

CB 118104

Terry Dunning
DPR Amended 6f Agreements ORD
November 5, 2013
Version #2

ORDINANCE _____

AN ORDINANCE relating to the SR 520, I-5 to Medina: Bridge Replacement and HOV Project; authorizing the amendment of certain agreements with the Washington State Department of Transportation and the University of Washington.

WHEREAS, by Ordinance 124138 (March 2013) and Ordinance 124323 (October 2013), the City Council authorized the execution of certain agreements to exchange City property at the Washington Park Arboretum that the Washington State Department of Transportation ("WSDOT") needs for its for its SR 520 Project for other property in the City's University District that will be developed as a park; and

WHEREAS, the Arboretum property was developed with federal grant funds that make it subject to Section 6(f) of the Land and Water Conservation Fund Act, 16 U.S.C. § 4601-8 ("Section 6(f)"); and

WHEREAS, under Section 6(f), the National Park Service ("NPS") must approve the replacement of the Arboretum property and such approval is presently a condition to performance under the agreements; and

WHEREAS, the timeframe for NPS action is such if the parties must await NPS approval, WSDOT will be unable to comply with its project schedule; and

WHEREAS, the parties wish to amend the agreements to remove the condition of NPS approval; and

WHEREAS, NPS retains the authority to determine whether the property transactions fully satisfy the requirements of Section 6(f); NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. As requested by the Superintendent of Parks and Recreation ("Superintendent") and recommended by the Mayor, the Superintendent or his designee is hereby authorized to execute, deliver, and perform, for and on behalf of The City of Seattle, the following amendments, substantially in the form of the agreements attached hereto and identified as:

Attachment 1 – Amendment No. 1 to GCB 1294, Memorandum of Agreement between



1 Washington State Department of Transportation, University of
2 Washington and City of Seattle Regarding Section 6(f) of the Land and
3 Water Conservation Fund Act for the SR 520, I-5 to Medina Project.

4 Attachment 2 – Amendment No. 1 to GCB 1291, Interagency Agreement for Real Estate
5 Transactions among Washington State Department of Transportation,
6 University of Washington, and City of Seattle Regarding the Acquisition
7 of Section 6(f) Converted Property and Designation of Section 6(f)
8 Replacement Property, Bryant Building Site; SR 520, I-5 to Medina;
9 Bridge Replacement and HOV Project.

10 Attachment 3 – Amendment No. 1 to GCB 1279, Bryant Project Development
11 Agreement.



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

4 Passed by a three-fourths vote of all the members of the City Council the ____ day of
5 _____, 2013, and signed by me in open session in authentication of its
6 passage this ____ day of _____, 2013.

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10 _____
11 President _____ of the City Council

12 Approved by me this ____ day of _____, 201.

13
14 _____
15 Michael McGinn, Mayor

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17 Filed by me this ____ day of _____, 2013.

18
19 _____
20 Monica Martinez Simmons, City Clerk

21 (Seal)
22 Attachment 1 - Amendment No. 1 to GCB 1294, Memorandum of Agreement between
23 Washington State Department of Transportation, University of Washington and
24 City of Seattle Regarding Section 6(f) of the Land and Water Conservation Fund
Act for the SR 520, I-5 to Medina Project.

25 Attachment 2 - Amendment No. 1 to GCB 1291, Interagency Agreement for Real Estate
26 Transactions among Washington State Department of Transportation, University
of Washington, and City of Seattle Regarding the Acquisition of Section 6(f)



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1 Converted Property and Designation of Section 6(f) Replacement Property,
2 Bryant Building Site; SR 520, I-5 to Medina: Bridge Replacement and HOV
3 Project.

4 Attachment 3 – Amendment No. 1 to GCB 1279, Bryant Project Development Agreement.
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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Parks and Recreation	Terrance Dunning/ 684-4860	Jeff Muhm/ 684-8049

Legislation Title: AN ORDINANCE relating to the SR 520, I-5 to Medina: Bridge Replacement and HOV Project; authorizing the amendment of certain agreements with the Washington State Department of Transportation and the University of Washington.

Summary of the Legislation:

This legislation removes language requiring National Park Service (NPS) prior approval to conclude the obligations of the affected agreements. The legislation revises language in the contracts referred to in the following Amendments (attached to the proposed Ordinance);

1. Amendment 1 to GCB 1294, Memorandum of Agreement among WSDOT, UW and the City of Seattle Regarding Section 6(f) of the Land and Water Conservation Fund Act for the SR 520, I-5
2. Amendment 1 to GCB 1291, Interagency Agreement for Real Estate Transactions among WSDOT, UW, and the City of Seattle Regarding the Acquisition of Section 6(f) Converted Property and Designation of Section (f) Replacement Property, Bryant Building Site; SR 520, I-5 to Medina Project: Bridge Replacement and HOV Project.
3. Amendment 1 to GCB 1279, Bryant Project Development Agreement

Background:

Property within the Section 6(f) area of the Arboretum (Arboretum Lakeside Trail) was jointly developed by the UW and the City with funds from the National Park Service's (NPS) Land and Water Conservation Fund. Due to this fact, the conversion of this property to use by WSDOT for SR 520 improvements is subject to approval of the NPS. The various agreements referenced above contain language requiring the prior approval of NPS before the parties conclude their mutual agreement obligations. As a result of the recent federal government shutdown and other delays, the NPS is unable to complete review of these agreements in time to accommodate the SR 520 construction schedule. WSDOT must certify full ownership of the affected property early next year to be able to advertise the project and begin construction in mid-2014. It has now become apparent that the required prior review by NPS cannot be achieved in a timeframe consistent with WSDOT's schedule needs.

The UW, WSDOT and City staff have discussed this schedule problem at length and have consulted with the State Recreation and Conservation Office (RCO), which administers the LWCF grant on behalf of NPS. RCO has advised the City that it will take no steps to sanction the City for failing to gain prior NPS approval; however, they do expect the City and UW to meet all requirements of the 6(f) conversion program as the project proceeds. Staff of the respective parties have concluded that there is no significant risk to the City if it proceeds to fulfill its obligations to the other contract partners at this time.

Ultimately, NPS retains the authority to approve the conversion of the property and determine if



IN WITNESS WHEREOF, the PARTIES hereto have executed this AMENDMENT NO. 1 as of the latest date written below.

<p>The City of Seattle Department of Parks and Recreation</p> <p>By: _____ Christopher Williams Acting Superintendent, Seattle Department of Parks and Recreation</p> <p>Date: _____</p>	
<p>The University of Washington</p> <p>By: _____ Jeanette L. Henderson Director of Real Estate</p> <p>Date: _____</p>	<p>Approved as to form:</p> <p>_____ Susan A. Shyne Special Assistant Attorney General</p> <p>Date: _____</p>
<p>Washington State Department of Transportation</p> <p>By: _____ Julie Meredith, P.E. SR 520 Program Director</p> <p>Date: _____</p>	<p>Approved as to form:</p> <p>_____ Deborah L. Cade Assistant Attorney General</p> <p>Date: _____</p>



**GCB 1279, AMENDMENT NO. 1
BRYANT PROJECT DEVELOPMENT AGREEMENT**

This AMENDMENT No. 1 is made and entered into by and among the Washington State Department of Transportation ("WSDOT"), the City of Seattle, ("CITY") acting through its Department of Parks and Recreation ("PARKS"), and the University of Washington ("UW"), collectively, the "PARTIES," and each, individually, a "PARTY."

WHEREAS, the PARTIES entered into the original Development Agreement ("**Development Agreement**"), GCB 1279 on August 19, 2013, for the purposes stated therein; and

WHEREAS, the PARTIES wish to amend the Development Agreement to reflect an alternate approach whereby the transactions described in the Development Agreement are not contingent upon action by the National Park Service (NPS);

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which consideration is unconditionally acknowledged by the PARTIES, the PARTIES adopt and agree to the RECITALS set forth above, and agree:

1. Section 2. The second sentence of Section 2 is amended as follows:

"PARKS shall not be required to begin performance under this Development Agreement unless and until (a) WSDOT has paid PARKS the sum described in Section 3.G, below; and (b) the Bryant Site has been conveyed to the CITY by the UW."

2. Section 3. The second sentence of paragraph 3.G. is amended as follows:

"Payment by WSDOT will be made to PARKS under the terms of the Interagency Agreement for Real Estate Transactions, GCB 1291~~within 60 calendar days from the date the National Park Service issues a signed amendment to its agreement with the Washington State Recreation and Conservation Office approving the Bryant Site as the~~
6(f) Replacement Property."

3. All other terms and conditions of the Development Agreement shall remain in full force and effect, and shall control unless specifically modified by this AMENDMENT NO. 1.



Terry Dunning
DPR Amended 6f Agreements ORD ATT 2
November 5, 2013
Version #2

GCB 1291 Amendment 1

IN WITNESS WHEREOF, the Parties hereto have executed this AMENDMENT NO. 1 as of the latest date written below.

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

By _____ Date: _____
Julie Meredith, P.E.
SR 520 Program Director

By: _____ Date: _____
James M. Salter
Acquisition Program Manager

Approved as to Form

By _____ Date: _____
Amanda Phily
Assistant Attorney General

UNIVERSITY OF WASHINGTON

By _____ Date: _____
Jeanette L. Henderson
Director of Real Estate

Approved as to Form

By _____ Date: _____
Susan A. Shyne
Special Assistant Attorney General

CITY OF SEATTLE

By _____ Date: _____
Christopher Williams
Acting Superintendent, Department of Parks and Recreation



3. Section 5.1.1 is amended as follows:

"Upon satisfaction of all the contingencies listed in Section 4, the Parties shall set a date for the closing of the transactions described in Section 2.1 above, hereinafter referred to as the "Closing Date," that is more than one but less than 50 days after the issuance of the NPS/RCO Conversion Amendment date upon which the last contingency is satisfied."

4. Section 5.2.1 is amended as follows:

"On the Closing Date, WSDOT shall pay the UW Cash Consideration to UW and the CITY Cash Consideration to the CITY."

5. All other terms and conditions of the Agreement shall remain in full force and effect, and shall control unless specifically modified by this AMENDMENT NO. 1.



GCB 1291, AMENDMENT NO. 1
INTERAGENCY AGREEMENT FOR REAL ESTATE TRANSACTIONS
AMONG
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION,
UNIVERSITY OF WASHINGTON, AND CITY OF SEATTLE
REGARDING THE ACQUISITION OF SECTION 6(F) CONVERTED PROPERTY
AND DESIGNATION OF SECTION 6(F) REPLACEMENT PROPERTY
BRYANT BUILDING SITE
SR 520, I-5 TO MEDINA: BRIDGE REPLACEMENT AND HOV PROJECT

This AMENDMENT No. 1 is made and entered into by and among the STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION ("WSDOT"), the UNIVERSITY OF WASHINGTON ("UW"), and the CITY OF SEATTLE, acting by and through its Superintendent of Parks and Recreation ("the CITY"), collectively referred to as the "Parties" and each, individually, referred to as a "Party."

WHEREAS, the PARTIES entered into the original Agreement ("**Agreement**"), GCB 1291 on August 19, 2013, for the purposes stated therein; and

WHEREAS, the PARTIES wish to amend the Agreement to reflect an alternate approach whereby the transactions described in the Agreement are not contingent upon action by the National Park Service (NPS);

NOW, THEREFORE, by virtue of RCW 39.34 and in consideration of the terms, conditions, covenants, and performances contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Section 4.1.1 is deleted.

~~Issuance by the National Park Service (NPS) of a signed amendment to its agreement with the Recreation Conservation Office (RCO), approving the Bryant Site as the Section 6(f) Replacement Property for recreational impacts caused by the SR 520 Project, hereinafter referred to as the "NPS/RCO Conversion Amendment"~~

2. Section 4.1.4 is amended as follows:

"Execution by the Parties of the Bryant Project Development Agreement, and payment by WSDOT to the CITY of all amounts for development and Remedial Action that are stipulated therein to be paid ~~prior to~~ on the Closing Date."



GCB 1294, AMENDMENT NO. 1
MEMORANDUM OF AGREEMENT
BETWEEN
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION,
UNIVERSITY OF WASHINGTON AND CITY OF SEATTLE
REGARDING SECTION 6(F) OF THE LAND AND WATER CONSERVATION FUND ACT
FOR THE SR 520, I-5 TO MEDINA PROJECT

This AMENDMENT No. 1 is made and entered into by and among the Washington State Department of Transportation (WSDOT), the City of Seattle, acting by and through its Superintendent of Parks and Recreation (CITY), and the University of Washington (UW), collectively, the "PARTIES," and each, individually, a "PARTY."

WHEREAS, the PARTIES entered into the original Memorandum of Agreement ("MOA"), GCB 1294 on August 19, 2013, for the purposes stated therein; and

WHEREAS, the PARTIES wish to amend the MOA to reflect an alternate approach whereby the transactions described in the MOA are not contingent upon action by the National Park Service (NPS);

NOW, THEREFORE, pursuant to RCW 47.28.140 and in consideration of the terms, conditions, covenants, and performances contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Section 3.3.1 is amended as follows:

"The UW and CITY agree to the designation of the Bryant Site as Section 6(f) Replacement Property-contingent upon receiving NPS approval and have submitted to RCO their request for NPS approval of said designation under Section 6(f)."

2. All other terms and conditions of the Agreement shall remain in full force and effect, and shall control unless specifically modified by this AMENDMENT NO. 1.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AMENDMENT NO. 1 as of the latest date written below.

WSDOT

By _____ Date: _____
Julie Meredith, P.E.
SR 520 Program Director

Approved as to Form By _____ Date: _____
Deborah L. Cade,
Assistant Attorney General

UNIVERSITY OF WASHINGTON

By _____ Date: _____
Jeanette Henderson
Director of Real Estate

Approved as to Form By _____ Date: _____
Terese (T.C.) Richmond,
Special Assistant Attorney General

CITY OF SEATTLE

By _____ Date: _____
Christopher Williams
Acting Superintendent, Department of Parks and Recreation





City of Seattle
Office of the Mayor

December 3, 2013

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

Dear Council President Clark,

I am transmitting the attached proposed Council Bill authorizing amendments three recent agreements between the Washington State Department of Transportation (WSDOT), the University of Washington (UW) and the City. These agreements relate to the transfer of Arboretum lands to WSDOT for SR 520 improvements, and the acquisition of the Bryant Building site (currently owned by the UW) as replacement park property. The proposed legislation would remove specific language requiring formal National Park Service (NPS) approval before completing the property transactions.

NPS has oversight of these recreational lands due to the use of federal funds (Land and Water Conservation Act funds) for the improvement of the Arboretum Lakeside Trail. As a result of the recent federal government shutdown and other delays, the NPS is unable to complete review of these agreements in time to accommodate the SR 520 construction schedule. WSDOT must certify full ownership of the affected property early next year to be able to advertise the project and begin construction in mid-2014.

While the proposed amendments would eliminate NPS approvals as a condition for completing the property transactions, the NPS would retain its authority to determine whether these transactions will fully satisfy the requirements of Section 6(f) of the Land and Water Conservation Fund Act. City and agency staff do not believe these amendments will result in any negative consequences for the City. Staff have consulted with the State Recreation and Conservation Office, which administers the Land and Water Conservation Fund grant on behalf of NPS, and they are supportive of this approach.

This legislation will allow WSDOT to proceed with SR 520 construction and avoid potentially costly delays for this regional transportation facility. Thank you for your consideration of this legislation. If you have questions, please contact Terry Dunning at 684-4860.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
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mike.mcgin@seattle.gov



the obligations of Section 6(f) have been met. LWCF regulations require that replacement property be provided by grantees for converted property within 5 years of the conversion. Also, the processes associated with the conversion, such as appraisals and environmental reviews, must meet specific standards that will be reviewed and accepted by NPS prior to final approval of the conversion. It has been concluded that these reviews can occur later in the conversion process with no significant risks to the City.

This legislation does not have any financial implications.

This legislation has financial implications.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
No
- b) **What is the financial cost of not implementing the legislation?**
WSDOT will suffer significant project delays and increased costs. City residents will forego, for an extended period of time, benefits accruing from the construction of the project improvements. No estimate of the cost penalties of delay is possible at this time.
- c) **Does this legislation affect any departments besides the originating department?**
Yes. SDOT, SPU, City Light and the Law Department are all potentially affected. Calvin Chow of SDOT, the City wide coordinator for the 520 project, has been notified.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None
- 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
- h) **Other Issues:**

List attachments to the fiscal note below: No attachments. There were attachments to the prior legislation authorizing the several agreements and those exhibits do not change.

