000,000 Liquor Liability (hosted)

2. Commercial General Automobile Liability insurance for owned, non-owned, leased or hired vehicles, as applicable, written on a form CA 00 01 or equivalent with minimum limits per accident for bodily injury and property damage of:

\$1,000,000 for each occurrence

3. Worker's Compensation insurance for Washington State as required by Title 51 RC.

- B. CHANGES IN INSURANCE REQUIREMENTS:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to Foundation.
- C. CITY AS ADDITIONAL INSURED; PRODUCTS-COMPLETED OPERATIONS:** Foundation shall include "the City of Seattle" as an additional insured to all of the insurance coverage listed and checked above in Sections A (except workers comp); which must also be as primary and non-contributory with any insurance or self-insurance coverage or limits of liability maintained by the City, and in the form of a duly issued additional insured endorsement and attached to the policy or by the appropriate blanket additional insured policy wording, and in any other manner further required by Foundation's insurance coverage to provide the City of Seattle additional insured coverage as set forth herein.
- D. NO LIMITATION OF LIABILITY:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. Nothing in the City of Seattle's requirements for minimum insurance coverage shall be interpreted to limit or release liability of the FOUNDATION or any of the FOUNDATION's insurers. The City shall be an additional insured as required in paragraph C. regarding the total limits of liability maintained, whether such limits are primary, excess, contingent or otherwise.
- E. REQUIRED SEPARATION OF INSURED PROVISION; CROSS-LIABILITY EXCLUSION AND OTHER ENDORSEMENTS PROHIBITED:** FOUNDATION's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. FOUNDATION's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the FOUNDATION's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. Foundation's failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Foundation or reduced and/or offset against the Contract.
- F. NOTICE OF CANCELLATION:** The above checked insurance coverages shall not be canceled by Foundation or Insurer without at least forty-five (45) days written notice to the City, except ten (10) days' notice for non-payment of premium.
- G. CLAIMS MADE FORM:** If any insurance policy is issued on a "claims made" basis, the retroactive date shall be prior to or coincident with the effective date of the Contract. The Foundation shall



either maintain "claims made" forms coverage for a minimum of three years following the expiration or earlier termination of the Contract, providing the City with a Renewal Certificate of Insurance annually; purchase an extended reporting period ("tail") for the same period; or execute another form of guarantee acceptable to the City to assure the Foundation's financial responsibility for liability for services performed.

**H. INSURER'S A.M. BEST'S RATING:** Each insurance policy shall be issued by an insurer rated A-: VII or higher in the A.M. Best's Key Rating Guide.

**I. EVIDENCE OF INSURANCE (NOT APPLICABLE TO WORKERS COMPENSATION):** Foundation must provide the following evidence of insurance:

- a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
- b) An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL or other additional insurances required.

At any time upon the City's request, Foundation shall also cause to be timely furnished a copy of declarations pages and schedules of forms and endorsements. In the event the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, Foundation shall also cause a complete and certified copy of the requested policy to be timely furnished to the City of Seattle. A copy of the insurance ACORD shall be provided to SPR no later than 30 days following mutual execution of this permit.

## **6. AMENDMENT**

Both parties agree any proposed changes concerning the terms and conditions of this Agreement must be requested in writing, negotiated in good faith, and memorialized and approved by both parties in writing. Assignment to a successor organization shall be permitted only by approval of both parties in writing.

## **7. DISPUTE RESOLUTION**

Any disputes or misunderstandings that may arise under the Agreement shall first be resolved through amicable negotiations, if possible, between the Superintendent or SPR representative and the Foundation Executive Director. If such parties do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Any and all such dispute resolution proceedings shall take place in the State of Washington.

## **8. COMPLIANCE WITH LAW: VENUE**

Both parties shall comply with all applicable laws of the United States and the state of Washington; the Charter, Municipal Code and ordinances of The City of Seattle, and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.

## **9. ANNUAL REVIEW**

Annual reviews will be conducted during or before the month of January by SPR and the Foundation. Both parties will assess compliance with the financial arrangement, review annual revenues, attendance and membership, programming and fundraising and levels of donor participation. Both parties reserve the right to agree on reasonable adjustments of this Agreement to ensure a successful base of support for the Japanese Garden. SPR and the Foundation will develop performance measures for the next year based on information gathered in the annual review.

## **10. TERMINATION**

A. Breach. SPR may terminate this Agreement if Foundation is in material breach of any of the terms of this Agreement, and such breach has not been corrected to SPR's reasonable satisfaction within 60 days following notice of the breach.

B. SPR' Breach. Foundation may terminate this Agreement if SPR is in material breach of any of the terms of this Agreement, and such breach has not been corrected to Foundation's reasonable satisfaction within 60 days following notice of the breach.

For Reasons Beyond Control of Parties or Performance Substantially Below Expectations: Either party may terminate this Permit where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operation; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control or where performance has been substantially below expectations as determined by the annual performance review. The performance measures would include the financial expectations of both parties, membership and attendance goals for the Japanese Garden, days Japanese Garden open to the public, reasonable fees and charges, and donor and volunteer participation. Sixty (60) day notice of termination will be provided within four weeks of the annual review.

In the event of the Agreement being terminated before the expiration term, SPR shall remit to Foundation the portion (if any) of any payments earned.

## **11. ENTIRE AGREEMENT**

This agreement and the exhibits and addenda attached hereto and forming a part hereof (if any), are all of the covenants, promises, agreements and conditions between the parties. No verbal agreements between officers, employees or associates of the parties shall affect or modify any of the terms or obligations contained in this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Permit by having their representatives affix their signatures below.

**For Arboretum Foundation:**

\_\_\_\_\_  
Jane Stonecipher, Executive Director  
Arboretum Foundation  
2300 Arboretum Drive  
Seattle, WA 98112

Date: \_\_\_\_\_

**For the City of Seattle:**

\_\_\_\_\_  
Anthony Paul Diaz, Superintendent  
Seattle Parks and Recreation  
100 Dexter Ave. N.  
Seattle, WA 98109

Date: \_\_\_\_\_

City of Seattle Business License Number:  
Washington State Unified Business Identifier Number (UBI):

**EXHIBITS:**

Exhibit A: Public Benefit Created Through the Operating Partnership Between SPR and the Arboretum Foundation  
Exhibit B: Site Maps of Japanese Garden  
Exhibit C: Annual Revenue Sharing Summary  
Exhibit D: Invoicing Template

## EXHIBIT A

### PUBLIC BENEFIT CREATED THROUGH THE OPERATING PARTNERSHIP BETWEEN SEATTLE PARKS AND RECREATION AND THE ARBORETUM FOUNDATION AT THE JAPANESE GARDEN

#### Summary of Public Benefits

Services to be Provided	Public Benefit Requirement as Outlined above	Annual Goal Metrics/ #’s to be provided	Cost/ Volunteer Time Value
Public Access	Provide promotional support for Garden free days through social media, marketing and strategic outreach.	Social media audience of 10,000+, Coverage in 3-5 publications or displays	Approximately \$10,000 in marketing expense
Programs	Create and implement cultural programs at the Garden, offering arts-focused First Thursday programs and child-focused Family Saturday activities in conjunction with Garden free days. Create school field trip curriculum for use at Garden and in classrooms. Recruit and schedule docent tours multiple times per week. Partner with local tea practitioners to offer traditional tea ceremony though the season. Facilitate ongoing relationships between the Japanese Garden and members of underserved communities.	12+ cultural programs  80+ docent-led tours	Approximately \$110,000 in staff time and related expenses
Community Outreach Events	Represent the Japanese Garden with offsite community outreach at events such as the Cherry Blossom Festival, Japan Fair, NW Flower and Garden Festival and public events at the Washington Park Arboretum. Support SPR outreach events at facilities throughout the city.	2-5 events annually	N/A
Volunteer Service Events	Coordinate a range of opportunities for volunteer involvement, including the Garden docent and merchandise programs, event volunteers and Niwashi garden stewards.	900-1500 hours annually	\$27,000-\$45,000*
Capital Improvements	Privately fund capital improvements to City facilities. Previous example includes \$150,000 in support for Pond Renovation project. Annual support will be determined	# annual projects (TBD) funded with private \$\$	\$15,000-\$850,000 annually, based on projects

	by capital improvements planned for contract period.		
Specific Services to City	Conduct community survey on Garden visitation; advocacy: maintain key relationships with entities such as Japanese Consulate; facilitate community involvement in Japanese Garden Steering Committee; represent Garden in Japan-America Society and industry association NAJGA (North American Japanese Garden Association).	Varies	N/A
<b>Total Public Benefit planned annually</b>			<b>To average at least \$200,000 annually</b>

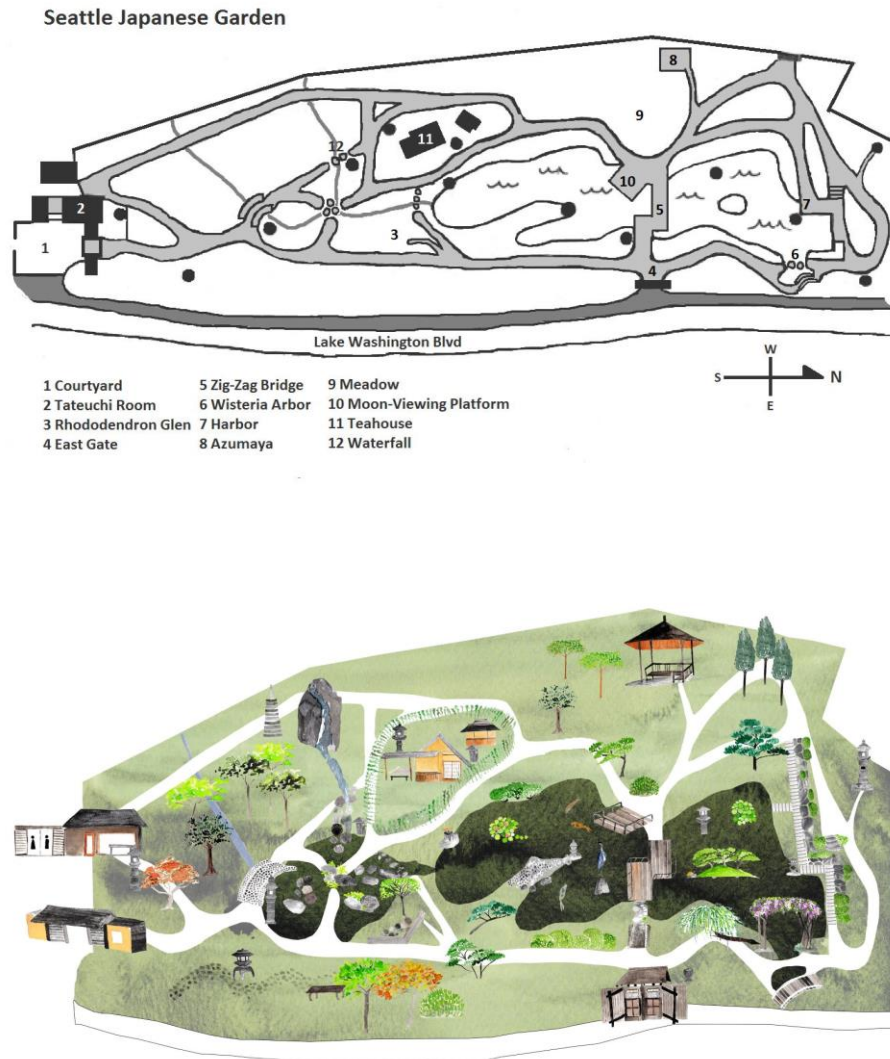
- Current volunteer hourly rate value here: <https://independentsector.org/resource/value-of-volunteer-time/>

### **Reporting**

A plan for Public Benefit provided by the Arboretum Foundation shall be reflected in the draft events calendar provided to SPR and the Steering Committee each fall for the coming year. A reporting of Public Benefit from the previous year shall be included in the Annual Report submitted to SPR by January 31<sup>st</sup>.

## EXHIBIT B

### SITE MAPS OF THE SEATTLE JAPANESE GARDEN



**EXHIBIT C – ANNUAL REVENUE SHARING SUMMARY\***

	<b>SPR</b>	<b>Foundation</b>	<b>Total</b>
Base Revenue	\$425,000	\$75,000	<b>\$500,000</b>
Revenue split after base (50%/50%)	\$125,000	\$125,000	<b>\$250,000</b>
Total Projected Revenue			
Total	<b>\$550,000</b>	<b>\$200,000</b>	<b>\$750,000</b>
Revenue % split beyond \$750,000	40%	60%	
% share of total \$750,000 revenue base	73%	27%	

Invoicing details listed in the Revenue Sharing Category of the Agreement. SPR Base Revenue includes \$3600 event support allowance for SPR support of Foundation fundraising events.

\*Amounts are based on an estimated \$750,000 annual revenue collection; actual annual revenue amount may be different.

**EXHIBIT D – INVOICE TEMPLATE**

<b>Japanese Garden Revenue Summary</b>	
<b>Mid-year invoice</b>	
<b>Revenue January 1 thru June 30th</b>	Enter Year here
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
<b>Total Revenue January - June</b>	\$ -
Less: Merchandise & Donations (AF Revenue)	\$ -
<b>Gate Revenue</b> (Revenue less Merchandise & Donations)	\$ -
<b>Arboretum Foundation Mid-Year Invoice and Payment</b>	
Annual SPR Support Payment	\$ 75,000.00
Merchandise Gross Sales (January - June)	\$ -
Donations (January - June)	\$ -
Subtotal	\$
Less 2022 Sales Tax on Merchandise (10.25%)	\$ -
Less State B&O Tax on Merchandise (0.471%)	\$ -
Less City Retail B&O Tax on Merchandise (2.22%)	\$ -
Less 10% of Merchandise payment to SPR (for Admin expenses)	\$ -
<b>Total Mid-year payment to Arboretum Foundation</b>	<b>\$</b>
<b>Accounting Coding:</b> PRN04/PRN0801/10200/347050 (Exhibit Admission Charges) PRN04/PRN0801/10200/341090 (Sales Of Merchandise) PRN04/PRN0801/10200/337080 (Other Private Contrib & Dons) PRN04/PRN0801/10200/347040 (Recreation Admission Fees)	



**Exhibit D continued- Invoice Template**

<b>Japanese Garden Revenue Summary</b>	
<b>Yearend Invoice</b>	Enter Year here
<b>Revenue January 1 thru June 30:</b>	
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
<b>Total Revenue January -June</b>	\$ -
<b>Revenue July 1 thru December:</b>	
Gate Revenue (Admissions, Passes, Teas)	
Merchandise	
Donations	
<b>Total Revenue July 1 thru December</b>	\$ -
<b>Calculation for Yearend Revenue Split</b>	
<b>Total Annual Revenue</b>	\$ -
Less: Total Annual Merchandise (AF Revenue)	\$ -
Less: Total Annual Donations (AF Revenue)	\$ -
<b>Gate Revenue</b> (Revenue less Merchandise & Donations)	\$ -
Less Base Revenue (\$425k SPR/\$75k AF)	\$ (500,000.00)
<b>Net Gate Revenue for 50% Split (\$500,001 to \$750,000)</b>	\$ -
<b>Net Gate Revenue for 60% Split (over \$750,000)</b>	\$ -
<b>Arboretum Foundation Yearend Invoice and Payment</b>	
Merchandise Gross Sales (July - December)	\$ -
Donations (July - December)	\$ -
50% Revenue share (\$500,001 - \$750,000)	\$ -
60% Revenue share (over \$750,000)	\$ -
<b>Subtotal</b>	\$ -
Less Sales Tax on Merchandise (10.25%)	\$ -
Less State B&O Tax on Merchandise (0.471%)	\$ -
Less City Retail B&O Tax on Merchandise (2.22%)	\$ -
Less 10% of Merchandise payment to SPR (for Admin expenses)	\$ -
<b>Total Yearend payment to Arboretum Foundation</b>	\$ -
<b>Accounting Coding:</b> PRN04/PRN0801/10200/347050 (Exhibit Admission Charges) PRN04/PRN0801/10200/341090 (Sales Of Merchandise) PRN04/PRN0801/10200/337080 (Other Private Contrib & Dons) PRN04/PRN0801/10200/347040 (Recreation Admission Fees)	

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Parks and Recreation	Karl Fields/734-5930	Justin Hellier/327-5684

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

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE authorizing The City of Seattle, through Seattle Parks and Recreation, to enter into an agreement with the Arboretum Foundation for support of the Seattle Japanese Garden consistent with the Non-Government Agreement in Attachment 1 to this ordinance.

#### **Summary and Background of the Legislation:**

The proposed legislation authorizes the Superintendent of Parks and Recreation to enter into a 10-year agreement with the Arboretum Foundation to support the Japanese Garden. The agreement allows for one five-year extension if agreed to in writing by both Seattle Parks and Recreation (SPR) and the Arboretum Foundation. SPR owns the Garden, sets fees and charges, provides garden maintenance, and operates the gate house cashiering. Under the terms of the Agreement, the Arboretum Foundation will support Japanese Garden (Garden) operations by providing educational and culturally relevant community programming, fundraising for capital projects, volunteer management, outreach and marketing, sharing of merchandise revenue, and public benefits to expand access and user experience at the Garden.

In 2014, SPR joined with the Japanese Garden Society to co-sponsor an Optimal Operations Study to explore opportunities to increase capacity, improve financial sustainability, address capital needs and improve operations at the Garden. The primary goal of the study was to identify a model that would provide the greatest public benefit. The Study concluded that the Garden had the best chance for long-term success under a nonprofit supported operating structure. In 2016, Ordinance 124979 authorized the Superintendent of SPR to enter into an agreement with the Arboretum Foundation to support the Seattle Japanese Garden. SPR entered into a six-year agreement which was extended by one year through 2022 to allow for continuous support during the COVID-19 pandemic.

In 2022, SPR conducted a Letter of Interest application process, and the Arboretum Foundation was the sole organization to apply.

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      ☐ Yes ☒ No

**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?**

Yes. The 2023-24 budget process includes \$3,600 in SPR staffing support for the Foundation fundraising events and each budget cycle thereafter will establish the annual appropriation.

**Are there financial costs or other impacts of *not* implementing the legislation?**

Implementing this legislation will provide the organizational structure necessary to ensure long-term sustainability of the Japanese Garden. If this legislation is not implemented, the Arboretum Foundation would not continue to deliver events, fundraising, marketing and membership support for the Japanese Garden. Seattle Parks and Recreation would incur all expenses to operate and maintain the Japanese Garden without the fundraising support from the Arboretum Foundation.

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

No

**d. Does this legislation affect a piece of property?**

Yes, the Seattle Japanese Garden is located within the Washington Park Arboretum, as illustrated in Summary Exhibit 1 – Japanese Garden Map.

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

This agreement authorizes the Arboretum Foundation to continue providing opportunities for visitors and volunteers, as well as enhance public education and programming for populations that are not familiar with this facility. This agreement also maintains the current fee structure which sets admission and pass fees as part of the Parks and Recreation Fee Schedule. Additional discounted fees for seniors, adaptive (specialized programs), students, and the military are included in the 2023-24 budget. The Japanese Garden also offers First Free Thursday and Free Family Saturday visitation opportunities once a month. Special event and program fees will be set in cooperation with the Arboretum Foundation. This agreement includes substantial public benefits that help ensure equitable access to the Garden. Examples of these public benefits include critical outreach to promote free

attendance days, 80+ docent led garden tours, community outreach events, volunteer coordination, and vital capital fundraising.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

Anticipated carbon impact is neutral.

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

Increased adaptability is anticipated through educational programming and docent tours that will include opportunities to discuss the impacts of climate change on the Garden collection and sustainability counter measures.

**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)?**

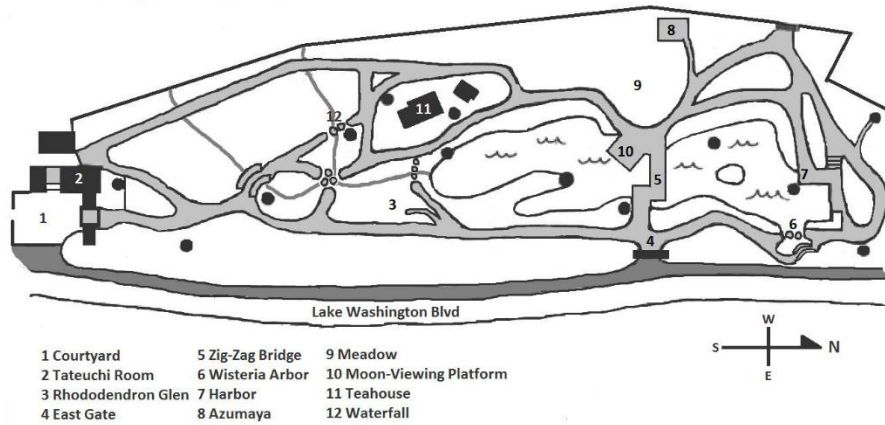
No

**Summary Attachments:**

Summary Exhibit 1 – Site Maps of the Seattle Japanese Garden

## SITE MAPS OF THE SEATTLE JAPANESE GARDEN

Seattle Japanese Garden





## Legislation Text

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**File #:** CB 120483, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

WHEREAS, the King County Department of Natural Resources and Parks has forwarded two applications to the City Council for classification under the King County Public Benefit Rating System (PBRs); and

WHEREAS, Dustin Jewett and Alyssa Horn have applied for PBRs rating for open space on a portion of the property that they own located at 8240 43rd Avenue NE (E20CT029S); and

WHEREAS, Nathan Rosenbaum has applied for PBRs rating of a City of Seattle Landmark, Anhalt Hall, which he owns, located at 711 NE 43rd Street (E21CT024S); and

WHEREAS, the PBRs is administered in accordance with Revised Code of Washington Section 84.34.037, Washington Administrative Code Chapter 458-30, and King County Code Chapter 20.36 providing for assessment practices to reflect current use of property, rather than “highest and best use,” as an incentive for property owners to maintain open space; and

WHEREAS, RCW 84.34.037(1) states that an application for PBRs shall be acted upon after public hearings and affirmative acts by the county and city legislative bodies affirming the entirety of an application without modification or both bodies affirm an application with identical modifications; and

WHEREAS, the King County Council has reviewed and approved applications E20CT029S and E21CT024S; and

WHEREAS, the Seattle City Council held a public hearing on the applications on January 4, 2023; and

WHEREAS, the Seattle City Council concurs with the recommendations of the King County Department of Natural Resources and Parks as contained in the reports of the applications attached to this ordinance;

NOW, THEREFORE,

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

Section 1. The City Council approves the following applications for the public benefit rating system subject to the conditions enumerated in the attached reports:

A. E20CT029S: Application of Dustin Jewett and Alyssa Horn for property located at 8240 43rd Avenue NE, for open space purposes, 0.13 acres as described in Attachment 1 to this ordinance, the King County Department of Natural Resources and Parks (DNRP) report on application E20CT029S.

B. E21CT024S: Application of Nathan Rosenbaum for Anhalt Hall, a City of Seattle landmark, located at 711 NE 43rd Street, 0.11 acres as described in Attachment 2 to this ordinance, the DNRP report on application E21CT024S.

Section 2. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 3. This ordinance, approving applications for current use taxation pursuant to Revised Code of Washington Chapter 84.34 and not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and after its passage and approval by the City Council.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

(Seal)

**Attachments:**

Attachment 1 - King County Department of Natural Resources and Parks, Water and Land Resources Division,  
Report to the City of Seattle for Property Enrollment in the Public Benefit Rating System (PBRs): File  
No. E20CT029S

Attachment 2 - King County Department of Natural Resources and Parks, Water and Land Resources Division,  
Report to the City of Seattle for Property Enrollment in the Public Benefit Rating System (PBRs): File  
No. E21CT024S



**KING COUNTY  
DEPARTMENT OF NATURAL RESOURCES AND PARKS  
WATER AND LAND RESOURCES DIVISION**

**REVISED Report to the City of Seattle for  
Property Enrollment in the Public Benefit Rating System (PBRs)**

**~~October 8, 2021~~ December 28, 2022**

**APPLICANTS: Dustin Jewett and Alyssa Horn**

**File No. E20CT029S**

**A. GENERAL INFORMATION:**

1. Owners: Dustin Jewett and Alyssa Horn  
8240 43rd Avenue NE  
Seattle, WA 98115

NOTE: The current owners purchased this property from the original applicant, Nobuo Ohashi, in August of 2021 and informed PBRs staff they intend to continue with the approval process.

2. Property location: same as above
3. Zoning: SF5000
4. STR: NW-03-25-04
5. PBRs categories requested by the applicant and *suggested by staff*:

**Open space resources**

\*Buffer to public or current use classified land

~~\*Significant wildlife or salmonid habitat~~

\*Special animal site

Surface water quality buffer

NOTE: \*Staff recommends credit be awarded for these PBRs categories. Enrollment in PBRs for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 23, 2021.

6. Parcel:	044300-0075
Total acreage:	0.32
Requested PBRS:	0.13
Home site/excluded area:	0.19
<b>Recommended PBRS:</b>	<b>0.13</b>

NOTE: The portion recommended for enrollment in PBRS is the entire property less the excluded area as measured. The attached 2019 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRS in blue. In the event the Assessor's official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

## B. FACTS:

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000 and SF7200.
2. Development of the subject property and resource characteristics of open space area: The property contains a single-family residence, garden and landscaping. The open space portion of the property is a mix of deciduous and coniferous trees and mostly native understory, which slopes eastward into an undisturbed ravine. Some areas of the enrolling open space on the westernmost slope abutting the non-enrolling portion of the property are impacted by invasive species, mostly notably ivy/or Himalayan blackberry, which the owners plan to work to control to the extent possible.
3. Site use: The property is used as a single-family residence.
4. Access: The property is accessed from 43rd Avenue NE.
5. Appraised value for 2020 (based on Assessor's information dated 6/5/2021):

<u>Parcel #044300-0075</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	<b>\$585,000.00</b>	\$114,000.00	\$699,000.00
Tax applied	<b>\$5,447.05</b>	\$1,061.48	\$6,508.53

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

## C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

### KCC 20.36.010 Purpose and intent.

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

**KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.**

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the application. In making such recommendation, the department will utilize the point system described in section B. and C. below.
- B. The following open space resources are each eligible for the points indicated:
  - 1. Public recreation area – five points
  - 2. Aquifer protection area – five points
  - 3. Buffer to public or current use classified land – three points
  - 4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
  - 5. Active trail linkage – fifteen or twenty-five points
  - 6. Farm and agricultural conservation land – five points
  - 7. Forest stewardship land – five points
  - 8. Historic landmark or archaeological site: buffer to a designated site – three points
  - 9. Historic landmark or archaeological site: designated site – five points
  - 10. Historic landmark or archaeological site: eligible site – three points
  - 11. Rural open space – five points
  - 12. Rural stewardship land – five points
  - 13. Scenic resource, viewpoint, or view corridor – five points
  - 14. Significant plant or ecological site – five points
  - 15. Significant wildlife or salmonid habitat – five points
  - 16. Special animal site – three points
  - 17. Surface water quality buffer – five points
  - 18. Urban open space – five points
  - 19. Watershed protection area – five points
- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
  - 1. Resource restoration - five points
  - 2. Additional surface water quality buffer - three or five points
  - 3. Contiguous parcels under separate ownership - two points
  - 4. Conservation easement of historic easement – fifteen points
  - 5. Public access - points dependent on level of access
    - a. Unlimited public access - five points
    - b. Limited public access - sensitive areas - five points

- c. Environmental education access – three points
- d. Seasonal limited public access - three points
- e. None or members only – zero points
- 6. Easement and access – thirty-five points

#### **D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:**

**E-101** In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B10.

**E-112a** The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

**E-421** Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

**E-429** King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with

native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

**E-443** King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

**E-476** King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

**E-504** King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

**E-449** King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

**R-605** Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

## **E. PBRS CATEGORIES REQUESTED and DEPARTMENT RECOMMENDATIONS:**

### **Open space resources**

- Buffer to public or current use classified land

The property is abutting land participating in the PBRS program to the north (parcel# 044300-0070) and south (parcel#044300-0080). The enrolling open space area is providing a buffer of native vegetation of more than 50 feet to this adjacent land, which exceeds the category's requirement. Credit for this category is recommended by PBRS staff. King County approved award of this category.

- Significant wildlife or salmonid habitat

~~Although credit for this category was not requested, the property contains habitat for numerous wildlife species, including foraging and nesting habitat for the pileated woodpecker, which is listed as a candidate species of concern by the Washington~~

~~Department of Fish and Wildlife. Upon conducting a site visit, program staff observed evidence of pileated woodpecker activity and determined areas of the forest on the property is of sufficient age and diversity to support the species regular use of the property. Award of this category is consistent with habitat as defined by KCC 20.36.100, section B.15.a (1). Receiving credit for this category is acceptable to the applicant and credit for this category is recommended by PBRs staff. King County approved award of this category.~~

- Special animal site  
The property is south of the City of Seattle's Inverness Ravine Park and an extension of the protected ravine and its natural resources. The portion of the ravine within the enrolling open space is identified as part of the City's wildlife habitat network, as noted on pages 17 and 18 of the *Urban Wildlife and Habitat Management Plan – 2000 Update*, approved by the Seattle City Council in Resolution 30325 on 5/29/01. Credit for this category is recommended by PBRs staff. King County approved award of this category.
- Surface water quality buffer  
In order to be eligible for this category, the enrolling land must be providing a qualifying buffer of native vegetation to a lake, pond, stream, wetland or shoreline within the enrolling portion of a property. The property does not contain any aquatic features. Credit for this category cannot be recommended by PBRs staff and King County denied award of this category.

NOTE: It is important to note that enrollment in the PBRs program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

## CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSIONS:

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

#### **Open space resources**

Buffer to public or current use classified land	3
<del>Significant wildlife or salmonid habitat</del>	<del>5</del>
Special animal site	3
Surface water quality buffer	0

**TOTAL 11 6 points**

**PUBLIC BENEFIT RATING**

For the purpose of taxation, ~~44~~ 6 points result in ~~40~~50% of market value and a ~~60~~50% reduction in taxable value for the portion of land enrolled.

**B. RECOMMENDATION:**

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of ~~44~~ 6 points, subject to the following requirements:

**Requirements for Property Enrolled in the  
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRs) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.
4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining

portion meets the criteria for priority resources, it may continue under current use taxation.

5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.)*
  - a. erecting structures;
  - b. grading;
  - c. filling;
  - d. dredging;
  - e. channelizing;
  - f. modifying land or hydrology for surface water management purposes;
  - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
  - h. applying herbicides or pesticides or any hazardous or toxic substance;
  - i. discharging pollutants excepting stormwater;
  - j. paving, construction, application of gravel;
  - k. storing of equipment, household supplies, play equipment, or compost;
  - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.
9. Grazing of livestock is prohibited on the open space Property.
10. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource



category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.

11. Enrollment in PBRS does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

**TRANSMITTED** to the parties listed hereafter:

Dustin Jewett and Alyssa Horn, applicants

~~Lise Ward, Seattle Parks and Recreation~~

~~Lish Whitson, Legislative Analyst, Seattle City Council, Central Staff~~

Debra Clark, King County Department of Assessments

**KING COUNTY  
DEPARTMENT OF NATURAL RESOURCES AND PARKS  
WATER AND LAND RESOURCES DIVISION**

**Report to the City of Seattle for  
Property Enrollment in the Public Benefit Rating System (PBRs)**

**November 1, 2022**

**APPLICANT: Nathan Rosenbaum**

**File No. E21CT024S**

**A. GENERAL INFORMATION:**

1. Owner: Nathan Rosenbaum  
1617 Grand Avenue NE  
Seattle, WA 98122
2. Property location: 711 NE 43rd Street  
Seattle, WA 98105
3. Zoning: MR (MR1)
4. STR: NE-17-25-04
5. PBRs category requested by applicant:

**Open space resource**

\*Historic landmark or archeological site: designated site

NOTE: \*Staff recommends credit be awarded for this PBRs category. Enrollment in PBRs for property within an incorporated area requires approval by impacted granting authorities following public hearing(s). For this application, the granting authorities are the King County Mobility and Environment Committee and the City of Seattle. King County heard and acted on this application on June 21, 2022.

- |                          |             |
|--------------------------|-------------|
| 6. Parcel:               | 409230-1240 |
| Total acreage:           | 0.11        |
| Requested PBRs:          | 0.06        |
| Home site/excluded area: | 0.05        |
| <b>Recommended PBRs:</b> | <b>0.06</b> |

NOTE: The portion recommended for enrollment in PBRs is the entire property less the excluded area as measured. The attached 2021 aerial photo outlines the parcel in yellow and the area proposed to be excluded from PBRs in blue. In the event

the Assessor's official parcel size is revised, PBRS acreage should be administratively adjusted to reflect that change.

**B. FACTS:**

1. Zoning in the vicinity: Properties in the vicinity are zoned SF5000, SMU-75-240, SMU-95-320 and MR (MR1).
2. Development of the subject property and resource characteristics of open space area: The property contains an apartment building, parking and landscaping. The open space portion contains all the property, except the building footprint.
3. Site use: The property is used as a six-unit apartment building.
4. Access: The property is accessed from NE 43rd Street.
5. Appraised value for 2021 (based on Assessor's information dated 6/6/2022):

<u>Parcel #409230-1240</u>	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Assessed value	<b>\$2,000,000.00</b>	\$24,000.00	\$2,024,000.00
Tax applied	<b>\$17,658.95</b>	\$211.91	\$17,870.86

NOTE: Participation in PBRS reduces the **appraised land value** for the **portion** of the property enrolled resulting in a lower taxable value.

**C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):**

**KCC 20.36.010 Purpose and intent.**

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessed valuation on "open space land" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter.

**KCC 20.36.100 Public benefit rating system for open space land – definitions and eligibility.**

- A. To be eligible for open space classification under the public benefit rating system, property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department will review each application and recommend award of credit for current use of property that is the subject of the

application. In making such recommendation, the department will utilize the point system described in section B. and C. below.

- B. The following open space resources are each eligible for the points indicated:
1. Public recreation area – five points
  2. Aquifer protection area – five points
  3. Buffer to public or current use classified land – three points
  4. Equestrian-pedestrian-bicycle trail linkage – thirty-five points
  5. Active trail linkage – fifteen or twenty-five points
  6. Farm and agricultural conservation land – five points
  7. Forest stewardship land – five points
  8. Historic landmark or archaeological site: buffer to a designated site – three points
  9. Historic landmark or archaeological site: designated site – five points
  10. Historic landmark or archaeological site: eligible site – three points
  11. Rural open space – five points
  12. Rural stewardship land – five points
  13. Scenic resource, viewpoint, or view corridor – five points
  14. Significant plant or ecological site – five points
  15. Significant wildlife or salmonid habitat – five points
  16. Special animal site – three points
  17. Surface water quality buffer – five points
  18. Urban open space – five points
  19. Watershed protection area – five points
- C. Property qualifying for an open space category in subsection B. of this section may receive credit for additional points as follows:
1. Resource restoration - five points
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  3. Contiguous parcels under separate ownership - two points
  4. Conservation easement of historic easement – fifteen points
  5. Public access - points dependent on level of access
    - a. Unlimited public access - five points
    - b. Limited public access - sensitive areas - five points
    - c. Environmental education access – three points
    - d. Seasonal limited public access - three points
    - e. None or members only – zero points
  6. Easement and access – thirty-five points

#### **D. 2020 COMPREHENSIVE PLAN POLICIES AND TEXT:**

- E-101** In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives shall be monitored and periodically reviewed to determine their effectiveness in terms of protecting natural resources.

NOTE: Monitoring of participating lands is the responsibility of both department PBRS staff and the landowner. This issue is addressed in the Resource Information document (page 4) and detailed below in Recommendation #B11.

**E-112a** The protection of lands where development would pose hazards to health, property, important ecological functions or environmental quality shall be achieved through acquisition, enhancement, incentive programs and appropriate regulations. The following critical areas are particularly susceptible and shall be protected in King County:

- a. Floodways of 100-year floodplains;
- b. Slopes with a grade of 40% or more or landslide hazards that cannot be mitigated;
- c. Wetlands and their protective buffers;
- d. Aquatic areas, including streams, lakes, marine shorelines and their protective buffers;
- e. Channel migration hazard areas;
- f. Critical Aquifer Recharge Areas;
- g. Fish and Wildlife Habitat Conservation Areas; and
- h. Volcanic hazard areas.

**E-421** Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

NOTE: PBRS is an incentive program provided to encourage voluntary protection of open space resources and maintain high quality resource lands.

**E-429** King County should provide incentives for private landowners who are seeking to remove invasive plants and noxious weeds and replace them with native plants, such as providing technical assistance or access to appropriate native plants.

NOTE: Participation in PBRS requires landowners address invasive plant and noxious weed control and removal within enrolled portions of a property. Replacement with native vegetation is also encouraged via the implementation of approved forest stewardship, rural stewardship or resource restoration plans.

**E-443** King County should promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational, active stewardship, and incentive programs.

**E-476** King County should identify upland areas of native vegetation that connect wetlands to upland habitats and that connect upland habitats to each other. The county should seek protection of these areas through acquisition, stewardship plans, and incentive programs such as the Public Benefit Rating System and the Transfer of Development Rights Program.

**E-504** King County should protect native plant communities by encouraging management and control of nonnative invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.

NOTE: Lands participating in PBRS provide valuable resource protection and promote the preservation or enhancement of native vegetation. Addressing nonnative vegetation (invasive plant species), through control and eradication is a PBRS requirement.

**E-449** King County shall promote retention of forest cover and significant trees using a mix of regulations, incentives, and technical assistance.

**R-605** Forestry and agriculture best management practices are encouraged because of their multiple benefits, including natural resource preservation and protection.

NOTE: The implementation of an approved forest stewardship, farm management or rural stewardship plan benefits natural resources, such as wildlife habitat, stream buffers and groundwater protection, as well as fosters the preservation of sustainable resources.

## **E. PBRS CATEGORY REQUESTED and DEPARTMENT RECOMMENDATIONS:**

### **Open space resource**

- Historic landmark or archeological site: designated site  
The Landmarks Preservation Board of the City of Seattle approved a historic landmark designation for the property (known as Anhalt Hall) in 2018. Designation details are included within the submitted PBRS application materials. Award of this category is supported by the King County Historic Preservation Program. Credit for this category is recommended by PBRS staff. King County approved award of this category.

NOTE: It is important to note that enrollment in the PBRS program requires the control and removal of invasive plant species. This issue is addressed in the Resource Information document (page 3) and below in Recommendation #B7.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **A. CONCLUSIONS:**

1. Approval of the subject request would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request would be consistent with policy E-101 of the King County Comprehensive Plan.
3. Of the points recommended, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

**Open space resource**

Historic landmark or archeological site: designated site

5

**TOTAL 5 points**

**PUBLIC BENEFIT RATING**

For the purpose of taxation, 5 points result in 50% of market value and a 50% reduction in taxable value for the portion of land enrolled.

**B. RECOMMENDATION:**

APPROVE the request for current use taxation "Open space" classification with a Public Benefit Rating of 5 points, subject to the following requirements:

**Requirements for Property Enrolled in the  
Public Benefit Rating System Current Use Taxation Program**

1. Compliance with these requirements is necessary to continue to receive the tax benefits from the King County Public Benefit Rating System (PBRS) current use taxation program for the property enrolled in the program (Property). Failure to abide by these requirements can result in removal of current use designation and subject the property owner (Owner) to the penalty, tax, and interest provisions of RCW 84.34 and assessment at true and fair value. The King County Department of Assessments (DoA) and the Water and Land Resources Division, Director's Office, Agriculture, Forestry and Incentives Unit (AFI) or its successor may re-evaluate the Property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.
2. Revisions to these requirements may only occur upon mutual written approval of the Owner and granting authority. These conditions shall apply so long as the Property retains its open space designation. If a conservation easement acceptable to and approved by the City of Seattle and King County is granted by the Owner or the Owner's successors in interest to the Department of Natural Resources and Parks, King County or a grantee approved by King County, these requirements may be superseded by the terms of such easement, upon written approval by King County.
3. The open space classification for this Property will continue so long as it meets the open space purposes for which it was initially approved. Classification as open space will be removed upon a determination by King County that the Property no longer meets the open space purposes for which it was initially approved. A change in circumstances which diminishes the extent of public benefit from that approved by the City of Seattle and King County Council in the open space taxation agreement will be cause for removal of the current use assessment classification. It is the Owner's responsibility to notify the

DoA and the AFI Unit or its successor of a change in circumstance with regard to the Property.

4. When a portion of the open space Property is withdrawn or removed from the program, the AFI Unit or its successor and the DoA shall re-evaluate the remaining Property to determine whether it may continue to qualify under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as provided for in sections 6 and 7 and below, no alteration of the open space land or resources shall occur without prior approval by the City of Seattle and the AFI Unit or its successor. **Any unapproved alteration may constitute a departure from an approved open space use and be deemed a change of use, and subject the Property to the additional tax, interest, and penalty provisions of RCW 84.34.080.** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space Property or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar approved activities are permitted.)*
  - a. erecting structures;
  - b. grading;
  - c. filling;
  - d. dredging;
  - e. channelizing;
  - f. modifying land or hydrology for surface water management purposes;
  - g. cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;
  - h. applying herbicides or pesticides or any hazardous or toxic substance;
  - i. discharging pollutants excepting stormwater;
  - j. paving, construction, application of gravel;
  - k. storing of equipment, household supplies, play equipment, or compost;
  - l. engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resources.
6. Notwithstanding the provisions of Section 5 trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. If an area of the Property becomes or has become infested with noxious weeds, the Owner may be required to submit a control and enhancement plan to the City of Seattle and the AFI Unit or its successor in order to remove such weeds. If an area of the Property becomes or has become invaded by non-native species, the Owner may be required to submit, or may voluntarily submit, an enhancement plan to the City of Seattle and the AFI Unit or its successor, in order to replace such species with native species or other appropriate vegetation.
8. There shall be no motorized vehicle driving or parking allowed on the open space Property, except for medical, public safety, or police emergencies.



9. Grazing of livestock is prohibited on the open space Property.
10. Changes of use, building and site alterations, or changes to vegetation on historic resource properties must be compatible with the features of significance identified in the landmark designation report and are subject to prior approval by the City of Seattle's Historic Preservation Office. Such approved changes and activities shall not be deemed to violate sections contained in the recommended conditions and may include construction and vegetation management necessary for preservation, restoration or approved adaptive reuse of historic buildings, structures, landscapes or sites. Features of significance identified in the landmark designation report for historic properties shall be maintained in a condition equivalent to or better than that existing at the time of designation.
11. An owner of property enrolled in the program may be required to submit a monitoring report on an annual or less frequent basis as requested by program staff. This report must include a brief description of how the property still qualifies for each awarded resource category. It must also include photographs from established points on the property and any observations by the owner. The owner must submit this report to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.
12. Enrollment in PBRs does not exempt the Owner from obtaining any required permit or approval for activity or use on the Property.

**TRANSMITTED** to the parties listed hereafter:

Nathan Rosenbaum, applicant  
Lish Whitson, Legislative Analyst, Seattle City Council, Central Staff  
Erin Doherty, Seattle Landmarks Preservation Board Coordinator  
Debra Clark, King County Department of Assessments

NE 43RD ST

0.05 acres

8TH AVENUE

2021 Aerial Photo

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Legislative	Lish Whitson/206-615-1674	

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

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to current use taxation; approving applications for current use taxation of properties located at 8240 43rd Avenue NE and 711 NE 43rd Street under the King County Public Benefit Rating System, and ratifying and confirming certain prior acts.

**Summary and Background of the Legislation:** This bill approves two applications for current use taxation under the King County Public Benefit Rating System (PBRs) pursuant to RCW 84.34. The applications are:

E20CT029S: Application of Dustin Jewett and Alyssa Horn for property located at 8240 43rd Avenue NE, for open space purposes, 0.13 acres as described in Attachment 1 to the bill.

E21CT024S: Application of Nathan Rosenbaum for Anhalt Hall, a City of Seattle landmark, located at 711 NE 43rd Street, 0.11 acres as described in Attachment 2 to the bill.

The applications have been approved by the King County Council.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

**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?**

The legislation would have the effect of shifting property taxes levied against these properties to all other properties in the City. There would be no impact to the City's revenue.

**Are there financial costs or other impacts of *not* implementing the legislation?**

None

### **4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

No

**b. Is a public hearing required for this legislation?**

Yes, a public hearing will be held on January 4, 2023.

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

Notice of the public hearing in *The Daily Journal of Commerce* is required under State law.

**d. Does this legislation affect a piece of property?**

Maps of the property effected are included in Attachments 1 and 2 to the bill.

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

The bill would slightly shift the tax burden from these properties to all other properties in the City. The effect on any particular property would be minimal, however this program is only available to properties that are large enough to contain public open space. Implementation of the PBRs is a King County function and any Language Access Plan would be undertaken by King County.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

No

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

These two properties are not in themselves likely to increase or decrease resiliency. However, the PBRs is a County-wide program implementing a State-wide program that does help to maintain open spaces in non-developed use, particularly in rural and forested areas, helping to increase the State's resiliency.

**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)?**

Not applicable

**Summary Attachments:**

None