

**CITY OF SEATTLE**  
**ORDINANCE \_\_\_\_\_**

COUNCIL BILL 117900

AN ORDINANCE relating to the Department of Transportation's Hazard Mitigation Program; authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of slope stabilization along a portion of Rainier Avenue South; placing the real property rights under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

WHEREAS, a segment of Rainier Avenue South was closed between 57<sup>th</sup> Avenue South and Cornell Avenue South as a result of a landslide that blocked a portion of Rainier Avenue South on April 7, 2013; and

WHEREAS, the landslide debris was subsequently cleared by the Seattle Department of Transportation ("SDOT") and on April 8, 2013, the City re-channelized traffic between South Perry Street and South Norfolk Street as a temporary precaution in the event that other landslides occurred along this portion of Rainier Avenue South; and

WHEREAS, the temporary re-channelization, resulting in the addition of traffic control devices and the loss of parking, has inconvenienced residents of the area; and

WHEREAS, this was the second landslide occurring from the same slope within a consecutive two-week period and, according to City records, this slope area has a long history of landslides, and the City currently spends valuable resources to respond to landslides and ensure public safety; and

WHEREAS, due to the high probability of a reoccurrence of landslide activity from this slope, it is necessary and advisable for the City to build a retaining wall to mitigate potential adverse impacts to Rainier Avenue South and the surrounding residents in the event of another landslide; and

WHEREAS, the City believes it is in the best interest of the City of Seattle to take permanent measures to prevent further slope erosion by restoring and stabilizing the steep slope between South Perry Street and South Norfolk Street and stabilizing and providing integral ground support to the roadway embankment below; and

1 WHEREAS, the City must first obtain, and the City Council must accept, a permanent easement  
2 from the private property owners of the land where the slope exists to build such a  
retaining wall to prevent further erosion; and

3 WHEREAS, the Landslide Mitigation Project under the Hazard Mitigation Program provides for  
4 SDOT to identify landslide concerns that affect the right-of-way and prioritize and make  
repairs as necessary to maintain public safety; NOW, THEREFORE,

5  
6 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

7 Section 1. The easement dated June 28, 2013, granted by Dan J. and Mary F. Del Duca,  
8 husband and wife, recorded under King County recording number 20130703001060 and attached  
9 as Attachment 1 to this ordinance, granting to the City an easement to construct, repair, replace,  
10 and maintain a retaining wall and any other modifications associated with the retaining wall as  
11 described in the easement over property legally described in Exhibit A of Attachment 1 to this  
12 ordinance (the "Easement"), is accepted.

13 Section 2. The Easement is placed under the jurisdiction of the Seattle Department of  
14 Transportation.

15 Section 3. Any act consistent with the authority and prior to the effective date of this  
16 ordinance is approved and accepted.

17 Section 4. This ordinance shall take effect and be in force 30 days after its approval by  
18 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
19 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

1 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2013, and  
2 signed by me in open session in authentication of its passage this  
3 \_\_\_\_ day of \_\_\_\_\_, 2013.

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 President \_\_\_\_\_ of the City Council

7  
8 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

9  
10 \_\_\_\_\_  
11 Michael McGinn, Mayor

12  
13 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

14  
15 \_\_\_\_\_  
16 Monica Martinez Simmons, City Clerk

17 (Seal)

18  
19 Attachment 1: Recorded Easement  
20  
21  
22  
23  
24  
25  
26  
27  
28

After recording return document to:

City of Seattle  
Department of Transportation  
700 5th Avenue - Suite 3900  
PO Box 34996  
Seattle, WA 98124-4966  
Attn: Larry Huggins



20130703001060

SEATTLE DEPART EAS  
PAGE-001 OF 005  
07/03/2013 10:57  
KING COUNTY, WA

76.00

*Document Title: Easement*

*Reference Number of Related Document: N/A*

*Grantor(s): Dan J. and Mary F. Del Duca*

*Grantee: City of Seattle*

*Abbreviated Legal Description: Ptn of Lots 1 and 2, Blk 35, Plat of Rainier Beach, Vol. 8, PP 11, and ptn of vac S. Perry St, Vol. 14, PP 247, NW 1/4 of the NE 1/4 of S2, T23N, R4E, WM, King County, Washington*

*Additional Legal Description is on Page(s) 4 of Document.*

*Assessor's Tax Parcel Number(s): 712930-1740*

## EASEMENT

Project: Rainier Avenue South Landslide

The Grantors, **DAN J. and MARY F. DEL DUCA**, husband and wife; for and in consideration of TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration, receipt of which is hereby acknowledged, hereby convey(s) and grant(s) to the Grantee, the **CITY OF SEATTLE**, a municipal corporation of the State of Washington, its successors and assigns an Easement over, under, across and upon the below-described lands ("the Easement Area") for the purposes of constructing, repairing, replacing and maintaining a retaining wall and other modifications associated with the retaining wall, to the same extent and purpose as if the rights granted by this Easement had been acquired under Eminent Domain statutes of the State of Washington.

In order to facilitate Grantors' development of their property, Grantors and Grantors' successors and assigns shall have the right to request that the City terminate this Easement at such time as they obtain a permit to develop the property. The request for termination shall be made in writing to the Director of Seattle Department of Transportation. The City will conditionally approve such request which approval will not become final until completion of construction of a new building or a replacement

Tax Parcel Number 712930-1740

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**EXCISE TAX NOT REQUIRED**

King Co. Records

By Lisa Ohm, Deputy

**EASEMENT**

retaining wall. So long as this Easement is in effect, Grantors shall take no action to disturb the stability and/or integrity of the retaining wall constructed by Grantee pursuant to this Easement.

To the extent allowed by law, Grantors and their successors and assigns agree to indemnify Grantee from and against any and all claims, demands, suits, damages, loss or liability of any kind arising out of or resulting from the removal or replacement of the retaining wall by Grantors or Grantors' successors and assigns. The foregoing indemnity shall survive the termination of this easement and is intended to run with the land and bind Grantors' successors and assigns.

The Easement Area is located in King County, State of Washington, and is described in Exhibit A that is attached to and made a part of this Easement.

Grantors:



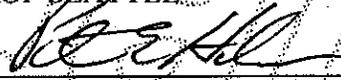
Dan J. Del Duca



Mary F. Del Duca

Dated: 6/24/2013

Accepted and Approved:  
CITY OF SEATTLE

By: 

Name: Peter E. Hahn

Its: Director of Transportation

Dated: 6-28-13

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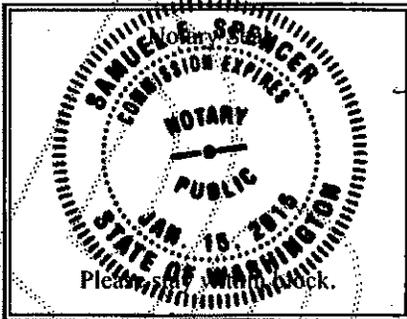
**EASEMENT**

STATE OF WASHINGTON )

County of King )

On this 24 day of June, 2013, before me personally appeared DAN J. DEL DUCA and MARY E. DEL DUCA, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.



Samuel E. Spencer  
Notary (print name) Samuel E. Spencer  
Notary Public in and for the State of Washington,  
residing at Seattle, WA  
My Appointment expires 1-15-15

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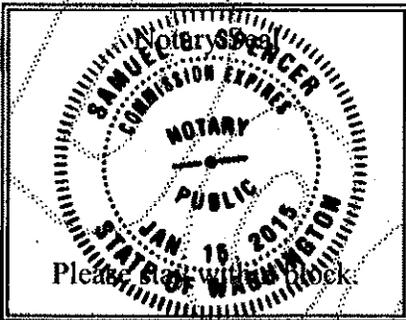
**EASEMENT**

STATE OF WASHINGTON )

County of King )

On this 20<sup>th</sup> day of June, 2013, before me personally appeared PETER E. HAHN, to me known to be the Director of Transportation of the City of Seattle, a Washington Municipal Corporation, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.



Samuel E. Spencer  
Notary (print name) Samuel E. Spencer  
Notary Public in and for the State of Washington,  
residing at Seattle, WA  
My Appointment expires 1-15-15

Tax Parcel Number 712930-1740

**EASEMENT**

**EXHIBIT A**

**KING COUNTY PARCEL #712930-1740**

A 5.00 FOOT WIDE STRIP OF LAND BEING A PORTION OF LOT 1 AND 2, BLOCK 35, THE PLAT OF RAINIER BEACH RECORDED IN VOLUME 8 OF PLATS, PAGE 11, RECORDS OF KING COUNTY, WA, AND THAT PORTION OF VACATED SOUTH PERRY STREET PER COUNTY COMMISSIONERS, VOL 14, PAGE 247, SITUATE IN THE NW QUARTER OF THE NE QUARTER OF SECTION 2, TOWNSHIP 23 N, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

THE NORTHEASTERLY FIVE FEET OF SAID LOT 1, LOT 2 AND VACATED SOUTH PERRY STREET ADJACENT TO SAID LOT 1; BEING PARALLEL AND COINCIDENT WITH THE SOUTHWESTERLY RIGHT OF WAY MARGIN OF RAINIER AVE SOUTH,

CONTAINING 540 SQUARE FEET, MORE OR LESS.



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**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Seattle Department of Transportation	Larry Huggins/684-5001	Christie Parker/684-5211

**Legislation Title:**

AN ORDINANCE relating to the Department of Transportation’s Hazard Mitigation Program; authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of slope stabilization along a portion of Rainier Avenue South; placing the real property rights under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

**Summary and background of the Legislation:**

This legislation authorizes the acquisition, acceptance, and recording of a permanent easement granted to the City of Seattle by private property owners in connection with the landslide mitigation work in the 9700 block of Rainier Avenue South as part of the Seattle Department of Transportation’s (“SDOT”) Hazard Mitigation Program, Landslide Mitigation Projects, and places the easement under the jurisdiction of SDOT.

On the evening of April 7, 2013, a segment of Rainier Avenue South was closed between 57<sup>th</sup> Avenue South and Cornell Avenue South as a result of a landslide that blocked a portion of the street. The landslide debris was subsequently cleared by SDOT and on April 8, 2013, the City re-channelized traffic between South Perry Street and South Norfolk Street to respond to public safety concerns in the event of more occurrences. This traffic detour is currently in operation and is inconveniencing the local residents due to the increase of traffic control devices, rerouting, and the loss of parking in the area.

According to City records, this segment of Rainier Avenue South has historically experienced many landslides indicating that there is a high probability of reoccurrence. The cost outlay to build a permanent retaining wall is intended to reduce the risk of future landslides in the area and save City resources in the long term.

<b>Project Name:</b>	<b>Project I.D.:</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date:</b>
Hazard Mitigation Program-Landslide Mitigation Projects	TC365510	Various	Ongoing	Ongoing

Please check any of the following that apply:

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

**Other Implications:**

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

Yes. The property owners granted the easement in consideration of mutual and offsetting benefits. Therefore, no monetary compensation was paid. However, the wall would be considered to be another asset that the City is responsible to maintain and will be included in a list of similar assets scheduled for regular maintenance by the City.

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

Historically, this segment along Rainier Avenue South has experienced many landslides. When landslides occur, the City must respond to ensure public safety and mitigate further damages. The cost outlay to build the retaining wall is intended to reduce the risk of additional damages and unforeseen costs to the City that could result from future landslides in this area.

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

No.

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

Other alternatives were considered; however, there are no other cost-effective construction options available that would manage the risk associated with the potential future landslides along this portion of Rainier Avenue South.

**e) Is a public hearing required for this legislation?**

No.

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

No.

Please check any of the following that apply:

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

**Other Implications:**

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

Yes. The property owners granted the easement in consideration of mutual and offsetting benefits. Therefore, no monetary compensation was paid. However, the wall would be considered to be another asset that the City is responsible to maintain and will be included in a list of similar assets scheduled for regular maintenance by the City.

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

Historically, this segment along Rainier Avenue South has experienced many landslides. When landslides occur, the City must respond to ensure public safety and mitigate further damages. The cost outlay to build the retaining wall is intended to reduce the risk of additional damages and unforeseen costs to the City that could result from future landslides in this area.

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

No.

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

Other alternatives were considered, however, there are no other cost-effective construction options available that would manage the risk associated with the potential future landslides along this portion of Rainier Avenue South. *well* *retention*

**e) Is a public hearing required for this legislation?**

No.

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

No.

**g) Does this legislation affect a piece of property?**

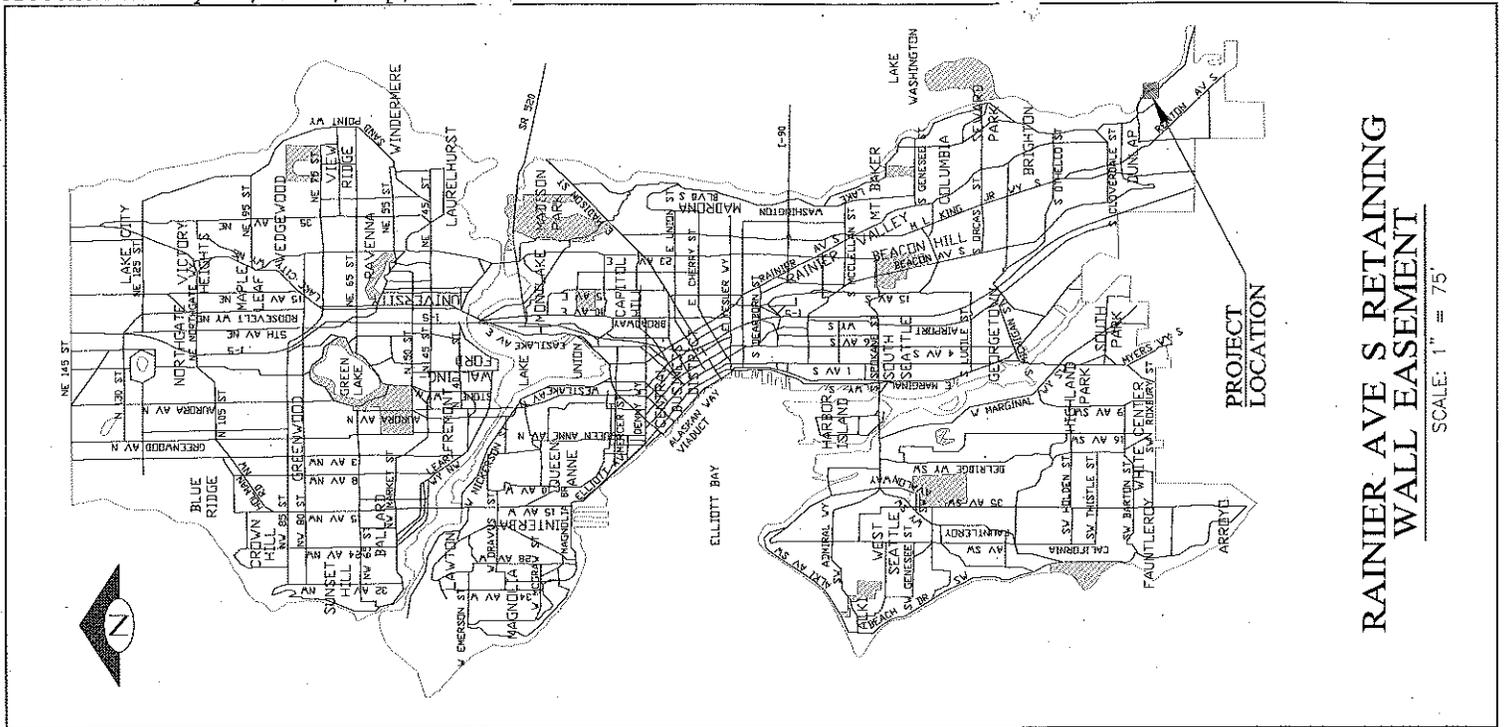
Yes, private property owners are granting an easement to the City to complete and maintain the project.

**h) Other Issues:**

None.

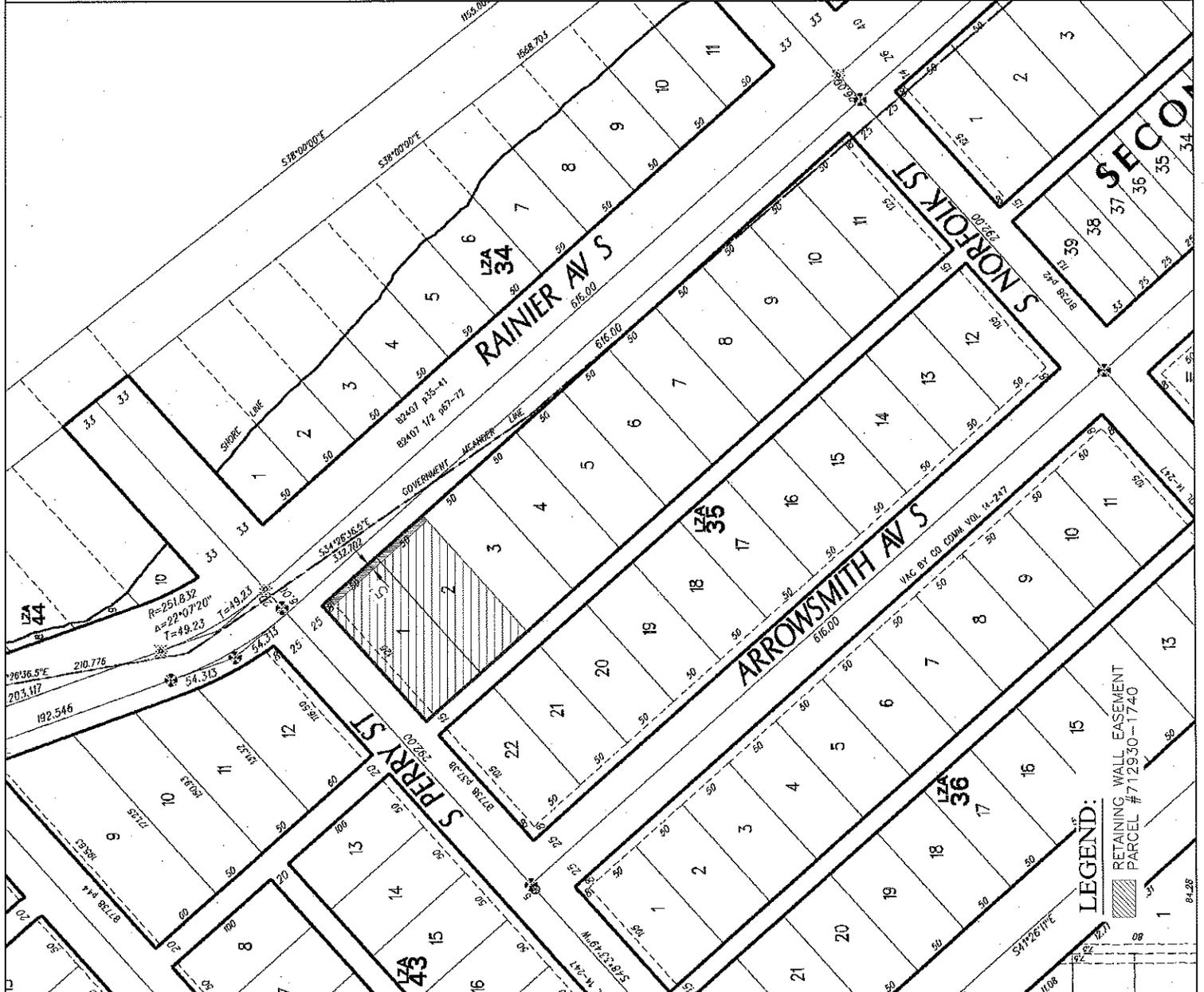
**List attachments to the fiscal note below:**

Attachment A: Rainier Avenue South Retaining Wall Easement Map



**RAINIER AVE S RETAINING WALL EASEMENT**

SCALE: 1" = 75'





City of Seattle  
Office of the Mayor

August 20, 2013

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that authorizes acquisition, acceptance, and recording of a permanent easement granted by property owners abutting Rainier Avenue South and places the easement under the jurisdiction of the Seattle Department of Transportation. The easement is necessary to construct and maintain a retaining wall and is being acquired from private property owners whose property abuts that portion of Rainier Avenue South that is at risk of future landslides and erosion.

The Hazard Mitigation Program-Landslide Mitigation Projects enables the Seattle Department of Transportation ("SDOT") to address and repair landslide concerns that affect the right-of-way. It provides SDOT with the resources to identify and prioritize landslide concerns and to make repairs accordingly. Due to the high probability of a landslide reoccurring along this slope, it is necessary for the City to acquire property to complete and maintain this project.

This project consists of designing and constructing a retaining wall that will be erected at the bottom of the slope area at risk, behind the sidewalk along Rainier Avenue South. The retaining wall will reduce the risk of transportation disruptions and expenditures caused by future landslides in the area.

Thank you for your consideration of this legislation. Should you have any questions, please contact Larry Huggins at 684-5001.

Sincerely,

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council