

Ordinance No. 121186

Council Bill No. 114580

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of certain real property for drainage control and salmon enhancement located in the Thornton Creek area at the intersection of NE 98th Street and 20th Avenue NE, Seattle, King County, Washington; and authorizing acceptance of the deed for such property.

CF No. _____

Date Introduced:	JUN - 2 2003	Water & Health Committee
Date 1st Referred:	JUN - 2 2003	To: (committee) PAGELER
Date Re - Referred:	June 10, 2003	To: (committee) <i>H2OPH committee moved to 2nd RS met</i>
Date Re - Referred:		To: (committee)
Date of Final Passage:	6-16-03	Full Council Vote: 9-0
Date Presented to Mayor:	6-17-03	Date Approved: 6/25/03
Date Returned to City Clerk:	6/26/03	Date Published: <i>SPAP</i>
Date Vetted by Mayor:		T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetted by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: _____

Committee Action:

6-16-03 Passed 9-0

This file is complete and ready for presentation to Full Council. Comm

LAW DEPARTMENT

Law Dept. Review

OMP
Review

✓
City Clerk
Review

MC
The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Margaret Pyle

Councilmember

Committee Action:

6-16-03 Passed 9-0

with Committee
PAGELER
TOPH Committee
1, 2nd 2nd passed 3-0 Full Council
6/16/03
T.O. <input checked="" type="checkbox"/>
F.T. _____
ed:

6/16/03

This file is complete and ready for presentation to Full Council.

Committee: _____

(Initial/Date)

LAW DEPARTMENT

Law Dept. Review

OMP
Review

(v)
City Clerk
Review

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*Agree note (clerk/PK)
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Attachment A & B
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ORDINANCE 121186

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of certain real property for drainage control and salmon enhancement located in the Thornton Creek area at the intersection of NE 98th Street and 20th Avenue NE, Seattle, King County, Washington; and authorizing acceptance of the deed for such property.

WHEREAS, as part of the Thornton Creek Basin Plan Implementation Project (the "Project"), Seattle Public Utilities has done extensive work in the Thornton Creek area of Seattle for purposes of drainage control, salmon enhancement, erosion control, and sewer line protection; and

WHEREAS, the City finds that the property located at the intersection of NE 98th Street and 20th Avenue NE in the Thornton Creek area (as further described in Section 1, the "Property") is valuable for salmon enhancement, drainage control and erosion control; and

WHEREAS, Ordinance 120973 appropriated funding for drainage and wastewater system projects, including control of storm water runoff and improvement of fish passage; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Seattle Public Utilities is authorized to acquire, for and on behalf of the City of Seattle, the Property described in Exhibit A of the Real Estate Purchase and Sale Agreement (the "Agreement"), attached hereto as Attachment A and incorporated by reference, in accordance with the terms and provisions of the Agreement.

Section 2. Upon delivery of a statutory warranty deed, in form and substance satisfactory to the Director of Seattle Public Utilities or his designee, for the Property described in the Agreement, the Director is authorized to record the deed and to accept it on behalf of the City of Seattle by indicating his acceptance on the deed. The Property thus acquired shall be placed under the jurisdiction of Seattle Public Utilities.

Section 3. The purchase price of Eighty-Thousand Dollars (\$80,000.00), together with any and all costs associated with acquisition of the Property, shall be paid from funds previously appropriated in Ordinance 120973 for drainage and wastewater system projects.

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ACTING
CITY
CLERK

2

Attachment A: Real Estate Purchase and Sale Agreement

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REAL ESTATE PURCHASE AND SALE AGREEMENT

This Agreement is made by and between Jan K. Gleason ("Seller") and The City of Seattle, a municipal corporation, acting by and through its Seattle Public Utilities ("Buyer"), for purchase and sale of that certain real property and appurtenances thereon situated in King County, Washington, legally described on Exhibit A, together with all rights appurtenant thereto (the "Property"), subject to the terms and provisions set forth below. The effective date of this Agreement shall be the date this Agreement has been signed by both Seller and Buyer.

1. PURCHASE PRICE; PAYMENT.

The total purchase price for the Property is Eighty Thousand and no/100 Dollars (US \$80,000.00) ("Purchase Price"). The Purchase Price is payable as follows:

1.1 Deposit. Within 10 working days from the date this Agreement is signed by both Buyer and Seller, Buyer will deposit in escrow with Pacific Northwest Title Company of Washington ("Closing Agent"), a copy of this Agreement and Buyer's earnest money deposit in the amount of Five Thousand and no/100 Dollars (US \$5,000.00) ("Deposit") in the form of a check made payable to Closing Agent. Closing Agent will apply or disburse the Deposit as provided in this Agreement. Upon closing, the Deposit will be applied to the Purchase Price.

1.2 Balance of Purchase Price. The balance of the Purchase Price, Seventy Five Thousand and no/100 dollars (US \$75,000.00), in cash at closing.

2. TITLE

2.1 Title Insurance. Within ten (10) days after the date of this Agreement, Seller shall cause to be furnished to Buyer an ALTA form commitment for an owner's standard coverage policy of title insurance, issued through Pacific Northwest Title Company describing the Property, listing the Buyer as the prospective insured, and showing as the policy amount the Purchase Price (the "Title Commitment"). Buyer shall have ten (10) days after receipt of the Title Commitment to disapprove any exceptions contained therein. If Buyer disapproves any exceptions listed on the Title Commitment, Seller shall have the option to terminate the Agreement or attempt to correct the exceptions to the Buyer's satisfaction. If Seller elects to terminate the Agreement or does not remove the disapproved exceptions, Buyer as its sole and exclusive remedy, shall be entitled to a refund of the Earnest Money. Any title exceptions not disapproved by the Buyer within ten (10) day period shall be deemed accepted by the Buyer (the "Permitted Exceptions").

2.2 Deed. At Closing, the Seller will execute and deliver to Buyer a statutory warranty deed conveying title to the Property free and clear of all defects or encumbrances except for Permitted Exceptions and any other exceptions waived by the Buyer.

1. INSPECTION

Commencing on the date of this Agreement, Buyer shall have until February 1, 2003 to investigate and inspect the suitability and feasibility of the Property for Buyer's intended use at the Buyer's expense ("Feasibility Period"). Buyer shall provide Seller with written notice of Buyer's determination that the Property is not suitable prior to the end of the Feasibility Period or the Property shall be deemed suitable and feasible for the Buyer's purposes.

2. BUYER'S CONTINGENCIES.

Buyer shall have until February 1, 2003 (i) to determine, in its sole discretion, the suitability of the Property for Buyer's intended use and (ii) for the Seattle City Council by ordinance to authorize and approve the execution of this

Attachment A



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Agreement and acquisition of the Property ("Feasibility Period"). If Buyer fails to deliver to Seller written notice that Buyer has determined the Property to be suitable and the Seattle City Council has approved this Agreement prior to the end of the Feasibility Period, the Property shall be deemed unsuitable for Buyer's purposes and this Agreement shall terminate. In such case and upon Buyer's notice of termination to the Closing Agent, the Closing Agent shall refund the Deposit to Buyer and the parties shall have no further rights or obligations in connection with this Agreement.

3. RIGHT OF ENTRY.

Seller hereby grants to Buyer and its employees, agents and contractors, the right to enter upon the Property from time to time during the Feasibility Period, for the purpose of conducting therein and thereon such inspections, investigations and studies, the City of Seattle as Buyer may reasonably deem necessary or appropriate in order to determine the feasibility of purchasing the Property. Buyer agrees to restore to its previous condition any portion of the Property disturbed by Buyer's investigations or studies.

4. RISK OF LOSS.

Seller will bear the risk of loss of or damage to the Property until the date of closing. In the event of destruction of vegetation or other material loss of or damage to the Property prior to closing, Buyer may terminate this Agreement by giving notice of termination to Seller and Closing Agent unless such loss or damage is caused by the Buyer. Upon such notification, Closing Agent shall refund the Deposit to Buyer and the parties shall have no further rights or obligations in connection with this Agreement.

5. REPRESENTATIONS, WARRANTIES AND COVENANTS.

Seller represents, warrants and covenants to Buyer at the date of execution of this Agreement and the date of closing that:

- 7.1 Authority. Seller, and the person or persons signing on behalf of Seller, has full power and authority to execute this Agreement and perform Seller's obligations;
- 7.2 Debris and Personal Property. Prior to closing, Seller will remove all debris and personal property located on the Property (if any), at Seller's cost and expense.
- 7.3 Fees and Commission. Buyer and Seller each represent that it has had no dealing with any real estate brokers or agents in connection with the negotiation of this transaction. Buyer and Seller shall indemnify and hold each other harmless from and against any and all liability and costs which the other may suffer in connection with real estate brokers claiming by, through, or under that party seeking any commission, fee or payment in connection with this transaction.
- 7.4 Vegetation. Seller has not entered, and prior to closing shall not enter, into any contract or agreements, either written or verbal, concerning cutting, removal, topping or other disturbance or destruction of vegetation on the Property.

8. CONDITION OF PROPERTY.

Buyer acknowledges and agrees that it is relying solely on its inspection and investigation of the property, and accepts the property "AS-IS", "WHERE-IS" in its present condition. Buyer acknowledges and agrees that the Seller has made no warranty or representation of any kind, oral or written, expressed or implied, with respect to any condition of the Property, including without limitation, the habitability, tenantability, or fitness for a particular purpose of the Property, the presence or absence of any hazardous substances, wastes or materials as defined by State, Federal or Local law, all of which warranties seller hereby expressly disclaims.



9. CLOSING

9.1 Prorations; Closing Costs. Taxes and drainage service fees for the current year and collected rents, if Buyer has agreed to purchase the Property subject to a lease or leases, will be prorated as of the date of closing. Buyer will pay real estate excise taxes (if any are due), the premium for its owner's title insurance policy, the cost of recording the statutory warranty deed from Seller, and the Closing Agent's escrow fee.

9.2 Time for Closing. This sale will be closed in the office of Closing Agent on a date mutually agreed upon by the Buyer and Seller, but not later than 1 February 2003. Buyer and Seller will deposit in escrow with Closing Agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. As used in this Agreement, "closing" or "date of closing" means the date on which all appropriate documents are recorded and proceeds of sale are available for disbursement to Seller. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of his definition, as available to disbursement to Seller.

9.3 Possession. Buyer shall be entitled to possession of the Property upon closing.

10. DEFAULT.

Time is of the essence of this Agreement. If Seller has performed all of Seller's covenants and obligations under this Agreement, title is insurable as provided in Section 2., Seller's representations and warranties are true and accurate, Buyer's conditions (if any) are satisfied or waived, and Buyer fails or refuses to purchase the Property through no fault of Seller, the Deposit will be forfeited to Seller and Buyer will have no further obligations or liability under this Agreement. If Seller is unable to (or does not) perform all covenants and obligations under this Agreement, if title is not insurable as provided in Section 2, or if Seller's representations and warranties are not all true and accurate, Closing Agent will return the Deposit to Buyer upon demand by Buyer, as Buyer's sole and exclusive remedy and Seller and Buyer shall have no further obligations or liability under this Agreement.

11. NOTICES.

All notices, waivers, elections, approvals and demands required or permitted to be given under this Agreement shall be in writing and personally delivered, sent by United States certified mail, return receipt requested, to the addressee's mailing address set forth below, or sent by telecopy to the addressee's fax number set forth below. Any notice will be effective when actually received or, if mailed as provided herein, on the earlier of actual receipt or two (2) days after the date deposited in the mail.

If to Buyer:

Attn: Ron Perkerewicz
Seattle Public Utilities
Dexter Horton Building Floor 10
710 Second Avenue
Seattle, WA 98104

Phone: 206-615-0741
Fax: 206-615-1215

If to Seller:

Jan K Gleason
1004 W Newell St.
Seattle, WA 98119

Phone: 206-329-8300 x 11

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If to Closing Agent:

Attn: Laura Johnson Escrow Officer
Pacific Northwest Title Company of Washington Inc..
215 Columbia St.
Seattle, Wa 98104

Phone: 206-343-1321
FAX: 206-343-4720

11. GENERAL.

This is the entire agreement of Buyer and Seller with respect to the Property and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers under this Agreement must be in writing. A waiver of any right or remedy in the event of a default will not constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement is for the benefit of, and binding upon, Buyer and Seller and their heirs, personal representatives, successors and assigns. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. All exhibits are hereby incorporated into this Agreement.

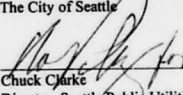
12. SURVIVAL OF WARRANTIES.

The terms, covenants, representations and warranties shall not merge in the deed of conveyance, but shall survive closing.

13. ACCEPTANCE.

This Agreement shall become null and void unless executed by Seller and received by Ron Perkerewicz at the address referenced above not later than 4:00 PM, Wednesday, 25 June 2002

Buyer: The City of Seattle

By: 
Chuck Clarke
Director, Seattle Public Utilities

Date: 7/1/2002

Seller: By: 
Jan K. Gleason

Date: June 20, 2002

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EXHIBIT A

Lots 4, 5 and 6, Acre One, Tract 90, Maple Leaf Addition to Green Lake Circle,
according to the plat thereof recorded in Volume 2 of Plats, page 115, in King
County, Washington,
EXCEPT the east 12 feet thereof.

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Ron Perkerewicz/FE
May 22, 2003
Gleason ORD
Version # 4

Form revised April 23, 2003

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Ron Perkerewicz (206) 615-0741	Cameron Keyes (206) 684-8048

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of certain real property for drainage control and salmon enhancement located in the Thornton Creek area at the intersection of NE 98th Street and 20th Avenue NE, Seattle, King County, Washington; and authorizing acceptance of the deed for such property.

Summary of the Legislation:

Background (Include brief description that states the purpose and context of legislation, the expected useful life, anticipated customers/users, assumed level of LEED or other sustainable design elements. Also include record of previous legislation and funding history, if applicable):

This ordinance authorizes fee simple acquisition of a key parcel along lower Thornton Creek. The property will be purchased with funds appropriated in the 2003-2008 Adopted Drainage and Wastewater Capital Improvement Program (CIP). The property is adjacent to and is a continuation of property that Seattle Public Utilities and Department of Parks purchased in 2002. These properties will be used for habitat restoration.

SPU has been doing extensive work to implement the Thornton Creek Basin Plan, by providing salmon habitat enhancement, drainage and erosion control and sewer line protection in the area of Thornton Creek. In addition, the Thornton Creek Basin Wide Flow Control Plan has determined that the greatest need for flood control in the watershed is in the area immediately surrounding the confluence of the north and south branches of Thornton Creek. This property acquisition serves to further these various goals.

Project Name:	Project Location:	Start Date:	End Date:
Gleason Property Acquisition	NE 98 th Street and 20 th Ave NE, Seattle	2003	2003

- Please check one of the following:

☐ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has financial implications.** (Please complete the boxes below and all relevant sections that follow.)

Ron Perkerewicz/FE
May 22, 2003
Gleason ORD
Version # 4

Appropriations (in \$1,000's): See note below.

Fund Name and Number	Department	Budget Control Level*	2003 Appropriation	2004 Anticipated Appropriation
TOTAL				

* This is line of business for operating budgets, and program or project for capital improvements

Notes: This ordinance does not make an appropriation. SPU will acquire the property using funds appropriated in the 2003-2008 Adopted Drainage and Wastewater Capital Improvement Program (CIP) for the Protection of Beneficial Uses Program (C333).

Anticipated Revenue/Reimbursement (in \$1,000's): None.

Fund Name and Number	Department	Revenue Source	2003 Revenue	2004 Revenue
TOTAL				

Notes:

Spending Plan and Future Appropriations for Capital Projects (in \$1,000's):

Spending Plan and Budget	2003	2004	2005	2006	2007	2008	Total
Spending Plan	\$80						\$80
Current Year Appropriation	\$80						
Future Appropriations							

Key Assumptions:

The Purchase and Sale Agreement identifies \$80,000 as the purchase price for the property. The proposed ordinance specifies that this \$80,000 cost, together with any costs associated with acquisition of the property, shall be paid from funds previously appropriated in the 2003 Adopted Budget for drainage and wastewater system projects.

Funding source (in \$1,000's): (Identify funding sources including revenue generated from the project and the expected level of funding from each source):

Funding Source	2003	2004	2005	2006	2007	2008	Total
Drainage and Wastewater Fund (44010)	\$80						\$80
TOTAL	\$80						\$80

Bond Financing Required (If the project or program requires financing, please list type of financing, amount, interest rate, term and annual debt service or payment amount. Please include issuance costs of 3% in listed amount): Not applicable.

Ron Perkerewicz/FE
May 22, 2003
Gleason ORD
Version # 4

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL					

Uses and Sources for Operation and Maintenance Costs for the Project: See note below.

O&M	2003	2004	2005	2006	2007	2008	Total
Uses							
Start Up							
On-going							
Sources (itemize)							

Key Assumptions:

This property acquisition will require some additional maintenance activities by SPU, with minimal costs.

Periodic Major Maintenance costs for the project: None.

Major Maintenance Item	Frequency	Cost	Likely Funding Source
TOTAL			

Funding sources for replacement of project (Identify possible and/or recommended method of financing the project replacement costs):

Not applicable.

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE Impact: None.

Position Title*	Part-Time/ Full Time	2003 Positions	2003 FTE	2004 Positions**	2004 FTE**
TOTAL					

- **Fund Name and Number:** _____
- **Department:** _____

* List each position separately



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May 22, 2003
Gleason ORD
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*** 2004 positions and FTE are total 2004 position changes resulting from this legislation, not incremental changes from 2003.*

- **Do positions sunset in the future?** (If yes, identify sunset date):
Not applicable.

- **What is the financial cost of not implementing the legislation:**
The land may not be available in the future. This would eliminate opportunities to acquire both this property and also additional adjacent land, and maximize project benefits. The purchase price of this property may rise if the acquisition is delayed.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives:**
There are no alternatives to acquiring the property that would enable SPU to provide the desired level of salmon habitat enhancement, drainage control and erosion control at this location.

- **Is the legislation subject to public hearing requirements:**
No.

- **Other Issues** (including long-term implications of the legislation):
The acquisition will result in some additional maintenance activities for SPU, with minimal costs.

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 22, 2003

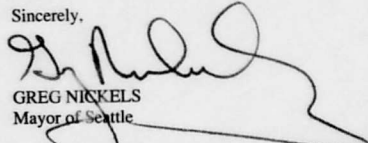
Honorable Peter Steinbrueck
President
Seattle City Council
Municipal Building, 11th Floor

Dear Council President Steinbrueck:

The attached ordinance authorizes and accepts the purchase of property in the Thornton Creek area for drainage control, salmon enhancement and to protect the creek bed from erosion. This project is in conjunction with many citywide efforts to restore salmon to Seattle's creeks and waterways.

Thank you for your consideration of this legislation. Should you have questions please contact Ron Perkerewicz at (206) 615-0741.

Sincerely,


GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us

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STATE OF WASHINGTON - KING COUNTY

--SS.

160752
City of Seattle, Clerk's Office

No. ONLY PUBLICATION

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTOT: 121184-121188 TITLE

was published on

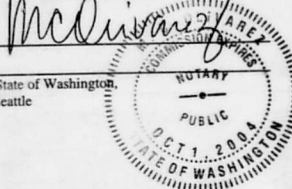
7/9/2003

7/9/2003

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

Subscribed and sworn to before me on



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State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on June 16, 2003, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 056-8344.

ORDINANCE NO. 121184

AN ORDINANCE relating to the West Point Light Station; authorizing submission of an Application to Obtain Historic Light Station Property to the United States Department of Interior for the West Point Light Station site located at the westerly tip of Discovery Park, in accordance with the National Historic Lighthouse Preservation Act of 2000; authorizing the acquisition of the West Point Light Station site subject to the terms and conditions of the Application to Obtain Historic Light Station Property; authorizing negotiation and acceptance of a quitclaim deed for the West Point Light Station site from the United States General Services Administration for park, recreational, educational, and cultural purposes; and authorizing payment of administrative and closing costs.

ORDINANCE NO. 121185

AN ORDINANCE transferring jurisdiction of the surplus York, Whittier, and Alki substation properties from Seattle City Light to the Department of Parks and Recreation for open space, park, and recreation purposes; and making an appropriation from the 2000 Parks Levy Fund for costs and expenses related to the transfer, all by a three-fourths vote of the City Council.

ORDINANCE NO. 121187

AN ORDINANCE authorizing sale of the El Rey Apartments, at 2119 Second Avenue, to the Community Psychiatric Clinic for continued use as low-income housing; authorizing

the Director of the Office of Housing to sign a contract for sale, deed and related documents, and to accept a note and deed of trust in the amount of the purchase price; authorizing provisions for forgiveness of the note beginning after 50 years of authorized use; repealing Ordinance 114600; and ratifying and confirming prior acts.

ORDINANCE NO. 121186

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of certain real property for drainage control and salmon enhancement located in the Thornton Creek area at the intersection of NE 88th Street and 20th Avenue NE, Seattle, King County, Washington; and authorizing acceptance of the deed for such property.

ORDINANCE NO. 121188

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of a portion of certain property owned by the Seattle Housing Authority and located westerly of 10th Avenue South and southerly of East Yeeler Way and right associated therewith; authorizing the Superintendent of Parks and Recreation to accept a special warranty deed conveying the property described herein; authorizing the Superintendent of Parks and Recreation to execute an Interagency Agreement with the Seattle Housing Authority for the replacement of the Yeeler Community Center; and making an appropriation of reimbursable funds from the Seattle Housing Authority to the 1999 Seattle Center/Community Centers Fund to pay costs related to the design of the development planned for the property; all by a three-fourths vote of the City Council.

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