

Ordinance No. 122360

Council Bill No. 115842

AN ORDINANCE relating to Seattle Public Utilities' Cedar River Habitat Conservation Plan (HCP) Downstream Habitat Protection and Restoration Program; amending that department's Agreement for Acquisition and Management of Fish Habitat with Cascade Land Conservancy.

CF No. _____

Date Introduced:	3-12-07	
Date 1st Referred:	3-12-07	
Date Re - Referred:	To: (committee) Environment Emergency Management & Utilities	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 9-0	
Date Presented to Mayor:	Date Approved: 3-26-07	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin
Councilmember

Committee Action:

3/16/07 passed unanimously 7-0 yes conlin, Clark

3-19-07 Passed 9-0

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

Committee: RC 3/16/07
(initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

RCW

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ORDINANCE 122360

AN ORDINANCE relating to Seattle Public Utilities' Cedar River Habitat Conservation Plan (HCP) Downstream Habitat Protection and Restoration Program; amending that department's Agreement for Acquisition and Management of Fish Habitat with Cascade Land Conservancy.

WHEREAS, the Director of Seattle Public Utilities (SPU) was authorized to enter into an Agreement for Acquisition and Management of Fish Habitat (Agreement) with Cascade Land Conservancy (CLC) to acquire fish habitat lands in the lower Cedar River to satisfy the City's HCP commitments; and

WHEREAS, the Agreement authorizes SPU to convey to CLC a conservation-stewardship easement, which obligates CLC to protect and provide stewardship for the acquired properties for the term of the HCP (through 2050); and

WHEREAS, the Cooperative Endangered Species Conservation Fund (CESCF), administered by the United States Fish and Wildlife Service, makes grants available to States, under the HCP Land Acquisition Grant Program, to support land acquisitions by State and local governments that complement actions associated with an HCP; and

WHEREAS, the Washington Department of Fish and Wildlife (WDFW), working in collaboration with the United States Fish and Wildlife Service, solicited 2005 CESCF grant proposals for projects located in Washington State; and

WHEREAS, SPU submitted a grant proposal and has been awarded a CESCF grant (titled "Cedar River Phase 3 Acquisitions") under the HCP Land Acquisition Grant Program for acquisition of lands and the protection and preservation of fish and wildlife habitat along the lower reaches of the Cedar River, below the City's municipal watershed ownership boundary; and



1 WHEREAS, the terms of the Project Grant Agreement (No. 06-1321) with WDFW require that
2 the properties be "managed in perpetuity to protect and enhance fish and wildlife habitat
3 and the species listed in the proposal" and prohibit SPU from conveying any property
4 interest in lands acquired with CESCOF grant funding to other parties, including CLC; and

5 WHEREAS, SPU desires to retain CLC to provide stewardship services for lands acquired with
6 CESCOF funding without conveying a conservation-stewardship easement to CLC; and

7 WHEREAS, SPU seeks to expand the list of target acquisition parcels under this program to
8 improve its ability to find willing sellers of property that contains high fish habitat values
9 and habitat restoration potential;

10 NOW, THEREFORE,

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

12 Section 1. The Director of SPU or his designee is hereby authorized to accept, execute,
13 deliver and perform, on behalf of the City of Seattle, the Amendment to the Agreement for
14 Acquisition and Management of Fish Habitat with Cascade Land Conservancy, substantially in
15 the form shown in Attachment 1.

16 Section 2. Any act taken after the passage but prior to the effective date of this ordinance
17 and consistent with its authority is hereby ratified and confirmed.
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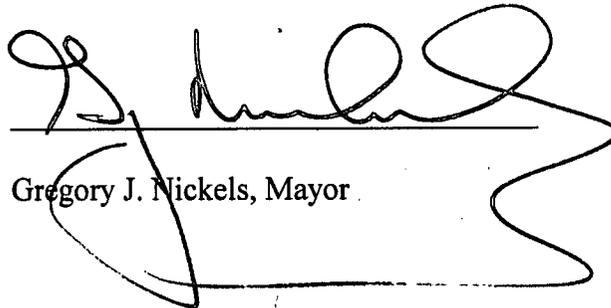
1 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 19th day of March, 2007, and signed by me in open
5 session in authentication of its passage this 19th day of March, 2007.

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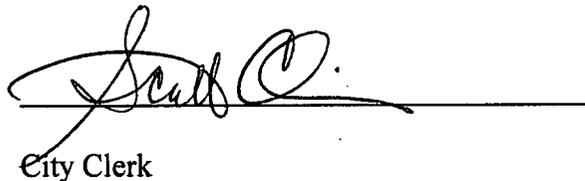
9 President _____ of the City Council

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11 Approved by me this 26th day of March 2007.

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15 Gregory J. Nickels, Mayor

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18 Filed by me this 27th day of March, 2007.

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21 City Clerk

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23 (Seal)

24 [Attachment 1: Agreement to Amend the Agreement for Acquisition and Management of Fish
25 Habitat]



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

February 20, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am transmitting the attached proposed Council Bill authorizing Seattle Public Utilities (SPU) to execute property-specific stewardship agreements with the Cascade Land Conservancy (CLC), providing for CLC's stewardship services on fish habitat lands in the lower Cedar River. The legislation also adds 23 parcels to the list of targeted property acquisitions.

In August 2005, the City Council authorized SPU to enter into an agreement with CLC for the acquisition and stewardship of fish habitat lands in the lower Cedar River. This was done as part of the City's Cedar River Habitat Conservation Plan (HCP), under which SPU conveys Conservation-Stewardship Easements to CLC in exchange for CLC's stewardship of the lands through the term of the HCP. The City later received a \$1.5 million federal grant to supplement the HCP land acquisition program. Because perpetual protection of the acquired lands is mandatory under the federal grant program, there is no need to convey a property interest to CLC to protect the property for the land acquisitions funded by the federal grant. Although the City will not give a Conservation-Stewardship easement for grant-funded property acquisitions, we still need a mechanism by which we can contract with CLC to provide stewardship services.

The attached Bill gives SPU the authority to enter into a separate service-type agreement with the CLC for stewardship services for those habitat lands acquired with federal grant funding, and for which the City will not convey an easement to CLC. It also expands the list of properties that the Council authorizes SPU to acquire under its agreement with CLC by adding 23 parcels to the list of 131 parcels, which is an exhibit to the original agreement.

Thank you for your consideration of this legislation. Should you have questions, please contact Cyndy Holtz of Seattle Public Utilities at 386-1990.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Greg Nickels'.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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ATTACHMENT 1 TO ORDINANCE

**AGREEMENT TO AMEND
THE
AGREEMENT FOR ACQUISITION AND MANAGEMENT OF FISH HABITAT**

This Agreement amends the Agreement for Acquisition and Management of Fish Habitat ("Agreement") by and between the City of Seattle ("City") and the Cascade Land Conservancy ("CLC")(jointly, "Parties"), entered into on the ____ day of _____, 2005, and authorized by Ordinance 121928, for purposes of providing for the acquisition of properties over which the CLC will not acquire a conservation easement, authorizing the parties to enter into property-specific conservation-stewardship agreements over such properties, and adding parcels to the priority properties list, Exhibit A to the Agreement.

Recitals

A. As a party to the Cedar River Habitat Conservation Plan, dated April 21, 2000, as may be amended or supplemented from time to time ("HCP"), the City has made a commitment to contribute specified amounts of money to acquire, restore, enhance and/or protect high quality spawning, rearing or refuge habitat for anadromous fish species, and the natural features and processes sustaining such habitat, along the mainstem of the lower Cedar River below Landsburg Dam ("Fish Habitat") until the expiration of the HCP on December 31, 2050.

B. In order to fulfill its HCP habitat commitments, the City entered into the Agreement with the CLC for the acquisition and management of suitable fish habitat. This Agreement provides for the CLC to hold and purchase conservation-stewardship easements to properties the City acquires through the process established by the Agreement and provides further for the CLC to enter separate property-specific enhancement and/or restoration agreements with the City for acquired properties.

C. Because it is not always desirable for the City to convey or for the CLC to hold or purchase conservation-stewardship easements to acquired properties (e.g., because funding sources may not allow it), the Parties agree that it is to their mutual advantage to amend the Agreement to provide for the acquisition of properties without CLC holding or purchasing conservation-stewardship easements to such properties and, instead, authorizing the Parties to enter into separate property-specific conservation-stewardship agreements, providing for CLC's management and preservation of fish habitat on acquired properties.

D. The City and CLC have also identified additional priority parcels for potential acquisition and the Parties agree that these priority parcels should be added to Exhibit A to the Agreement.



Now, therefore, in consideration of the recognized mutual advantages contained herein, the Parties agree to amend the Agreement as follows:

Amendment

1. Subsection 2(C) of the Agreement is amended by inserting the following at the end of the subsection:

“In some instances and notwithstanding the provisions of Subsection 5(A), the Parties may determine that the conveyance of a conservation easement to the CLC is not desirable and the Parties may in such cases enter into a separate property-specific conservation-stewardship agreement for an Acquired Property that provides for CLC’s management and preservation of Fish Habitat on the Acquired Property.”

2. **Exhibit A** to the Agreement, Potential Property Acquisitions, is amended by adding the following additional parcels to the list:

Parcel	Number	Acres	Assessed Valuation	Priority
Belmondo Reach – Priority Site No. 4				
322306-	9006	.81	\$22,000	1
Cedar Reach 3 - Priority Site No. 10				
172305-	9026	13.68	\$2,383,700	1
	9087	11.02	\$3,360,200	1
	9101	0.91	\$200,000	2
162305-	9011	0.98	\$275,000	3
	9038	0.49	\$173,000	3
147140-	0005	0.77	\$297,000	3
	0030	0.26	\$304,000	3
	0035	0.27	\$244,000	3
	0040	0.56	\$297,000	3
	0050	0.45	\$312,000	3
	0055	0.48	\$224,000	3
	0065	0.48	\$287,000	3
	0070	0.31	\$284,000	3
	0075	0.6	\$293,000	3
	0086	0.36	\$235,000	3
	0096	0.45	\$66,000	3
	Total	32.07	\$9,234,900	
Cedar Reach 4 - Priority Site No. 11				
222305-	9151	8.3	\$670,000	1
	9032	4.1	\$332,000	1
	9069	2.9	\$180,000	1
	9037	2.61	\$326,000	1
	Total	17.91	\$1,508,000	
Cedar Reach 6 - Priority Site No. 12				
029600-	0015	4.78	\$100,000	1



Parcel	Number	Acres	Assessed Valuation	Priority
	0082	2.81	\$171,000	1
242305-	9007	1.09	\$493,000	1
	Total	8.68	\$764,000	
Total Priority Parcels:		58.66	\$11,528,900	

3. All other terms and conditions of the Agreement not specifically modified by this Amendment shall remain in full force and effect. This Amendment shall be effective as of the date of the last party to sign.

IN WITNESS WHEREOF, the authorized representatives of the Parties hereto have signed their names in the spaces below.

THE CITY OF SEATTLE
Seattle Public Utilities

CASCADE LAND CONSERVANCY
A Washington Nonprofit Corporation

Chuck Clarke
Director

By:
Its:



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Cyndy Holtz/386-1990	John McCoy/615-0768

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities' Cedar River Habitat Conservation Plan (HCP) Downstream Habitat Protection and Restoration Program; amending that department's Agreement for Acquisition and Management of Fish Habitat with Cascade Land Conservancy.

• **Summary of the Legislation:**

This ordinance authorizes Seattle Public Utilities (SPU) to amend an agreement with Cascade Land Conservancy (CLC), allowing SPU to:

1. Enter into a separate property-specific conservation-stewardship agreement that provides for CLC's management and preservation of fish habitat on the acquired property; and
2. Expand the parcel acquisition list by adding 23 parcels.

• **Background:**

In August 2005, the City Council adopted Ordinance #121928 authorizing SPU to enter into an agreement with the Cascade Land Conservancy for the acquisition and stewardship of fish habitat lands in the lower Cedar River pursuant to the City's Cedar River Habitat Conservation Plan (HCP). Under the agreement, the City conveys a Conservation-Stewardship Easement for each parcel to CLC in exchange for CLC's stewardship of the lands through the year 2050, the term of the HCP. The easement approach was included in the agreement to ensure the protection of the property for fish habitat purposes through the term of the HCP, and to obligate CLC to provide stewardship services for the acquired lands.

Later in 2005, the City was awarded a \$1.5 million grant from the US Fish and Wildlife Service to supplement the HCP land acquisition program. Perpetual protection of the acquired lands is a requirement of the federal grant program. Therefore, the conveyance of a property interest to CLC to protect the property would be unnecessary for those lands funded all, or in part, by the federal grant.

Since the City will not convey a Conservation-Stewardship easement to CLC for federally grant-funded property acquisitions, it requires a mechanism by which it can contract with CLC for the provision of land stewardship services.

This ordinance gives SPU the authority to enter into a separate service-type agreement with CLC for stewardship services for those habitat lands acquired with federal grant



funding, and for which the City will not convey an easement to CLC. This ordinance also expands the list of properties which the Council authorizes SPU to acquire under its agreement with CLC by adding 23 parcels to the list of 131 parcels.

- *Please check one of the following:*

X **This legislation does not have any financial implications.**

This contract amendment falls under the existing CIP project Downstream Fish Habitat – C1607.

STATE OF WASHINGTON - KING COUNTY

--SS.

209259
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..

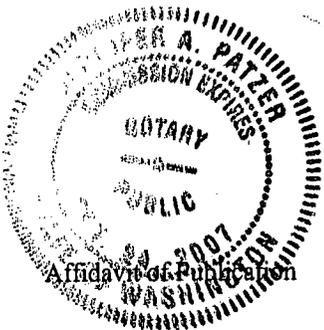
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122358-122361

was published on

03/28/07

The amount of the fee charged for the foregoing publication is the sum of \$ 69.75, which amount has been paid in full.



[Signature]
Subscribed and sworn to before me on
03/28/07 *[Signature]*
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE ONLY PUBLICATION

The full text of the following ordinance, passed by the City Council on March 19, 2007, 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 684-8341.

ORDINANCE NO. 122358

AN ORDINANCE relating to Conservation Futures Levy proceeds, authorizing the Mayor to amend the Interlocal Cooperation Agreement between the City of Seattle and King County as authorized by City of Seattle Ordinance 14978, authorizing the deposit of 2006 allocations from King County Conservation Futures Levy proceeds into the City of Seattle's 2000 Parks Levy Fund, the Cumulative Reserve Subfund and the Seattle Department of Transportation Operating Fund, and increasing appropriations to the Department of Parks and Recreation in the 2007 Budget, all by a three-fourths vote of the City Council.

ORDINANCE NO. 122359

AN ORDINANCE relating to acquisition of timber interest in City-owned land in the North Fork Tolt Watershed, authorizing the acceptance of a quit claim deed from the State of Washington for such interest, and authorizing the execution of other documents necessary for such acquisition.

ORDINANCE NO. 122360

AN ORDINANCE relating to Seattle Public Utilities Cedar River Habitat Conservation Plan (HCP) Downstream Habitat Protection and Restoration Program, amending that department's Agreement for Acquisition and Management of Plan Habitat with Cascade Land Conservancy.

ORDINANCE NO. 122361

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

Publication ordered by JUDITH PIRIN, City Clerk.

Date of Publication in the Seattle Daily Journal of Commerce: March 28, 2007.
3/28(209250)