cb_117666

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE vacating a portion of the alley in Block 103, D. T. Denny's First Addition to North Seattle on the petition of City Place III LLC, a Washington limited liability company; accepting an Agreement Regarding Stormwater Drainage Improvements to design and construct a new stormwater system to convey stormwater from the alley to the City's sewer system; and accepting a Property Use and Development Agreement as reflected in Clerk File 308958.

WHEREAS, City Place III LLC ("Petitioner") filed a petition to vacate a portion of the alley in Block 103, D.T. Denny's First Addition to North Seattle, which is the block bordered by Mercer Street, Boren Avenue North, Republican Street, and Terry Avenue North in the South Lake Union neighborhood of Seattle; and

WHEREAS, following a May 6, 2008 public hearing on the petition, the Seattle City Council ("City Council") conditionally granted the petition subject to conditions that have now been met; and

WHEREAS, to provide for the "L" shaped alley configuration necessary for this development project the Petitioner granted to the City an Easement For Vehicle Access, King County Recording No. 20090630000088, and a Deed for Alley Purposes to connect the existing alley to Boren Avenue North, King County recording No. 20090630000100, which were both previously accepted by the City under Ordinance 123354; and

WHEREAS, the construction of buildings on the portion of the alley to be vacated required that stormwater be collected and conveyed to the City's sewer system in a different manner then previously existed and required that the Petitioner design and construct a new stormwater system that conveys stormwater from the alley to the City's sewer system in the public right-of-way; and

WHEREAS, to accomplish this the City entered into an Agreement Regarding Stormwater Drainage Improvements (the "Agreement") with the Petitioner and due to the permanent nature of the Agreement the City requests approval of the Agreement by the Seattle City Council; and

WHEREAS, a Property Use and Development Agreement recorded with the King County Recorder's Office commits the Petitioner and their successors to fulfill ongoing public-benefit obligations required as a result of the alley vacation; and

WHEREAS, pursuant to Section 35.79.030 RCW and Seattle Municipal Code Chapter 15.62, the Petitioner has paid the City a vacation fee of $190,000, which amount is the full appraised value of the property; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The real property described below is vacated:

A portion of the alley in Block 103, D.T. Denny's First Addition to North Seattle, described as:

The portion of the alley adjoining Lots 1 through 3 inclusive and Lots 12 through 14 inclusive, and that portion of the alley adjoining Lots 4 and 11, except the southern 20 feet thereof, all in Block 103, D.T. Denny's First Addition to North Seattle, according to the plat thereof, recorded in Volume 1 of Plats, page 79, in King County, Washington.

RESERVING to the City of Seattle the right to make all necessary slopes for cuts or fills upon the above described property in the reasonable original grading of any right-of-way abutting upon said property after said vacation; and further,

RESERVING to the City of Seattle the right to reconstruct, maintain, and operate any existing overhead or underground utilities in said rights-of-way until the beneficiaries of said vacation arrange with the owner or owners thereof for their removal.

Section 2. The Agreement Regarding Stormwater Drainage Improvements, King County Recording Number 20090106001185, attached hereto as Attachment A, is hereby accepted.

Section 3. The Property Use and Development Agreement, King County Recording Number 20120601001275, attached hereto as Attachment B. is hereby accepted.

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 ____ day of _____, 2012, and signed by me in open session in authentication of its passage this _____ day of _____, 2012.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2012.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Attachment A: Agreement regarding Stormwater Drainage Improvements

Attachment B: Property Use and Development Agreement

Unofficial Document

After Recording Return to:
FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
Attn: Joseph E. Delaney

200901060011 85
FOSTER PEPPER AG 52.00
PAGE001 OF 011
01/06/2009 14:00
KING COUNTY, WA

AGREEMENT REGARDING STORMWATER DRAINAGE IMPROVEMENTS (City Place III)

Party A:	CITY OF SEATTLE, a Washington municipal corporation
Party B:	CITY PLACE III LLC, a Washington limited liability company
Abbreviated Legal Description:	LOTS 1, 2, 3 & 4, AND PTN LOTS 8, 9, 10, 11, 12, 13 & 14, ALL IN BLK 103 VOL 1 PG 79; KING COUNTY, WASHINGTON COMPLETE LEGAL DESC ON EXHIBIT B
Abbreviated description of alley to be vacated:	PTN OF ALLEY ADJNG LOTS 1-3 & 12-14 INCLSV AND PTN OF ALLEY ADJNG PTN OF LOTS 4 & 11 IN BLK 103 VOL 1 PG 79; KING COUNTY, WASHINGTON COMPLETE LEGAL DESC ON EXHIBIT A
Assessor's Property Tax Parcel Account Number(s):	198320-0325-03; 198320-0360-09; 198320-0375-02
Related Documents:	N/A

AGREEMENT REGARDING STORMWATER DRAINAGE IMPROVEMENTS
(City Place III)

THIS AGREEMENT REGARDING STORMWATER DRAINAGE IMPROVEMENTS (this "Agreement") is entered into on the 26th day of November, 2008, between the **City of Seattle,** a Washington municipal corporation (the "City"), and **City Place III LLC**, a Washington limited liability company ("City Place III").

RECITALS

Whereas, City Place III is the owner of most of the block bounded by Mercer Street, Boren Avenue North, Republican Street, and Terry Avenue North (Block 103, D.T. Denny's First Addition to North Seattle, Volume 1, page 79, King County Book of Plats, referred to herein as "Block 32") in the South Lake Union Urban Center, legally described in Exhibit B attached hereto; and

Whereas, City Place III has petitioned the City to vacate the northern portion of the north-south alley in Block 32 (the "Alley") which is described in Exhibit A attached hereto (the "Alley Vacation"), and has also applied to the City for permits to construct new buildings on Block 32 including the portion of the Alley to be vacated; and

Whereas, City Place III has offered to construct and dedicate to the City a new twenty (20) foot wide alley extension to connect the portion of the Alley that will remain in place after the Alley Vacation to Boren Avenue North, which will run perpendicular to the Alley (the "Alley Extension"); and

Whereas, the Alley slopes from south to north; stormwater currently flows north on the Alley to Mercer Street; and the construction of buildings on the portion of the Alley to be vacated requires that the stormwater be collected and conveyed to the City's sewer lines in a different manner than currently exists; and

Whereas, City Place III has offered to design and construct a new stormwater system on Block 32 that will convey stormwater from the Alley to the City's sewer system in the public rights-of-way; and

Whereas, City Place III has retained the services of a qualified civil engineering firm to prepare a preliminary design for this stormwater conveyance.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. System Design. City Place III shall prepare a final design for a system to convey stormwater ("CP System") from the portions of the Alley that will remain in place after the Alley Vacation and the Alley Extension to the City's sewer facilities in Terry Avenue North and/or Republican Street (collectively, the "City System"), approximately as shown in the preliminary design drawing attached hereto as Exhibit C. This design will comprise three collection systems as follows:

   A. The primary system shall be sufficient to collect all stormwater up to a twenty-five (25) year storm event in a catch basin located on the City Place III property, and convey that stormwater in pipes through City Place III's building to the City System.

   B. Stormwater from storm events greater than the twenty-five (25) year event will overflow to the trench drain on the loading dock to be located near the northwest corner of the Alley that will remain in place after the Alley Vacation, and will be conveyed in pipes through City Place III's building to the City System.

   C. Stormwater from storm events which exceed the capacity of both the catch basin and the trench drain will sheet flow across the courtyard on City Place III's property and into the gutter located in the Terry Avenue North right of way, which flows north to the City System.

   City Place III shall submit the CP System design to Seattle Public Utilities ("SPU") as part of the stormwater plans for its new project on Block 32, for SPU's review and approval (the "CP System Plans").

2. Construction of System. After approval by SPU and City Place III has received other required permits and approvals, City Place III shall construct the CP System during development of Block 32 in conformance with the approved CP System Plans, including any SPU-approved field changes.

3. Maintenance of System. City Place III shall be solely responsible, at its cost, for the maintenance, repair and replacement of the CP System. City Place III's responsibility for maintenance, repair and replacement of the CP System does not include responsibility for any public right-of-way, except for repair of right-of-way that it damages during maintenance, repair or replacement of the CP System.

4. Indemnification. City Place III agrees to indemnify, defend and hold the City, its agents, employees and contractors harmless from and against any and all causes of action, claims, liability and costs (including but not limited to reasonable attorney's fees and costs), and for any and all claims for injuries and/or damages suffered by any person, and for any and all damage to property which may be caused by City Place III in the exercise of its rights, duties and obligations under this Agreement (collectively, "Claims"), provided that City Place III shall not be responsible to the City for any injuries and/or damages to any person

or property caused solely by the City's, its agent's, employee's, or contractor's negligence.

5. Duration, Successors and Assigns. The provisions of this Agreement as set forth herein shall continue in full force and effect in perpetuity from the date of recordation hereof, unless terminated by the mutual agreement of the City and City Place III (or their successors or assigns) pursuant to a written instrument recorded in the official records of King County, Washington. All terms and conditions provided herein shall run with the land and shall inure to the benefit of, and be binding upon, the successors, assigns, personal representatives or heirs of the parties herein.

6. Miscellaneous.

A. Attorney's Fees. If any suit or other proceeding is instituted by any of the parties to this Agreement arising out of or pertaining to this Agreement, including but not limited to filing suit or requesting an arbitration or other alternative dispute resolution process, and appeals and collateral actions relative to such suit or proceeding, the substantially prevailing party shall be entitled to recover its reasonable attorneys' fees and all costs and expenses from the substantially non-prevailing party, in addition to such other available relief.

B. Notices. Any notice, request, approval, consent or other communication required or permitted to be given by any party to any other hereunder shall be in writing and shall be deemed to have been duly given when delivered personally or by overnight courier; or received following deposit as prepaid certified mail (return receipt requested) with the United States Postal Service; and addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other.

City: City of Seattle
Director of Seattle Public Utilities
700 Fifth Avenue, Suite 4900
P.O. Box 94769
Seattle, WA 98124-4018

With a copy to: City of Seattle
City Attorney's Office
600 Fourth Avenue, Fourth Floor
P.O. Box 94769
Seattle, WA 98124

City Place III: City Place III LLC
c/o Vulcan Inc.
505 Fifth Avenue S, Suite 900

Seattle, WA 98104
Attn: Vice President, Real Estate

With a copy to: Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101-3299
Attn: Joseph E. Delaney

C. Entire Agreement. This Agreement represents the entire agreement of the parties on the subject matter hereof and supersedes all prior negotiations and agreements related thereto. This Agreement may be modified, supplemented or amended only by a written instrument signed by the parties hereto or their successors or assigns.

D. Further Assurances. As and to the extent otherwise contemplated by this Agreement, each party to this Agreement agrees that it will at any time and from time to time after the date hereof, at its sole cost and expense, immediately following the reasonable request of the other party, promptly execute, acknowledge (if necessary) and deliver or cause to be properly executed, acknowledged (if necessary) and delivered, such agreements, certificates, statements, instruments and documents and promptly take, or promptly cause to be taken, such other and further steps and actions, as may be required by law or as reasonably shall be deemed necessary by the other party in order to more fully effect, evidence or carry out the intent and purposes of this Agreement.

E. Captions. The captions set forth in this Agreement are included for convenience of reference only and shall not in any way limit or affect the meaning or interpretation of any terms or provisions of this Agreement.

F. Governing Law. This Agreement shall be interpreted and construed under and governed by the internal laws of the State of Washington without regard to choice of laws provisions.

G. Exhibits. The exhibits attached to this Agreement are deemed incorporated herein as though set forth in full.

H. Waiver. Neither the waiver by any party of any breach of any provision hereof, nor the failure of any party to seek redress for violation of or insist upon strict performance of any such provision, shall be considered a waiver of such provision or any subsequent breach thereof.

I. Counterparts. This Agreement may be executed in counterparts, and each counterpart hereof shall be deemed to be an original instrument, but such counterparts together shall constitute but one agreement.

Unofficial Document

[*Signature page to Agreement Regarding Stormwater Drainage Improvements*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY:

CITY OF SEATTLE,
a Washington municipal corporation

By: Nancy Ahern
Name: Nancy Ahern
Its: Deputy Director, Seattle Public Utilities

CITY PLACE III:

CITY PLACE III LLC,
a Washington limited liability company

By: CITY INVESTORS LLC,
a Washington limited liability company,
its Manager

By: Adam Healey
Name: Adam M. Healey
Its: Vice President

Unofficial Document

STATE OF WASHINGTON
COUNTY OF KING | ss.

I certify that I know or have satisfactory evidence that Nancy Ahern is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Deputy Director SPU of CITY OF SEATTLE, a Washington municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this 26 day of November, 2008.

ANDREA L. BUCHANAN
COMMISSION EXPIRES
NOTARY
PUBLIC
MARCH 20, 2010
STATE OF WASHINGTON

Andrea L. Buchanan
(Signature of Notary)

~~Nancy Ahern~~ Andrea L. Buchanan
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington, residing at Seattle

My appointment expires 3-20-2010

50860755.7

STATE OF WASHINGTON
COUNTY OF KING | ss.

I certify that I know or have satisfactory evidence that Ada M. Healey is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Vice President of City Investors LLC, a Washington limited liability company, the Manager of CITY PLACE III LLC, a Washington limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 2nd day of September, 2008.

Estelle E Lawless
(Signature of Notary)

ESTELLE E LAWLESS
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington, residing at Renton

My appointment expires 1/14/2010

ESTELLE E. LAWLESS
NOTARY PUBLIC
COMMISSION EXPIRES 7-14-10
STATE OF WASHINGTON

Unofficial Document

Unofficial Document

EXHIBIT A
Legal Description of Alley to be Vacated

THE PORTION OF THE ALLEY ADJOINING LOTS 1 THROUGH 3 INCLUSIVE AND LOTS 12 THROUGH 14 INCLUSIVE, AND THAT PORTION OF THE ALLEY ADJOINING LOTS 4 AND 11, EXCEPT THE SOUTHERN 20 FEET THEREOF, ALL IN BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY WASHINGTON.

SITUATED IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON

Unofficial Document

EXHIBIT B
Legal Description of City Place III Property

LOTS 1 THROUGH 4 INCLUSIVE AND LOTS 8 THROUGH 14 INCLUSIVE, ALL IN BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY WASHINGTON.

SITUATED IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON

Beverly Barnett
SDOT Agreement Regarding Storm Drainage Improvements, ATT A
October 16, 2012
Version #1

EXHIBIT C
Preliminary Stormwater System Design

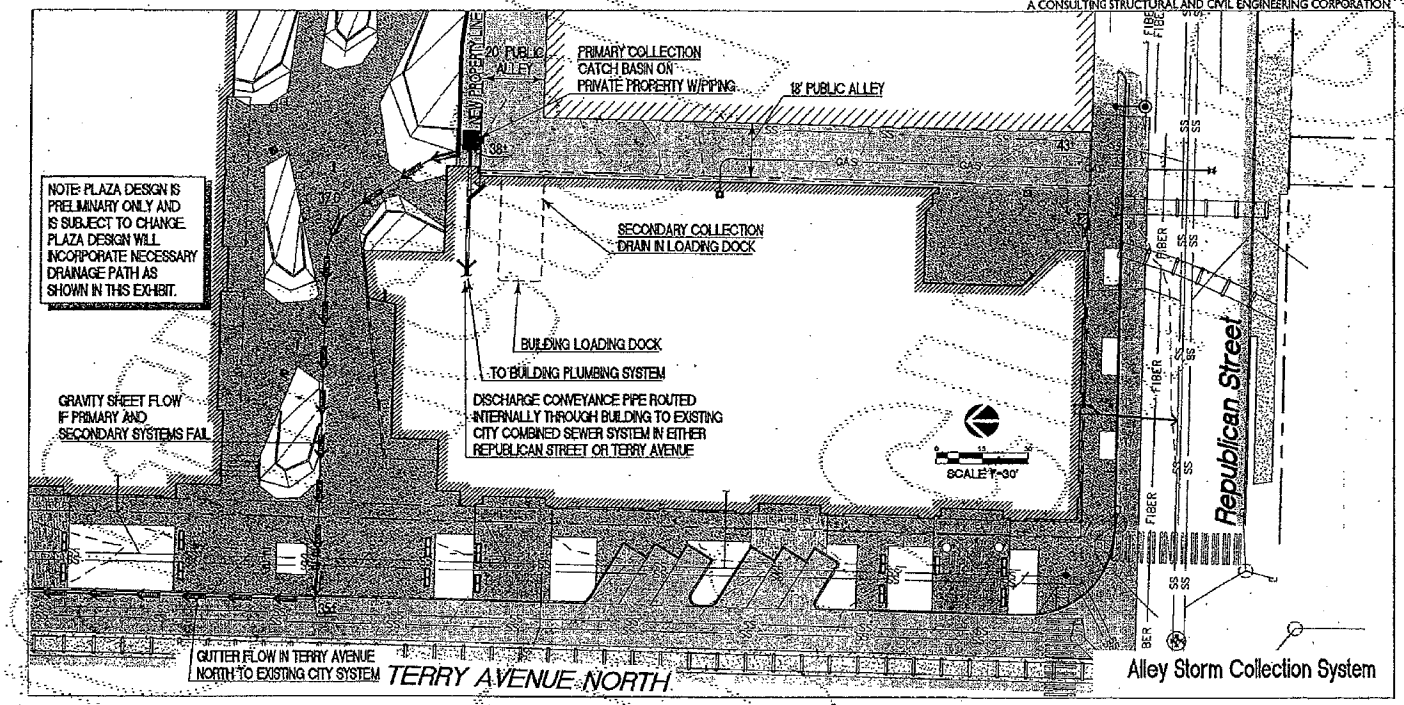


Exhibit C

Attachment A to SDOT City Place III LLC Alley Vacation ORD

Return Address:
ROGER A. PEARLE
FOSTER PEPPER PLLC
1111 3RD AVE #3400
SEATTLE, WA 98101

20120601001275
PATTERSON CO AG 74.00
PAGE-001 OF 013
06/01/2012 14:31
KING COUNTY, WA

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)
1. PROPERTY USE & DEVELOPMENT AGREEMENT 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released:
Additional reference #'s on page _____ of document

Grantor(s) Exactly as name(s) appear on document
1. CITY PLACE III LLC _____, _____
2. _____, _____
Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document
1. CITY OF SEATTLE _____, _____
2. _____, _____
Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)
LOTS 1-4, 8-10, & 11-14, BLK 103, D.T. DENNY'S 1ST ADDN. TO NORTH SEATTLE, VOL. 1, PG 79, EXCEPT PTNS CONVEYED FOR STREETS
Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number ☐ Assessor Tax # not yet assigned
1983200325, 1983200360, 1983200375

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional $50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

_____ Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional $50 fee if the document meets margin/formatting requirements

AFTER RECORDING RETURN DOCUMENT TO:
Roger A. Pearce
Foster Pepper PLLC
1111 3rd Avenue, Suite 3400
Seattle, Washington 98101

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s): CITY PLACE III LLC

Grantee(s): CITY OF SEATTLE

Abbreviated Legal Description:
Lots 1-4, 8-10, and 11-14, Block 103, David T. Denny's First Addition to North Seattle, Vol. 1, Pg. 79; except ptns conveyed for streets
Official legal description on **Exhibit A**.

Assessor's Property Tax Parcel or Account Nos:
1983200325, 1983200360, 1983200375

Reference Number of Related Documents: N/A

PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is made this date in favor of the CITY OF SEATTLE, a municipal corporation of the State of Washington ("City") by CITY PLACE III LLC, a Washington limited liability company, owner of the Property described herein ("Owner").

WITNESSETH

WHEREAS, the Owner is vested in fee simple title and has a substantial beneficial interest in the property located in King County, Washington, as legally described in **Exhibit A** hereto (the "Property"):

WHEREAS, the Owner has redeveloped the Property with new office buildings (the "Development") pursuant to City of Seattle Department of Planning and Development Project Nos. 3007492 and 3007493; and

WHEREAS, in connection with the Development, a petition was filed in 2007 under City of Seattle Clerk's File No. 308958 pursuant to RCW Ch. 35.79 and Seattle Municipal Code Ch. 15.62, by the Owner to vacate a portion of the alley in Block 103, D. T. Denny's 1st Addition to North Seattle as legally described in **Exhibit B**; and

WHEREAS, the City Council granted preliminary approval of the vacation subject to conditions, including the public benefit features listed in **Exhibit C**, which include the condition that a certain amount of surface plaza area of the Development on the Property (the "Plaza Area") be accessible to the public as described in this Agreement. The surface plaza area open to the public is depicted on **Exhibit D**; and

WHEREAS, the Owner now seeks final vacation of the portion of the alley in Block 103, D. T. Denny's 1st Addition to North Seattle as described in **Exhibit B**;

NOW, THEREFORE, the Owner covenants, bargains, and agrees on behalf of itself, its successors, and assigns to the following:

Section 1. The Plaza Area in compliance with the Council conditions in City of Seattle Clerk's File No. 308958 shall not be developed with buildings at grade level, and shall be developed with a plaza, landscaping, benches, lighting, signs and other open space and pedestrian amenities as shown on **Exhibit D** hereto. The Plaza Area shall be open to the public to pass through or use the plaza during all hours regardless of whether such use by the public is associated with the Development. Public use of the Plaza Area is, however, subject to the conditions contained in this Agreement.

The Owner shall provide signage in the Plaza Area indicating the Plaza Area is open for public use in accordance with the terms of this Agreement. The signage and any changes to the signage shall be approved by the Seattle Department of Transportation.

The Plaza Area does not include: below-grade or subsurface areas, which are occupied by the subsurface parking garage for the Development; or portions of structures that may extend over the ground surface of the Plaza Area, provided the portions of structures located over the Plaza Area do not restrict the public's use of the Plaza Area.

The areas identified as "Restricted Public Use Areas" on **Exhibit D** may be dedicated from time to time by the Owner, through leases or other written instrument to building tenants, as areas for outdoor seating for eating or drinking establishments located in the Development. In such cases, access to these areas shall be limited to use by patrons of the eating or drinking establishments.

Section 2. The Plaza Area shall include the following public amenities on the Property as shown on the **Exhibit D** drawing: special pavers, seating, lighting and landscaping. The amount or types of amenities may be modified by the Owner after receiving the written consent of the Director of the Department of Transportation; provided, the quality of the amenities shall not be diminished and the modified amenities shall be designed to continue to activate the Plaza Area with public uses and pedestrian activity.

The Plaza Area is contiguous with improvements outside the Plaza Area that were required and constructed as part of the permitting for the Development, including sidewalk improvements, street trees and pedestrian enhancements in the rights-of-way of Republican Street, Terry Avenue North and Boren Avenue North.

Section 3. The Owner shall have the right to temporarily close or obstruct the Plaza Area for: (1) construction; (2) maintenance and repair; (3) temporary use for private functions directly related to the Development or the Owners; (4) the maintenance of security for the Development or persons using the Development, or (5) other circumstances beyond the Owner's control.

Section 4: The Owner may adopt reasonable rules and regulations regarding the use of and access to the Plaza Area as are necessary to ensure the security of the users of the Plaza Area and the Development. The rules and regulations shall be consistent with the terms of this Agreement. A summary of the current rules and regulations may be posted in visible locations in the Plaza Area.

Section 5. The Owner and the City through its Parks Department, Department of Neighborhoods, or other City agency, may coordinate programming of community and public events or other public functions in the Plaza Area. Any such events shall be coordinated between the City and Owner not less than six months in advance.

Section 6. This Agreement shall be recorded in the records of King County and the covenants of this Agreement shall attach to and run with the Property and shall be binding upon the Owner, its heirs, successors, and assigns.

Section 7. This Agreement may be amended or modified by agreement between the Owner and the City; provided the amended Agreement shall be approved by the City Council by ordinance. Nothing in the Agreement shall be construed as a surrender of the City's governmental powers.

Section 8. This Agreement is made for the benefit of the City and the public, and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

Section 9. Upon the effective date of the vacation ordinance, the Owner shall provide and thereafter maintain in full force and effect, commercial general liability insurance providing for a limit of not less than $1,000,000 per occurrence for all damages arising out of bodily injuries or death. The insurance policies obtained shall be approved as to form by the City Risk Manager and shall name the City as an additional insured.

Section 10. Owner shall indemnify, hold harmless, and defend the City and its officers, agents and employees, from any and all claims, losses, liabilities, liens, costs, or expenses including attorney's fees, resulting from or arising out of public use of the Plaza Area, except to the extent resulting from the negligence or intentional acts of the City.

Section 11. The Owner reserves the right to use the Plaza Area for any purpose which does not interfere with the public's use of the Plaza Area, including but not limited to the right to use the Plaza Area as described in this Agreement and the right to grant easements within the Plaza Area, provided the easements are consistent with the public's use of the Plaza Area.

Section 12. Notwithstanding the covenants contained in this Agreement, nothing in this Agreement shall constitute a public dedication of any portion of the Property.

Section 13. In the event any covenant or condition or any portion thereof in this Agreement is judicially determined to be invalid or void, such invalidity or voidness shall in no way affect any other covenant, condition or restriction contained in this Agreement.

Dated this 29th day of May, 2012.

OWNER:

CITY PLACE III LLC,
a Washington limited liability company

By: CITY INVESTORS LLC
a Washington limited liability company
Its: Manager

By _____
Ada M. Healey
Its: Vice-President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me ADA M. HEALEY to me known to be the Vice-President of City Investors LLC, a Washington limited liability company and Manager of CITY PLACE III LLC, a Washington limited liability company, that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 29th day of May, 2012.

Estelle E Lawless
ESTELLE E LAWLESS
(print or type name)
NOTARY PUBLIC in and for the State of Washington, residing at Renton
My Commission expires: 1/14/2014

ESTELLE E. LAWLESS
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JANUARY 14, 2014

EXHIBIT A

Legal Description of the City Place III LLC Property

PARCEL A:

LOTS 1, 2, 3 AND 4, BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY, WASHINGTON;
EXCEPT THE NORTH 11.36 FEET OF SAID LOT 1 DEEDED TO THE CITY OF SEATTLE FOR STREET PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 97060;

AND EXCEPT THAT PORTION OF THE SOUTH 20 FEET OF SAID LOT 4 DEEDED TO THE CITY OF SEATTLE FOR ALLEY PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 20090630000100..

PARCEL B:

LOTS 8, 9 AND 10, BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY, WASHINGTON;
EXCEPT THE WEST 5 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 162246 FOR TERRY AVENUE NORTH, PURSUANT TO ORDINANCE NO. 43560 OF THE CITY OF SEATTLE;
ALSO EXCEPT A RIGHT OF WAY FOR RAILWAY SPUR TRACKS, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 8, BLOCK 103;
THENCE NORTH ALONG THE EAST BOUNDARY OF SAID LOTS 8, 9 AND 10, A DISTANCE OF 180 FEET, MORE OR LESS TO THE NORTHEAST CORNER OF SAID LOT 10;
THENCE WEST ALONG THE NORTH BOUNDARY THEREOF, 17 FEET;
THENCE SOUTH AND PARALLEL TO SAID EAST BOUNDARY 120 FEET, MORE OR LESS, TO THE NORTH BOUNDARY OF SAID LOT 8;
THENCE SOUTH 11°25' WEST 61.2 FEET, MORE OR LESS, TO THE SOUTH BOUNDARY OF SAID LOT 8;
THENCE EAST THERE ALONG 29.1 FEET, MORE OR LESS, TO THE PLACE OF COMMENCEMENT;

AND EXCEPT THAT PORTION OF THE EAST 2 FEET OF SAID LOTS 8, 9 AND 10 DEEDED TO THE CITY OF SEATTLE FOR ALLEY PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 20090630000100..

PARCEL C:

THE EAST 17.0 FEET OF LOTS 9 AND 10, BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY, WASHINGTON, AND THAT PORTION OF LOT 8, SAID BLOCK 103, LYING EAST OF A LINE DRAWN FROM A POINT ON THE NORTH LINE OF SAID LOT 8 DISTANT 17.0 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 8, TO A POINT ON THE SOUTH LINE OF SAID LOT 8 DISTANT 29.1 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT, BEING ALL OF THE REMAINING PORTIONS OF SAID LOTS 8, 9 AND 10, SAID BLOCK 103, LYING EAST OF THE EASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN WARRANTY DEED FROM GREAT NORTHERN RAILWAY COMPANY TO THAD R. PERRY, ET AL, DATED JANUARY 10, 1947, AND LYING SOUTH OF THAT CERTAIN STRIP OF LAND DESCRIBED IN QUIT CLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO OWEN E. STRECKER, SR. FILED FOR RECORD NOVEMBER 21, 1996, UNDER RECORDING NUMBER 9611211365, IN KING COUNTY, WASHINGTON.

PARCEL D:

LOTS 11, 12, 13 AND 14, BLOCK 103, DAVID T. DENNY'S FIRST ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 79, IN KING COUNTY, WASHINGTON;
EXCEPT THE NORTH 11.36 FEET OF SAID LOT 14 CONVEYED TO THE CITY OF SEATTLE BY DEED RECORDED UNDER RECORDING NUMBER 97060;
AND EXCEPT THE WEST 5 FEET OF LOTS 11, 12, 13 AND 14 AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 162246 UNDER ORDINANCE NO. 43560 OF THE CITY OF SEATTLE;

AND EXCEPT THAT PORTION OF THE EAST 2 FEET OF THE SOUTH 20 FEET OF SAID LOT 11 DEEDED TO THE CITY OF SEATTLE FOR ALLEY PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 20090630000100..

EXHIBIT B

Legal Description of Portion of Alley to be Dedicated (C.F. 308958)

That portion of the alley adjoining Lots 1 through 3 inclusive and Lots 12 through 14 inclusive, and that portion of the alley adjoining Lots 4 and 11, except the southern 20 feet thereof, all in Block 103, D.T. Denny's First Addition to North Seattle, according to the plat thereof, recorded in Volume 1 of Plats, page 79, in King County, Washington.

EXHIBIT C

List of Public Benefit Features Provided as Required by Council File No. 308958

Plaza accessible to the Public
(completed and to be maintained on the Property pursuant to this Agreement)

16,383 SF of open space plaza available to the public 24 hours/day.
The plaza will incorporate landscaping, seating, lighting, special paving, art elements and lighting.

Terry Avenue North Improvements
(completed and accepted by the City)

Improvements consistent with the Terry Avenue Design Guidelines including:
31-foot wide sidewalk width paved with a combination of colored concrete unit pavers and architectural concrete,
Back-in angle parking,
Street trees and understory planting areas,
Ornamental street lights,
Fixed benches, and
Bicycle racks.

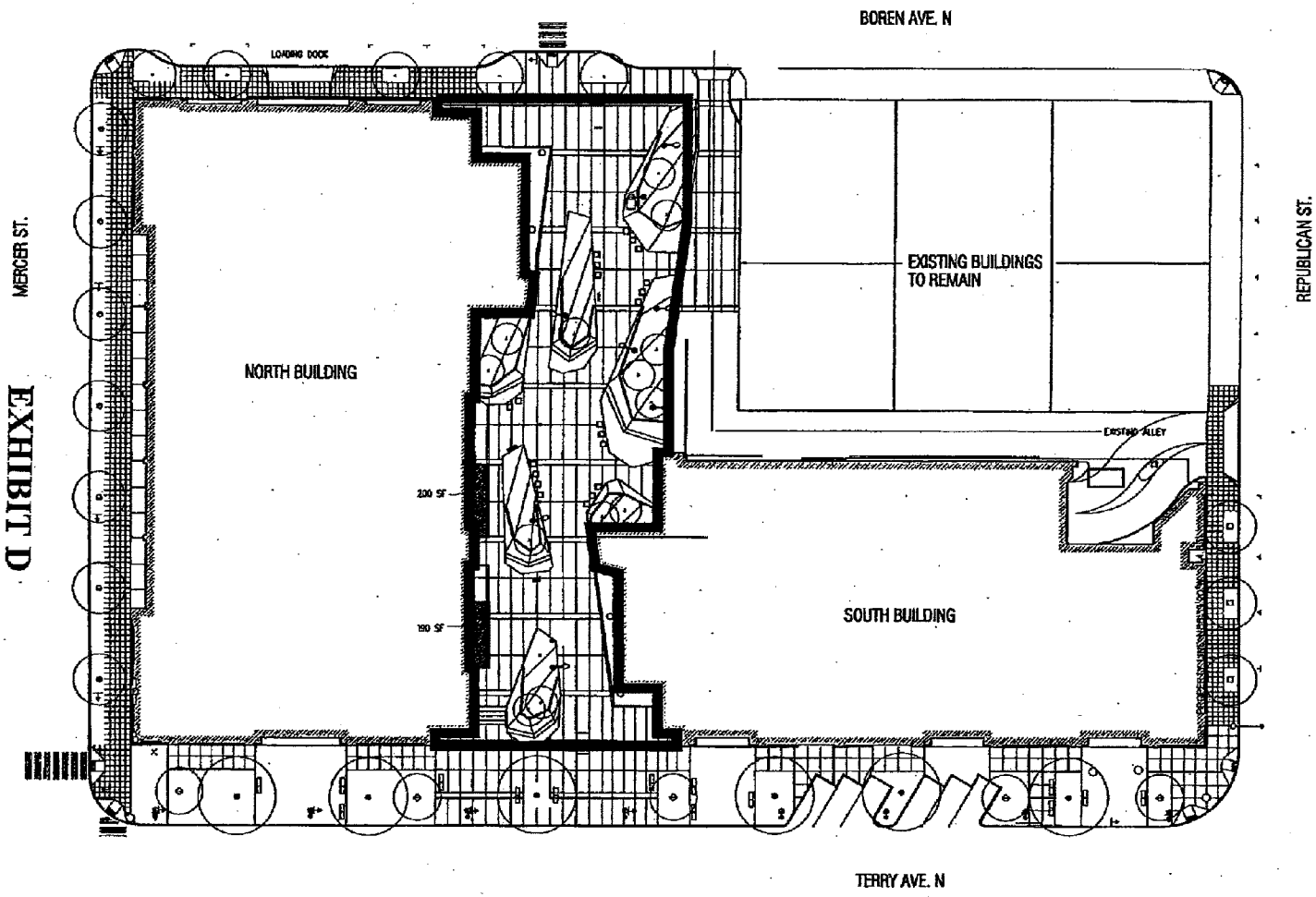
Other Rights-of-Way Designed to City Standards
(completed and accepted by the City except as noted)

Curb bulbs and widened sidewalks on Mercer Street, as coordinated with the Mercer Corridor project. (There is currently a temporary 6-foot wide sidewalk approved by SDOT – once Mercer is complete, there will be curb bulbs and a widened sidewalk on Mercer, as coordinated with the Mercer Corridor Project.) Street trees, sidewalk improvements and pedestrian enhancements, and retail frontage, as practicable on Republican Street and Boren Avenue North.

EXHIBIT D

Drawing of Plaza Area
(See following page)

EXHIBIT D



DRAWING OF PLAZA AREA

RESTRICTED PUBLIC USE 390 SF
PUBLIC SPACE (16,673 SF - 390 SF) 16,383 SF

RESTRICTED PUBLIC USE AREA

PROJECT NORTH

0 10' 20' 40' 60'

Form revised: July 12, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Beverly Barnett/684-7564	Rebecca Guerra/684-5339

Legislation Title:
AN ORDINANCE vacating a portion of the alley in Block 103, D. T. Denny's First Addition to North Seattle on the petition of City Place III LLC, a Washington limited liability company; accepting an Agreement Regarding Stormwater Drainage Improvements to design and construct a new stormwater system to convey stormwater from the alley to the City's sewer system; and accepting a Property Use and Development Agreement as reflected in Clerk File 308958.

Summary of the Legislation:

This Council Bill completes the vacation process for a portion of the alley in Block 103, D.T. Denny's First Addition to North Seattle on the petition of City Place III LLC, a Washington limited liability company (the "Petitioner"), accepts an Agreement Regarding Stormwater Drainage Improvements, and accepts a Property Use and Development Agreement.

Background:

The project in Block 103 is part of a larger development project encompassing six blocks. Alley vacation petitions were submitted for three of the six blocks that facilitate this development project for Amazon.com's new global headquarters.

The Petitioner sought vacation of a portion of the alley in Block 103, D.T. Denny's First Addition to North Seattle, bordered by Mercer Street, Boren Avenue North, Republican Street, and Terry Avenue North in the South Lake Union neighborhood to facilitate a full block development for this project.

On May 12, 2008, the City Council voted to conditionally grant the Petitioner's petition to vacate a portion of the alley. The Petitioner subsequently developed two new five-story multi-use buildings containing both office and retail space, a plaza approximately 18,318 square feet, and below grade parking consisting of approximately 363 parking stalls connecting the two buildings.

To meet its public benefit requirement, the Petitioner has incorporated a publically accessible plaza of approximately 18,318 square feet which includes special pavers, landscaping, seating, lighting, and artwork. Community events are planned for the plaza. Additionally,

the Petitioner developed street improvements consistent with the Terry Avenue North Street Design Guidelines (Seattle Department of Transportation Director's Rule 3-05).

Please check one of the following:

__X__ This legislation does not have any financial implications.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

This legislation does not accept or appropriate funds. The Seattle Department of Transportation received a vacation fee of $190,000 in 2011, at which time 50 percent was deposited in the CRS Unrestricted Subaccount and 50 percent in the CRS Street Vacation Subaccount.

b) What is the financial cost of not implementing the legislation?

This vacation petition has already been approved by the Seattle City Council which obligates the City to complete the vacation process, provided that the petitioner meets all the conditions imposed by the Council and the vacation fee is paid. The Petitioner has met all the conditions and paid the vacation fee. Therefore, by not implementing this legislation, the City would be in violation of its obligations, which could have financial implications.

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

No. As part of the initial vacation review process, all interested departments are notified of the vacation petition and asked to comment. All issues must be resolved prior to the approval of the final legislation

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

None. This legislation completes the vacation process.

Is a public hearing required for this legislation?

No.

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

No.

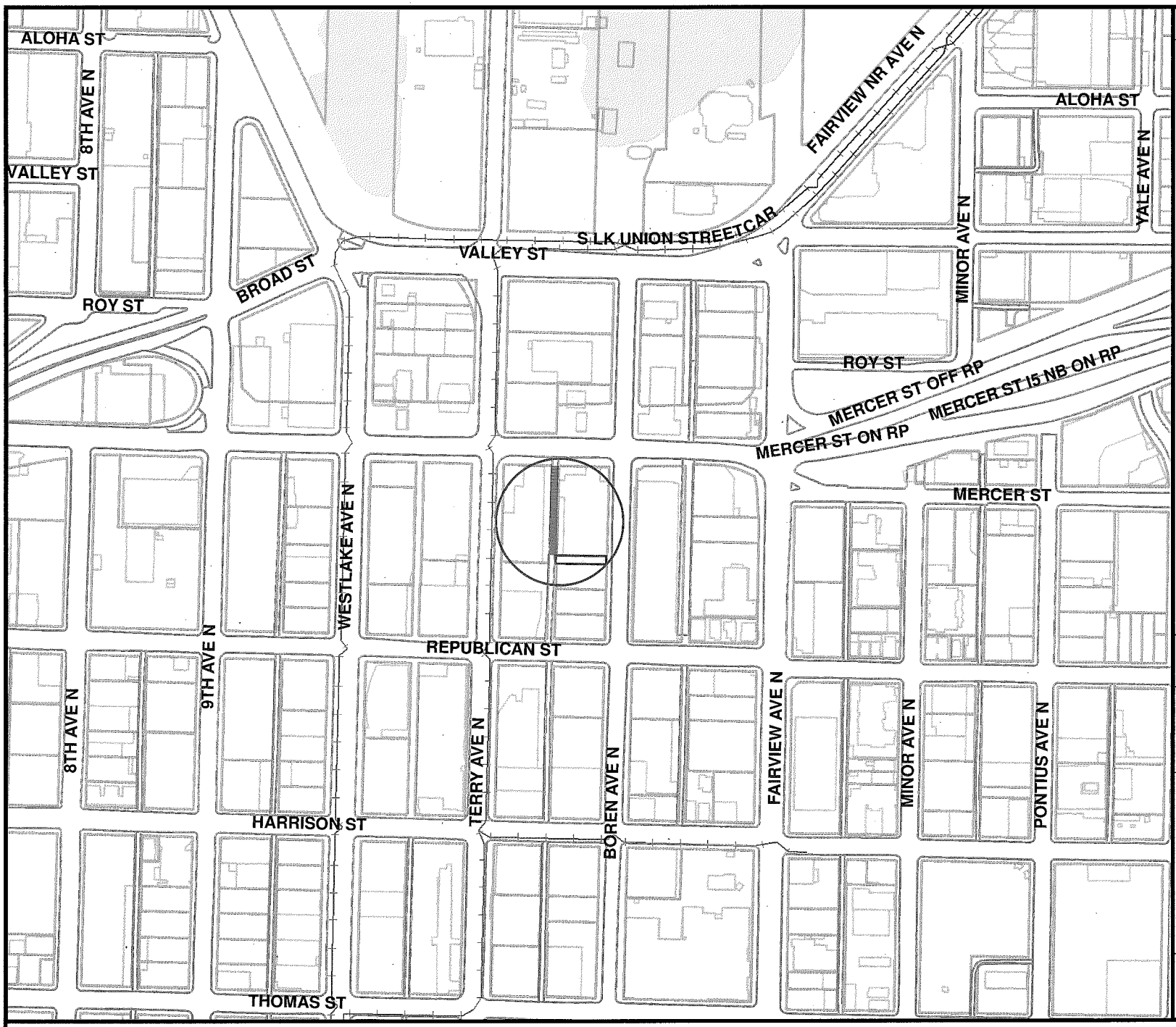
f) Does this legislation affect a piece of property?

Yes, it completes the vacation of right-of-way.

g) Other Issues:

List attachments to the fiscal note below:

Attachment A: Street Vacation Map.



Partial Alley Vacation

North 224 ft of Block 103
DT Denny's First
Addition to N Seattle

CF 309958
Petitioner:
City Investors XVI L.L.C.

Vacation Area
3,407 SF

Dedication and
Easement Area
Previously
Accepted by
Ord. 123354

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Produced by the Seattle
Department of Transportation
No warranties of any sort,
including accuracy, fitness or
merchantability, accompany
this product.

Coordinate System:
State Plane, NAD83-91,
Washington, North Zone
Orthophoto Source:
Pictometry 2007

PLOT DATE : August 2011
AUTHOR : Street Vacations

SDOT
Seattle Department of Transportation

Partial Alley Vacation of Block 103 D.T. Denny's First Addition to North Seattle

*For illustrative purposes only and is not intended to modify anything in the legislation.

City of Seattle
Office of the Mayor

November 20, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would complete the vacation process for City Place III LLC, a Vulcan affiliated entity that currently owns most of the property abutting the alley (Petitioner). The Petitioner sought to vacate a portion of the alley in Block 103, D.T. Denny's First Addition to North Seattle in the South Lake Union neighborhood to facilitate a full block development that encompasses a portion of Amazon.com's new global headquarters.

On May 12, 2008, the City Council voted to conditionally grant the Petitioner's petition to vacate a portion of the alley. The Petitioner subsequently developed two new five-story multi-use buildings containing both office and retail space, a plaza approximately 18,318 square feet, and below grade parking consisting of approximately 363 parking stalls connecting the two buildings.

To meet its public benefit requirement, the Petitioner has incorporated a publically accessible plaza of approximately 18,318 square feet which includes special pavers, landscaping, seating, lighting, and artwork. Community events are planned for the plaza. Additionally, the Petitioner developed street improvements consistent with the Terry Avenue North Street Design Guidelines (Seattle Department of Transportation Director's Rule 3-05).

The proposed legislation facilitates South Lake Union's transformation into a vital innovative neighborhood. Thank you for your support of this legislation. If you have any questions please contact Beverly Barnett at (206) 684-7564.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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Seattle, WA 98124-4749

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