

ORDINANCE No. 121599

10/1/04
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COUNCIL BILL No. 115008

The City of Seattle--Le

AN ORDINANCE authorizing the Superintendent of Parks & Recreation to enter into a management and maintenance agreement with the Finn Hill Park and Recreation District (FHPRD) for Orrian O. Denny Park.

REPORT OF COMMITTEE

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____ report that we have considered the same and respectfully recommend

COMPTROLLER FILE No. _____

| | | | |
|-------------------------|--------------|-----------------|----------------------------------|
| Introduced: | SEP 7 - 2004 | By: | DELA |
| Referred: | SEP 7 - 2004 | To: | Parks, Neighborhoods & Education |
| Referred: | | To: | |
| Referred: | | To: | |
| Reported: | | Second Reading: | |
| Third Reading: | 9/20/04 | Signed: | 9/20/04 |
| Presented to Mayor: | 9/21/04 | Approved: | 9/28/04 |
| Returned to City Clerk: | 10/1/04 | Published: | 2 pp |
| Vetoed by Mayor: | | Veto Published: | |
| Passed over Veto | | Veto Sustained: | |

DP
Move: DD
2nd: JG
A: 2
N: 0

9/20/04 PASSED 9-0

Law Department

Committee C

10/1/04
MCE

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____

report that we have considered the same and respectfully recommed that the same:

DP

Move : DD

2nd : JG

A : 2

N : 0

9/20/04 PASSED 9-0

Law Department

Committee Chair

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NOTICE
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ORDINANCE 121519

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AN ORDINANCE authorizing the Superintendent of Parks & Recreation to enter into a management and maintenance agreement with the Finn Hill Park and Recreation District (FHPRD) for Orian O. Denny Park.

WHEREAS, the City, by and through the Department of Parks and Recreation (DPR), owns and operates Orian O. Denny Park in King County, Washington; and

WHEREAS, on November 7, 2002, voters within the Finn Hill Park and Recreation District (FHPRD) approved Proposition No. 1, creating the FHPRD, a municipal corporation; and

WHEREAS, FHPRD is a public Metropolitan Park District fully incorporated under RCW 35.61.040 to use, occupy, manage, and maintain public parks for recreational purposes for the benefit of the general public; and

WHEREAS, DPR wishes to continue its operation of Orian O. Denny Park in part through the management and maintenance of the park by FHPRD; and

WHEREAS, the parties acknowledge that current City resource constraints and funding priorities would make it difficult for DPR to satisfactorily manage and maintain Orian O. Denny Park without contracting for the services of FHPRD in connection with such management and maintenance; and

WHEREAS, the parties agree that the benefits to the public associated with the provision of management and maintenance services by FHPRD will be substantial;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:



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Section 1. The Superintendent of the Department of Parks and Recreation, or his designee, shall enter into a management and maintenance agreement for Orian O. Denny Park, substantially in the form of Attachment 1 to this ordinance, with the Finn Hill Park and Recreation District.

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

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 20th day of September, 2004, and signed by me in open session in authentication of its passage this 20th day of September, 2004.

Jan Drago

President of the City Council

Approved by me this 28th day of September, 2004.
Gregory J. Nickels

Gregory J. Nickels, Mayor

Filed by me this 1st day of October, 2004.
Quinn E. Lippin

City Clerk

(Seal)

Attachment 1: Finn Hill Management and Maintenance Agreement



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Attachment 1 to DPR Orian O. Denny Park Operation and Maintenance Ordinance

MANAGEMENT AND MAINTENANCE AGREEMENT

Between

THE SEATTLE DEPARTMENT OF PARKS AND RECREATION

And

THE FINN HILL PARK AND RECREATION DISTRICT

For

ORIAN O. DENNY PARK

PARTIES The City of Seattle (City), by and through its Department of Parks and Recreation (DPR), and Finn Hill Park and Recreation District (FHPRD), a metropolitan park district.

PREMISES

The City's Orian O. Denny Park is located at 12032 Holmes Point Drive NE, Kirkland, Washington. For the convenience of the parties, a map of the Park is attached hereto as Exhibit A, which exhibit is incorporated herein by this reference.

RECITALS

WHEREAS, the City, by and through DPR, owns and operates Orian O. Denny Park in King County, Washington; and

WHEREAS, on November 7, 2002, the voters within the Finn Hill Park and Recreation District approved Proposition No. 1, creating the FHPRD; and

WHEREAS, FHPRD is a metropolitan park district, incorporated under RCW 35.61.040 to manage, control, improve and maintain public parks for the benefit of the general public; and

WHEREAS, DPR wishes to continue its operation of Orian O. Denny Park in part through the management and maintenance of the park by FHPRD as provided for herein; and

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Attachment 1 to DPR Orian O. Denny Park Operation and Maintenance Ordinance



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WHEREAS, the parties intend through this Agreement to serve as role models for environmentally-friendly practices in public parks and to develop a programmatic approach that promotes sound environmental stewardship and volunteerism in public parks; and

WHEREAS, the parties further intend to provide public recreational opportunities that foster greater awareness, appreciation and knowledge of park environments; and

WHEREAS, the parties share a commitment to serving diverse public audiences in public parks; and

WHEREAS, the parties agree that Orian O. Denny Park has been and should continue to be managed as a multi-use park, with the high-use, open portions west of Holmes Point Drive NE managed and maintained more actively as a semi-urban park, and the wooded sections south of the parking lot and east of Holmes Point Drive NE managed with minimal impact to remain more natural, native preserves within the surrounding urban environment; and

WHEREAS, the parties acknowledge that current City resource constraints and funding priorities would make it difficult, if not impossible, for DPR to satisfactorily manage and maintain Orian O. Denny Park without contracting for the services of FHPRD in connection with such management and maintenance; and

WHEREAS, the parties agree that the benefits to the public associated with the provision of management and maintenance services by FHPRD will be substantial; and

WHEREAS, the public will further benefit from the direct financial contributions to the maintenance of Orian O. Denny Park that FHPRD will make as provided for herein; and

WHEREAS, DPR and FHPRD wish to enter into this Agreement for the purpose of granting FHPRD immediate access for the management and maintenance of Orian O. Denny Park.

NOW, THEREFORE, in consideration of the mutual promises, terms, conditions and covenants described herein, DPR and the FHPRD agree as follows:



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ARTICLE 1 – PURPOSE AND GRANT OF ACCESS AND USE AND OBLIGATION TO
MANAGE AND MAINTAIN

- 1.1 DPR hereby grants to FHPRD the right to operate, access, manage, maintain, use, and occupy the City's Orian O. Denny Park during the Term of this Agreement for the purposes of allowing continued use of the park by the public, and to provide maintenance to certain portions of the park to accommodate that public use and promote seasonal recreational opportunities.
- 1.2 The grant of rights to FHPRD is limited to the term of this Agreement, and creates no additional or longer-term rights of any kind in FHPRD. The rights granted to FHPRD hereunder are not transferable or assignable, either in whole or in part unless approved in writing by the Superintendent of DPR. This Agreement is subject to termination by either party for any reason, including their convenience, upon 90 days' advance written notice by that party mailed to the other party, at the addresses shown herein. This Agreement is also subject to immediate termination by either party upon 30 days' written notice in the event the other party breaches any of its material obligations hereunder.
- 1.3 For the purposes of delivering notices and for routine business activities, the following are the official addresses and contact individuals of the parties to this Agreement:
- | | |
|--|--|
| Seattle Department of Parks and Recreation | Finn Hill Park and Recreation District |
| B.J. Brooks, Deputy Superintendent | Rick Smith, Commissioner |
| 100 Dexter Avenue North | P.O. Box 2792 |
| Seattle, WA 98109 | Kirkland, WA 98083 |

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1.4 ANNEXATION

If the FHPRD should be annexed by another government entity then this Agreement may be terminated by either party upon 30 days' written notice.

ARTICLE 2 - DEFINITIONS

- 2.1. "Approval" (or "Approved") means the prior written consent of a party or an authorized designee thereof, or lack of disapproval within 30 days of receiving a written request for such approval.
- 2.2. "Gross Receipts" means all program receipts, fees from other users, rents, class fees, and other earned income actually received by FHPRD from programming or retail sales in Orian O. Denny Park during the term of this Agreement.
- 2.3 "Superintendent" means the Superintendent of the City of Seattle Department of Parks and Recreation or the Superintendent's designee.

ARTICLE 3 - INCLUDED AREA AND TERM OF AGREEMENT

3.1. AREA INCLUDED IN AGREEMENT

The area subject to this Agreement is Orian O. Denny Park. It has been and should continue to be managed as a multi-use park, with the high-use, open portions west of Holmes Pt. Dr. NE managed and maintained more actively as a semi-urban park, and the wooded sections south of the parking lot and east of Holmes Point Drive NE managed with minimal impact to remain more natural, native preserves within the surrounding urban environment. There are no established swimming beaches on the Premises.

No private vehicles shall have access across park property without written permission from FHPRD, except in designated parking areas which are open to members of the public while using the park. Under this permit, use of the park shall be limited to public activities consistent with customary use of public parks.

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3.2. TERM OF AGREEMENT...

This Agreement shall become effective when executed by both parties and shall expire at 11:59 PM on December 31, 2008. In the event an additional levy is approved by voters at the expiration of the existing FHPRD levy, then this Agreement may be extended for an additional term equal to the term of the new levy.

ARTICLE 4 – INDEMNIFICATION AND/INSURANCE

4.1 MUTUAL HOLD HARMLESS AND INDEMNIFICATION

Each party hereby agrees to hold harmless, indemnify and defend the other party, its officers, employees, and agents, from and against any and all losses, claims, actions, costs, damages and expenses (including attorneys' fees) related to bodily injury (including death) or damage to property arising out of or resulting from its negligent acts or omissions and those of its officers, employees and agents, or its failure to comply with the terms and conditions of this Agreement. The provisions of this section shall survive the earlier termination or expiration of this Agreement. For purposes of fully effectuating this indemnity provision, the parties hereby waive their immunity under Title 51 RCW with respect to one another, only.

4.2 INSURANCE

4.2.1. GENERAL

FHPRD shall obtain and thereafter maintain continuously throughout the term of this Agreement, at no expense to the City, the policy or policies of insurance listed below. FHPRD and its contractors and agents shall provide acceptable proof of such coverage to DPR and the City Risk Manager.

Failure of the FHPRD to fully comply with the insurance requirements will be considered a material breach of the Agreement. The insurance shall protect the City from any and all claims and risks in connection with any activity performed by FHPRD by virtue of this Agreement or any use and occupancy of the property authorized by this Agreement.

4.2.2. REQUIRED COVERAGES

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1. Commercial General Liability Insurance: A policy of Commercial General Liability insurance, written on an insurance industry standard occurrence form (CG 00 01) or equivalent, including all the usual coverages known as:
 - a. Premises/Operations Liability
 - b. Products/Completed Operations
 - c. Personal/Advertising Injury
 - d. Contractual Liability
 - e. Independent Contractors Liability

Such policy(ies) must provide the following minimum coverage limits:

Bodily Injury, Property Damage, Personal Injury and Advertising Injury

- a. \$ 1,000,000 General Aggregate
- b. \$ 1,000,000 Products & Completed Operations Aggregate
- c. \$ 1,000,000 Personal & Advertising Injury
- d. \$ 1,000,000 Each Occurrence
- e. \$ 100,000 Fire Damage Legal

Stop Gap/Employers Liability

- a. \$ 1,000,000 Each Accident
- b. \$ 1,000,000 Disease – Policy Limit
- c. \$ 1,000,000 Disease – Each Employee

2. Business Automobile Liability: A policy of Business Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent, and as specified by Insurance Services Office Symbol 1 (any auto). The policy must provide a \$1,000,000 per accident minimum liability limit.
3. Excess Insurance: A policy in excess of the Commercial General Liability and Business Automobile Liability policies that will provide a total minimum limit of insurance of \$3,000,000 each occurrence and in the aggregate where applicable. The excess policy must be at least as broad as the primary policies.

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Such insurance as is provided under items 1, 2 and 3 above, shall be endorsed to include the City of Seattle, its officers, elected officials, employees, agents and volunteers as additional insured using ISO form CG 20 10 11 85 or CG 20 26. In addition, FHPRD's insurance shall be primary as respects the City. Any other insurance maintained by the City shall be excess and not contributing insurance with FHPRD's insurance.

4.2.3 DEDUCTIBLES

If FHPRD's insurance contains a deductible (or self-insured retention amount) FHPRD shall:

1. Disclose such amount.
2. Be responsible for payment of any claim equal to or less than the deductible (or self-insured retention amount).

The City reserves the right to reject any insurance policy with a deductible (or self-insured retention amount) for which adequate financial strength of FHPRD cannot be demonstrated to the satisfaction of the City.

4.2.4 CONDITIONS

The insurance policy or policies, endorsements thereto, and subsequent renewals shall:

1. Be subject to approval by the City as to company, form and coverage. The insurance company shall be:
 - a. Rated A- VII or higher in the A.M. Best's Key Rating Guide.
 - b. Licensed to do business in the State of Washington or be filed as surplus line by a Washington surplus line broker.
2. Include a provision (whether by endorsement or otherwise) indicating that, except with respect to the limits of insurance and any rights or duties specifically assigned to the first named insured, the insurance shall apply:



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- a. As if each party insured thereunder (whether as a named insured, additional named insured, or additional insured) were the only party insured by such policy; and
 - b. Separately to each insured against whom a claim is made or a suit is brought.
3. Not be reduced or canceled without forty-five (45) days prior written notice to the City.
 4. Include all subcontractors as insureds. Alternatively, FHPRD shall obtain from each subcontractor not insured under FHPRD's policy or policies of insurance, evidence of insurance meeting the requirements of Section 4.2.

4.2.5 EVIDENCE OF INSURANCE

Evidence of insurance shall be demonstrated by submitting a copy (photocopy or facsimile acceptable) of the declarations pages of the policy, the endorsement forms list, and the additional insured endorsement. The declarations pages shall clearly show the insurer, policy effective dates, policy number, policy limits, and named insured. Any reference to premiums may be blacked out. However at the option of the City, FHPRD may be required to submit a copy of the insurance policy, all referenced endorsements, or both. Certificates of Insurance (ACORD forms) will not be accepted as evidence of insurance.

Evidence of insurance for each policy shall be signed by an authorized representative of the insurance company, show the policy number and name of the insured on the endorsement, and comply with all of the requirements for insurance set forth in Section 4.2.

ARTICLE 5 – GENERAL TERMS AND CONDITIONS

5.1 PERMITS / APPROVALS / REGULATIONS



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FHPRD, its contractors or agents, must obtain all necessary permits and approvals required by applicable federal, state and local laws, ordinances, rules and regulations to perform any work on park property. Orian O. Denny Park is located in King Co., and is therefore subject to the applicable laws of King County.

5.2 VOLUNTEERS

FHPRD may use volunteers to assist in its maintenance of the Orian O. Denny Park and for the provision of seasonal programs. Individual volunteers may be included in DPR's volunteer insurance program.

5.3 OUTDOOR FIRES AND BURN BANS

FHPRD shall follow all applicable state and local laws and regulations related to outdoor burning (include those related to "burn bans") during the City of Seattle Christmas Ship schedule of activities, where supervised and controlled bonfires have sometimes been permitted in the past. No other burning on the property, except for charcoal picnic fires, is allowed or approved under this Agreement.

5.4 RESPONSIBILITIES

FHPRD agrees to maintain Denny Park to the standard that the parties have mutually agreed to, and as prescribed in Exhibit B, attached hereto. This may be accomplished via subcontract and volunteer labor. FHPRD's responsibilities include recurring maintenance to the standards attached as Exhibit B, as well as minor capital improvements and repairs, "minor" being defined as less than \$2000 per occurrence and \$5,000 (five thousand dollars) aggregate per calendar year. FHPRD agrees to provide for daily opening and closing of the park that are consistent with DPR park opening and closing schedules, and to work with King County Police to ensure that King County laws are enforced within the park. In conducting their work, FHPRD and its contractors and agents shall protect all park property and improvements, including but not limited to trees, plantings, grass, asphalt surfaces, irrigation facilities and drainage, from any damage which may occur as a result of their maintenance of the park.



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As owner of the Park, DPR agrees to remain responsible, and contingent on available funds, to implement major repairs and/or improvements to the park (greater than \$2000 per occurrence), including all capital facilities, whether these repairs are due to natural deterioration or vandalism. DPR agrees to provide prompt review of FHPRD requests for changes within the park.

5.5 PERSONAL PROPERTY

Placement and/or temporary storage of personal property, equipment, vehicles, or materials of any kind on park property (for example, while maintaining the park) shall be at FHPRD's sole liability and risk.

5.6 STANDARDS

DPR and FHPRD shall jointly set or otherwise determine all standards for park maintenance and shall jointly review the adequacy of conformance to the requirements set forth herein. For the purposes of this Agreement, such standards will be deemed to have been met in the event FHPRD satisfactorily meets the maintenance program standards set forth in Exhibit B, which exhibit is attached hereto and incorporated herein by this reference.

5.7 DPR and FHPRD will notify the other party whenever maintenance is planned for the park.

5.8 DPR and the FHPRD agree that to work together to identify and implement, as funds are available, mutually agreed upon capital and major maintenance investments that are necessary for the park.

ARTICLE 6 – FEES AND CHARGES

6.1 FHPRD shall be entitled to all gross receipts from service activities, user fees, concessions, and activities which it deems appropriate (with DPR concurrence) to authorize, charge, or permit during the term of this agreement.

6.2 In the event that tax revenues are reduced or become unavailable to FHPRD for unforeseen reasons, with the Superintendent's concurrence, FHPRD may reduce park maintenance and other services to stay within its established budget.



ARTICLE 7 – NOTICES

All notices or documents required by this Agreement shall be in writing and shall be sufficiently given if either personally served upon the other party or sent via the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed as shown in this Agreement of this Agreement or by such other means as the parties agree, or to such other address as either party hereto may specify for itself in a notice to the other.

ARTICLE 8 – MISCELLANEOUS PROVISIONS

- 8.1 Amendments. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- 8.2 Binding Agreement. This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors, and assigns.
- 8.3 Applicable Law/Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.
- 8.4 Remedies Cumulative. Rights under this Agreement are cumulative and nonexclusive of any other remedy at law or in equity.
- 8.5 Captions. The titles of sections are for convenience only and do not define or limit the contents.
- 8.6 Severability. If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.7 Waiver. No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of



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the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by the City of any performance by the FHPRD after the time the same shall have become due nor payment to the FHPRD for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City, in writing.

8.8. Entire Agreement. This document, along with any exhibits and attachments, constitutes the entire agreement between the parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of the City and any officer, agency, employee or associate of FHPRD prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.

8.9. Negotiated Agreement. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

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

FINN HILL PARK AND RECREATION DISTRICT

_____, 2004

Richard D. Smith
Commissioner and Chair, Finn Hill Park and Recreation District

IN WITNESS WHEREOF, the parties have executed this contract:

STATE OF WASHINGTON
COUNTY OF KING

I certify that I know of or have satisfactory evidence that _____ signed this instrument, on oath stated he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

(Signature of Notary Public) Dated: _____

(Printed name)
Residing at:
My appointment expires:



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THE CITY OF SEATTLE DEPARTMENT OF PARKS AND RECREATION

Date: _____, 2004
Kenneth R. Bounds, Superintendent
City of Seattle Department of Parks and Recreation

STATE OF WASHINGTON
COUNTY OF KING

I certify that I know or have satisfactory evidence that Kenneth R. Bounds signed this instrument, on oath stated that she was authorized to execute this instrument and acknowledged it as the Superintendent of the Department of Parks and Recreation of The City of Seattle to be the free and voluntary act of The City of Seattle for the uses and purposes mentioned in this instrument.

Date: _____
(Signature of Notary Public)

(Printed name)

Residing at:

My appointment expires:

EXHIBIT A – Map Of Orian O. Denny Park
EXHIBIT B –Maintenance Standards As Supplied By FHPRD



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EXHIBIT B - MAINTENANCE STANDARDS
RECURRING MAINTENANCE OF ORIAN O. DENNY PARK
STATEMENT OF WORK

Notes:

- A. It is agreed that FHPRD shall use the services of professional contractors to carry out the maintenance of Orian O. Denny Park.
- B. It is agreed that minor modifications, additions or deletions to content or frequency of tasks may be made from time to time by the Finn Hill Park and Recreation District (FHPRD), as appropriate.
- C. It is agreed that the tasks in the Statement of Work below apply only to those parts of the park which are west of Holmes Pt. Drive, unless otherwise explicitly stated.

STATEMENT OF WORK

I. Plant Materials, Natural Bed Areas

Maintain all trees, shrubs, and groundcover of the lawn area in the park in a healthy, growing condition, by performing the following operations and other work specified.

- a) Pruning (lawn and parking areas only). Pruning of trees, shrubs, and hedges shall be done as follows and all pruning must be done under the supervision of a certified arborist.
 - 1. Fertilize Shrubs & Beds. The shrubs and plant beds throughout the park should be fertilized once a year.
 - 2. Trees, shrubs, and hedges, should be shaped, trimmed, or sheared to maintain shape and function, and to keep a neat trim appearance.
 - a. The lower branches of trees should be raised above head height wherever they overhang walks or paths. A minimum of eight (8) feet of vertical clearance and a minimum of one (1) foot of horizontal clearance must be maintained. Singular branches, which are hanging below the overall tree canopy and are an impediment to pedestrian traffic or maintenance activities, should be pruned back to the first lateral. Trees which require minor clearance pruning shall be pruned to the closest lateral or, if such pruning will result in stubbing the branch, prune branch to tree collar.
 - b. The FHPRD shall monitor and mitigate any significant tree hazards including, but not limited to: dead native and ornamental trees, broken limbs, disease and insect infestation.
 - 3. Cut back shrubs and ground cover to prevent encroachment into shrubs, trees, buildings, retaining walls, fences, and utility vaults. Shrubs and ground cover shall be trimmed at the edge of hard surfaces (sidewalks and curbs) and bed areas. All ground cover should be



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trimmed back in beds, walkways shall be kept free of ground cover. All ivy in beds around shelter shall be kept trimmed back.

4. Remove suckers, and other undesirable growth on trees and shrubs, in and adjacent to the lawn and parking areas only.
5. Naturalized bulbs in shrub beds and tree circles shall be dead-headed after blooming and the foliage cut back once die-back is apparent.
6. Major pruning of deciduous trees and shrubs shall be done during the dormant season. Minor pruning may be done at any time.

b) Weed/Disease/Pest Control

1. All bed areas should be kept clear of weeds, leaves, debris and brush. Trees, shrub, and groundcover areas shall be kept free of weeds.
2. Weeding may be done by mechanical and/or chemical means. All spraying shall be done in compliance with all federal, state, and local laws and regulations. No chemicals are to be used in within the Orian. O. Denny Creek buffer zone (defined as the area between the rail fences on either side of the creek), and the north park area wetlands.
3. Any damage to desirable plant material due to negligence or misuse of pesticides or herbicides will be remedied in a timely manner.
4. Minor pest control up to 12 feet vertical on all trees; and for all shrubs and groundcover. Major infestations requiring large-scale pesticide applications shall be contracted to commercial applicators.
5. The FHPRD may remove dead and damaged plants and replace the same with plants of equivalent size, condition, and variety.
6. Plant materials supplied by the FHPRRD shall be of suitable quality.

c) Irrigation: N/A

Lawn Care

Maintain all lawns a healthy, growing condition by performing the following operations and other work specified for each site:

- a) Aerate Turf. Lawn areas if specified shall be aerated each year and overseeded in accordance with the frequency noted in Exhibit B.
- b) Edging. All lawn edges shall be edge trimmed after each mowing. This edge trimming includes cutting grass along walls, fences, foundations, curbs, sidewalks, paths, shrubs, tree trunks, poles, or any other object or structure within or bordering the lawn areas. Edging shall be done by powered edging equipment.



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c) Fertilizing/Herbicides

1. Lawn area shall be fertilized as required, as determined by the FHPRD and the maintenance subcontractor. The use of herbicides shall be done in accordance with all local, state and federal statutes. The FHPRD has the discretion to increase or decrease the number of fertilizer applications per year.
2. Fertilization should be scheduled prior to projected precipitation. Burning of grass due to improper fertilization work on lawn areas shall be considered property damage and shall be corrected.

d) Mowing: Mowing shall occur on all grassy areas west of Holmes Point Drive, and as needed on the small grassy area east of Holmes Point Drive. Lawn areas shall be mowed to a uniform height of 2-3 inches, so as to maintain a neat, trim appearance. All paper, rubbish, or debris shall be removed from each lawn area prior to mowing. Mowing shall be done during the growing season, from April through November. Mowing from December through March shall be at the discretion of the FHPRD. If mowing or equipment use results in clumping of grass clippings, these clippings shall be picked up and removed to the composting areas at the east end of the gravel parking lot, or removed from the site.

e) Watering: N/A

f) Weed/Pest Control

1. The FHPRD shall be responsible for the selection and use of insecticides, fungicides, herbicides, and rodenticides, and for the specific applications for which the same may be used. Any property damage resulting from the use of such pesticides shall be the responsibility of the FHPRD.
2. Lawn areas shall be kept free of weeds. Weeding may be done by the use of selective weed killers or pre-emergent sprays.
3. If poison baits are used for the control of moles, ground squirrels, rodents and gophers, such baits shall be placed so as not to create a hazard to persons or pets. Any property damage, health hazards and environmental impacts resulting from the use of such pesticides shall be the responsibility of the PHPRD.

Hard Surfaces

The entrance drive, parking areas, sidewalks, curbs, and other hard surfaces shall be kept free of leaves, litter, and debris. The use of power blowers is acceptable, however, accumulations of debris must be removed from the site and not blown unto adjacent property, street surfaces, fence lines, or planting areas (rough or bedded).

Undesired vegetation in sidewalks, curbs and other hard surfaces may be removed by use of herbicides. In no case shall any pre or post emergent herbicides with residual characteristics (e.g. Casoron) be used in these areas.

IV. Other Services:

- a) The Park shall be opened daily no later than 8:00 am. Opening The Park shall include unlocking and opening the gates to the west (paved) and east (gravel) parking lots and



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unlocking the bathrooms and shower areas.

- b) Litter shall be collected, trash cans shall be emptied, new liners installed in trashcans, and trash removed from the site on a schedule to be determined by the FHPRD. All litter and animal feces shall be removed from turf, bed, and hard surface areas.
- c) Restrooms shall be cleaned on a schedule to be determined by the FHPRD. This cleaning shall include supply and replacement of toilet paper, towels, and soap, disinfection and hosing out of the restroom building, and minor unplugging of plumbing as required. Cleaning shall be performed in accordance with all applicable local, state, and federal statutes and standards.
- d) The restrooms shall be winterized on December 1 and de-winterized on March 1.
- e) Graffiti from restrooms (internal and external), from all structures and parking lots shall be removed within 48 hours of discovery.
- f) FHPRD shall operate a picnic shelter reservation line from 8 am to 5 pm Monday through Friday (except holidays) during the months from April through October. During this time, FHPRD shall post reservations at the shelter once a week.
- g) The picnic and shelter area shall be cleaned at regular intervals. All leaves and litter shall be collected and removed from the shelter area.
- h) FHPRD shall add gravel to the parking lot east of Holmes Point Drive and grade to produce smooth surface. The need for and frequency of this activity shall be determined by the FHPRD and the maintenance subcontractor.
- i) Drains should be cleaned and checked each week and any garbage or debris should be removed from them to allow for proper drainage. Additional drainage work may be included in the annual work program.
- j) Leaves covering turf areas shall be removed from the site or composted. Leaves may be mulched and returned to the turf areas. Leaves within the beds, and on hard surfaces such as paths and parking lots shall be removed from the site or composted. The use of power blowers is acceptable; however, debris accumulations must not be blown onto adjacent street surfaces. Leaves may be blown into adjacent natural areas where applicable; otherwise accumulations should be removed from the site or composted.
- k) Windfall branches and debris shall be removed from all developed areas.
- l) An overall, park safety check should be done weekly at each park checking all structures, equipment, fences, benches, etc. at the park for any unsafe conditions.



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Barry Firth
Date: July 30, 2004
DPR Orian O. Denny Park Ordinance
Version #: 02

Form revised February 12, 2004

FISCAL NOTE FOR NON-CAPITAL PROJECTS

| Department: | Contact Person/Phone: | DOF Analyst/Phone: |
|--------------------|-----------------------|-----------------------------|
| Parks & Recreation | Barry Firth, 684-8002 | Marilynne Gardner, 233-5109 |

Legislation Title:

AN ORDINANCE authorizing the Superintendent of Parks & Recreation to enter into a management and maintenance agreement with the Finn Hill Park and Recreation District (FHPRD) for Orian O. Denny Park.

• **Summary of the Legislation:**

The proposed Council Bill will authorize an agreement with the FHPRD and enable it to manage and maintain the City's park through December 2008.

Background: The City owns and operates Orian O. Denny Park, located in King County, Washington. Historically, King County operated and maintained the park at an annual cost of approximately \$5,000 to \$10,000. Due to budget constraints, the County discontinued this funding in January 2001 and the park was left unattended for most of the year. On November 7, 2002, voters within the Finn Hill Park and Recreation District approved Proposition No. 1, creating the FHPRD, a municipal corporation fully incorporated under RCW 35.61.040 to use, occupy, manage, and maintain public parks for recreational purposes for the benefit of the general public. The Department of Parks and Recreation (DPR) wishes to continue its operation of Orian O. Denny Park through the use, occupancy, management and maintenance of the park by FHPRD. As a Metropolitan Park District with taxing authority, the FHPRD will assume responsibility for the park and will fund O&M costs from tax revenues collected annually. The agreement requires the FHPRD to maintain the park to standards established by DPR. Current City resource constraints and funding priorities would make it difficult for DPR to satisfactorily manage and maintain Orian O. Denny Park without contracting for the services of FHPRD.

- 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 all relevant sections that follow.)



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 DPR Orian O. Denny Park Ordinance
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Anticipated Revenue/Reimbursement: Resulting From This Legislation:

| Fund Name and Number | Department | Revenue Source | 2004 Revenue | 2005 Revenue |
|----------------------|------------|----------------|--------------|--------------|
| | | | | |
| TOTAL | | | | |

Notes

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE

Impact: Not applicable

| Position Title and Department* | Fund Name | Fund Number | Part-Time/Full Time | 2004 Positions | 2004 FTE | 2005 Positions** | 2005 FTE** |
|--------------------------------|-----------|-------------|---------------------|----------------|----------|------------------|------------|
| | | | | | | | |
| TOTAL | | | | | | | |

Notes:

- **Do positions sunset in the future?** This is not applicable.

Spending/Cash Flow

| Fund Name and Number | Department | Budget Control Level* | 2004 Expenditures | 2005 Anticipated Expenditures |
|----------------------|------------|-----------------------|-------------------|-------------------------------|
| | | | | |
| TOTAL | | | | |

Notes: Annual operating and maintenance costs of approximately \$10,000 are solely funded by the FHPRD and implemented through the proposed agreement with the City. DPR will not incur or be obligated for any expenditure in 2004 or 2005 as a result of this legislation

- **What is the financial cost of not implementing the legislation?**

The City would have to operate and maintain the park, which historically has not been funded by the City, or close the park.

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

As an alternative, another citizens group would come in and manage this park. However, this is a remote possibility.



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• **Is the legislation subject to public hearing requirements:**

No.

• **Other Issues:**

While there have been no major investments or maintenance done at the park for the last 5 years, DPR has performed roofing work on the picnic shelter totaling about \$3,000. Thus, there may be a possibility of the City contributing resources for major improvements to the facility if it begins to show signs of wear and tear. Funding for this purpose would compete with other DPR parks requiring major maintenance. At this point, inspections of the facility found that the park is in satisfactory condition and that major maintenance work is not expected for at least 4 or 5 years. The proposed agreement does state that the FHPRD and DPR will work together to undertake such work as needed and as funding is available.

Please list attachments to the fiscal note below:

None.

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 17, 2004

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

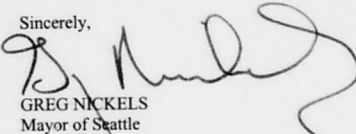
Dear Council President Drago:

The attached Council Bill authorizes the Superintendent of Parks and Recreation to enter into an agreement with the Finn Hill Park and Recreation District (FHPRD) for the management and maintenance of the City's Orian O. Denny Park located in King County (City of Kirkland). The agreement with FHPRD replaces a previous maintenance agreement with King County.

King County maintained Orian O. Denny Park for many years. However, in 2001, the County experienced budget constraints and was unable to continue funding maintenance of this park. The park was left unattended much of that year. In 2002, voters within the nearby community created the FHPRD, a Metropolitan Park District that has taxing authority, to address the need for continued park maintenance. The FHPRD has agreed to manage and maintain the park to standards established by the Department of Parks and Recreation at no cost to the City. The FHPRD has been maintaining the park as needed while this agreement was being negotiated and finalized.

This agreement allows Orian O. Denny Park to stay open. Thank you for your consideration of this legislation. Should you have questions, please contact Barry Firth at 684-8002.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



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STATE OF WASHINGTON - KING COUNTY

--SS.

177522
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

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

CT:121586,596-605 (121599)

was published on

10/5/2004



Michael D. [Signature]

Subscribed and sworn to before me on

10/5/2004

Jennifer A. Peyer [Signature]

Notary public for the State of Washington,
residing in Seattle

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City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 20, 2004, 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 684-8344.

ORDINANCE NO. 121605

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 121604

AN ORDINANCE amending the 2004 Adopted Budget; changing appropriations to various departments and from various funds in the Budget, all by a three-fourths vote of the City Council.

ORDINANCE NO. 121603

AN ORDINANCE authorizing Seattle Public Utilities to enter into a memorandum of agreement regarding the construction, funding and maintenance of a natural drainage system pilot project at Seattle Housing Authority's High Point Redevelopment.

ORDINANCE NO. 121602

AN ORDINANCE relating to Seattle Public Utilities; authorizing the grant of an easement to King County for roadway and storm drainage purposes over, under and across a portion of the City of Seattle's Cedar River Pipeline right of way, in Section 15, Township 22 North, Range 6 East, W.M. in King County, Washington.

ORDINANCE NO. 121601

AN ORDINANCE relating to a Seattle Public Utilities water main; declaring that water main surplus to the City's needs, authorizing sale of that water main to Northshore Utility District, and authorizing execution of documents necessary to accomplish the sale.

ORDINANCE NO. 121600

AN ORDINANCE relating to the transfer of real property from King County to the City of Seattle; authorizing the Mayor to enter into an intergovernmental land transfer agreement with King County providing for the transfer to the City of real property located at 9025 4th Avenue South in the South Park neighborhood for park, recreation, and open space purposes; and authorizing the acceptance of the deed.

ORDINANCE NO. 121599

AN ORDINANCE authorizing the Superintendent of Parks & Recreation to enter into a management and maintenance agreement with the Finn Hill Park and Recreation District (FHRD) for Dragan O. Denny Park.

ORDINANCE NO. 121598

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the execution of a Memorandum of Agreement with the Seattle School District No. 1 to fund, develop and manage the Rainier Beach Public Plaza.

ORDINANCE NO. 121597

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with Seattle Works for space in the West Court Building at Seattle Center.

ORDINANCE NO. 121596

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with The Basketball Club of Seattle, LLC for space in the West Court Building at Seattle Center.

ORDINANCE NO. 121595

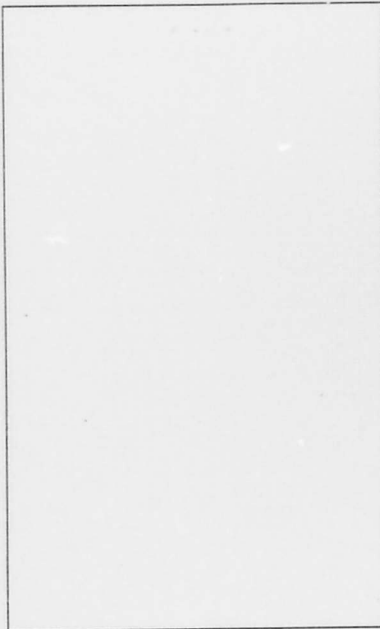
AN ORDINANCE relating to the Neighborhood Parks, Green Spaces, Trails, and Zoo Levy; authorizing the acquisition of real property commonly known as Fremont Park Addition; authorizing acceptance of the deed for open space, park and recreation purposes; abandoning an appropriation; authorizing acceptance of a donation; increasing appropriations to the Department of Parks and Recreation in the 2004 Budget; all by a three-fourths vote of the City Council.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 5, 2004.

10/04/2004

State of Washington, King County



Page 2 of affidavit

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