

Ordinance No. 123062

Council Bill No. 116600

AN ORDINANCE relating to the partial release of a restrictive covenant and easement in gross restricting the use of property in the Rainier Valley; authorizing the Superintendent of the Department of Parks and Recreation to execute and record, in favor of the Housing Authority of the City of Seattle, a partial release of an encumbrance on real property; and superseding the requirements of Ordinance 118477 for purposes of this ordinance.

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_

*Tom Roemer*

Councilmember

## Committee Action:

8-10-09 Passed 8-0 (Absent: Godden)

CF No. \_\_\_\_\_

Date Introduced:	<u>8-03-09</u>	
Date 1st Referred:		To: (committee) <u>Full Council</u> <del>Parks and Recreation</del>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>8-10-09</u>	Full Council Vote: <u>8-0</u>
Date Presented to Mayor:	<u>8-10-09</u>	Date Approved: <u>8-17-09</u>
Date Returned to City Clerk:	<u>8-17-09</u>	Date Published: <u>3</u> T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_ (initial/date)

*Law Department*

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

ORDINANCE 123062

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3 AN ORDINANCE relating to the partial release of a restrictive covenant and easement in gross  
4 restricting the use of property in the Rainier Valley; authorizing the Superintendent of the  
5 Department of Parks and Recreation to execute and record, in favor of the Housing  
6 Authority of the City of Seattle, a partial release of an encumbrance on real property; and  
superseding the requirements of Ordinance 118477 for purposes of this ordinance.

7 WHEREAS, Ordinance 122772, approved in August 2008, authorized the Superintendent of  
8 Parks and Recreation to enter into an agreement with the Boys and Girls Clubs of King  
9 County (the "Boys and Girls Clubs") and its subsidiary, the Rainier Valley Boys and Girls  
Club (the "RVBGC"), for the purchase of a restrictive covenant and easement in gross  
(the "Covenant"); and

10 WHEREAS, on or about October 2, 2008, under the terms of the agreement, the Superintendent  
11 accepted and recorded the Covenant, which restricts certain real property to use for a  
12 youth and teen recreational facility and requires public programming; and

13 WHEREAS, the Boys and Girls Clubs and RVBGC constructed the Rainier Vista Boys and Girls  
Club facility ("Club"), and opened the Club in November 2008; and

14 WHEREAS, the Club is providing programs, services, and recreational activities focused on  
15 nurturing youth through sports, education and recreation as required by the agreement and  
16 the Covenant; and

17 WHEREAS, the Covenant encumbers the real property on which the Club was constructed; and

18 WHEREAS, Council Bill 116591 proposes a re-plat of the property the Club is situated on; and

19 WHEREAS, if Council Bill 116591 is passed by Seattle City Council and becomes effective, it  
will create a new legal lot adjacent to the Club; and

20 WHEREAS, under the terms of a separate agreement, the RVBGC is required to convey the new  
21 legal lot to the Housing Authority of the City of Seattle ("SHA"), and SHA would like to  
22 build low income housing on the new legal lot adjacent to the Club; and

23 WHEREAS, the existing Covenant would prevent or inhibit SHA's ability to obtain financing  
and construct low-income housing on the new lot adjacent to the Club; and

24 WHEREAS, the City wishes to encourage the creation of low-income housing and the property  
25 being released will not adversely impact the City's benefits derived under the agreement  
26 and Covenant; NOW, THEREFORE,



1  
2 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

3           Section 1. Subject to the restriction in Section 2 of this ordinance, the Superintendent of  
4 the Department of Parks and Recreation (“Superintendent”) is authorized to execute and record  
5 the Partial Release of Restrictive Covenant and Easement in Gross (“Partial Release”) in the  
6 form of Attachment 1 to this Ordinance.  
7

8           Section 2. The Superintendent will not execute or record the Partial Release until the  
9 following conditions have occurred: 1) Council Bill 116591 has become an effective ordinance  
10 of the City of Seattle, 2) the New Rainier Vista II plat has been recorded, and 3) the Housing  
11 Authority of the City of Seattle has title to the real property to be released under the Partial  
12 Release.  
13

14           Section 3. The requirements of Ordinance 118477 are superseded for purposes of this  
15 ordinance.  
16

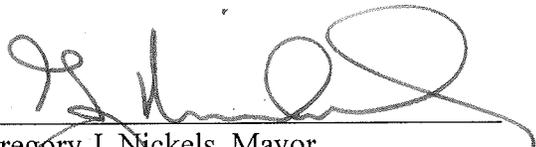
17           Section 4. This ordinance shall take effect and be in force thirty (30) days from and after  
18 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
19 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
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1 Passed by the City Council the 10<sup>th</sup> day of August, 2009, and signed by  
2 me in open session in authentication of its passage this  
3 10<sup>th</sup> day of August, 2009.

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6   
7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9  
10  
11 Approved by me this 17<sup>th</sup> day of August, 2009.

12   
13 \_\_\_\_\_  
14 Gregory J. Nickels, Mayor

15 Filed by me this 17<sup>th</sup> day of August, 2009.

16   
17 \_\_\_\_\_  
18 City Clerk *Antevim*

19 (Seal)

20 Attachment 1 – Partial Release of Restrictive Covenant and Easement in Gross  
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**When Recorded Return To:**

Kantor Taylor Nelson & Boyd  
1501 Fourth Avenue, Suite 1610  
Seattle, WA 98101  
Attn: Susan Boyd

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**PARTIAL RELEASE OF RESTRICTIVE COVENANT AND EASEMENT IN GROSS**

Grantor: The City of Seattle

Grantee: Housing Authority of the City of Seattle

Tax Parcel ID# of Released Property: 605610-0710-09; 60510-0720-07; 605610-0740-03

Legal Description (abb'd): Blks 27, 33, New Rainier Vista II Replat, recorded at \_\_\_\_\_

Recording No. of Partially Released Doc: 20081008000327

This Partial Release of Restrictive Covenant and Easement in Gross (the "Partial Release") is made this \_\_ day of \_\_\_\_\_, 2009 by The City of Seattle, a Washington municipal corporation (the "City"), in favor of the Housing Authority of the City of Seattle ("SHA"), and partially releases that Restrictive Covenant and Easement in Gross dated October 2, 2008 and recorded under King County recording number 20081008000327 (the "Covenant and Easement").

This Partial Release releases the Covenant and Easement from the following described real property (the "Released Property"):

BLOCK 27 AND BLOCK 33 OF NEW RAINIER VISTA II RECORDED AT KING COUNTY RECORDER'S NUMBER \_\_\_\_\_, WHICH IS A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON.



**Recitals.**

This partial release is made with reference to the following facts:

1. On or about October 2, 2008, the Rainier Valley Boys and Girls Club (“RVBGC”), a Washington non-profit organization, granted the City a Restrictive Covenant and Easement in Gross encumbering real property generally located at 4520 Martin Luther King Way S., Seattle, Washington.

2. The purpose of the Covenant and Easement is to ensure the use of the property for the construction and operation of the Rainier Vista Boys and Girls Club (the “Club”) and for public access and public benefits, all on certain terms and conditions.

3. The Easement and Covenant was intended to encumber the real property on which the Club was constructed; however due to re-platting and the creation of a new legal lot adjacent to the Club, the Easement and Covenant is now encumbering property that is not required for the operation and maintenance of the Club in compliance with the terms in the Easement and Covenant.

4. RVBGC conveyed the Released Property to the Seattle Housing Authority (“SHA”) for housing purposes.

5. The City does not require the encumbrance of the Released Property in order to receive the intended benefit of the Covenant and Easement, and additionally, the City wishes to ensure that the Released Property be used by SHA for housing purposes.

**Partial Release of Covenant and Easement.**

Based on the foregoing, the City hereby does release the Covenant and Easement from the Released Property described above. The Covenant and Easement shall continue to encumber all real property described in the Covenant and Easement, other than the Released Property. The property that continues to be encumbered by the Covenant and Easement is now legally described as follows:

BLOCK 30 AND 31 OF NEW RAINIER VISTA II RECORDED AT KING COUNTY RECORDER’S NUMBER \_\_\_\_\_, WHICH IS A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON.



Except as expressly and partially released hereby, the Covenant and Easement shall remain in full force and affect.

[SIGNATURE AND NOTARY APPEARS ON THE FOLLOWING PAGES]





**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Parks and Recreation	Charles Ng/684-8001	Jennifer Devore/615-1328

**Legislation Title:**

AN ORDINANCE relating to the partial release of a restrictive covenant and easement in gross restricting the use of property in the Rainier Valley; authorizing the Superintendent of the Department of Parks and Recreation to execute and record, in favor of the Housing Authority of the City of Seattle, a partial release of an encumbrance on real property; and superseding the requirements of Ordinance 118477 for purposes of this ordinance.

• **Summary of the Legislation:**

The proposed legislation authorizes the Superintendent of Parks and Recreation to release a portion of the property originally encumbered for the construction and operation of the Rainier Vista Boys and Girls Club (Club) for the purposes of building low-income housing. The property affected by the Restrictive Covenant and Easement includes property that is not required to guarantee teen programming and public access at the new Club, and the Club property will continue to be encumbered by the Restrictive Covenant and Easement.

• **Background:**

Ordinance 122772, ( August 2008) authorized the City to pay \$1,000,000 to Boys and Girls Clubs of King County and Rainier Valley Boys and Girls Club towards the purchase of a Restrictive Covenant and Easement in Gross (Easement) at the Rainier Valley Boys and Girls Club. The agreement enacting the Easement was signed October 2, 2008. The purpose of the Easement is to ensure the use of the property for the construction of the Club and to guarantee public access and benefits for fifteen years. The Easement in particular requires services and benefits to teens. The Club opened in November 2008 and is fulfilling the requirements of the Easement.

The legal description included in the Easement extends beyond the land on which the Club was constructed. The land was recently re-platted, creating a legal lot, which the Rainier Valley Boys and Girls Club has agreed to convey to the Seattle Housing Authority (SHA.). SHA plans to construct new low-income housing on the property. Releasing the land from the Easement restrictions supports the City's priority to build low-income housing. The land is not necessary to the operations and maintenance of the Club, nor for the fulfillment of the Easement requirements. The public access and benefits guaranteed by the purchase of the original Covenant and Easement are being provided at the Club and will not be affected by the release of the property.

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





# City of Seattle

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Gregory J. Nickels, Mayor

## Office of the Mayor

July 28, 2009

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

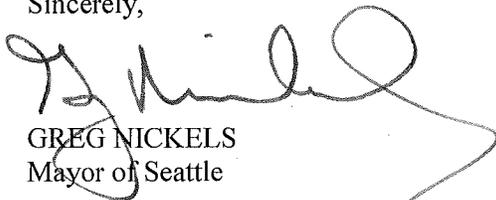
Dear Council President Conlin:

I am transmitting the attached proposed Council Bill authorizing the Superintendent of Parks and Recreation to partially release a restrictive covenant and easement, which limits use of property adjacent to the Rainier Vista Boys and Girls Club where the Seattle Housing Authority plans to build low-income housing.

The City agreed to purchase a restrictive covenant and easement from the Boys and Girls Clubs of King County and Rainier Valley Boys and Girls Club via Ordinance 122772 in exchange for teen programming and public assembly space at the newly-constructed Rainier Valley Club, which opened in November 2008. The legal description included in the easement extends beyond the land on which the Club was constructed. A proposed re-plat of the land will create a legal lot that the Rainier Valley Boys and Girls Club wishes to convey to the Seattle Housing Authority for the construction of low-income housing. This Bill supports that effort without affecting the public access or benefits obtained through the original covenant and easement.

Thank you for your consideration of this legislation. Should you have questions, please contact Rebecca Salinas at 684-7279.

Sincerely,



GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



123058

STATE OF WASHINGTON - KING COUNTY

--SS.

243757  
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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

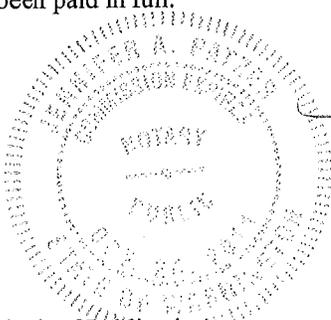
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123057-62,64-69

was published on

08/21/09

The amount of the fee charged for the foregoing publication is the sum of \$ 268.85, which amount has been paid in full.



*Valery Wald*  
\_\_\_\_\_  
Subscribed and sworn to before me on  
08/21/09  
*[Signature]*  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

# State of Washington, King County

## City of Seattle

### TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on August 10, 2009, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 123069

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

#### ORDINANCE NO. 123068

AN ORDINANCE authorizing, in 2009, acceptance of funding from non-City sources; authorizing the heads of the Seattle Department of Transportation, the Seattle Police Department, the Seattle Public Utilities, Seattle City Light, the Seattle Fire Department, the Human Services Department, and the Fleets and Facilities Department to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

#### ORDINANCE NO. 123067

AN ORDINANCE amending the 2009 Adopted Budget, including the 2009-2014 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; establishing new appropriations; adding a new project and revising project allocations for certain projects in the 2009-2014 CIP; amending Ordinance 122863; and ratifying and confirming certain prior acts, all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 123066

AN ORDINANCE amending budget provisions that restrict spending of an appropriation for a Public Engagement Portal Initiative in the Department of Information Technology's 2009 Adopted Budget.

#### ORDINANCE NO. 123065

AN ORDINANCE accepting funds from the Washington State Department of Commerce allocated through the American Recovery and Reinvestment Act of 2009; authorizing the Mayor or his designee to execute related agreements; amending the 2009 Adopted Budget to increase appropriations for the Office of Housing; and ratifying and confirming prior acts; all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 123064

AN ORDINANCE relating to certain City-owned property located at the intersection of Ninth Avenue and Lenora Street in the City of Seattle; authorizing the Director of the Fleets and Facilities Department to execute an agreement with the State of Washington Secretary of State to create a nonresidential condominium on the property and to convey certain units therein to the State of Washington in connection with the operation of the Washington Talking Book and Braille Library; and authorizing execution of related agreements.

#### ORDINANCE NO. 123062

AN ORDINANCE relating to the partial release of a restrictive covenant and easement in gross restricting the use of property in the Rainier Valley; authorizing the Superintendent of the Department of Parks and Recreation to execute and record, in favor of the Housing Authority of the City of Seattle, a partial release of an encumbrance on real property; and superseding the requirements of Ordinance 118477 for purposes of this ordinance.

#### ORDINANCE NO. 123061

AN ORDINANCE accepting deeds, correction deeds, and easements for street, alley, and sidewalk purposes; laying off, opening, widening, extending, and establishing portions of the following rights-of-way: the alley in Lots 1 and 2, Block 26, of Second Addition to that part of the City of Seattle Laid off by A.A. Denny and W.M. Bell (Commonly known as Bell and Denny's 2nd Addition to the City of Seattle); the alley in Lots 3 through 6, Block 9, an Addition to the Town of Seattle, as laid off by the Heirs of Sarah A. Bell, Deceased (commonly known as Heirs of Sara A. Bell's Addition to the City of Seattle); the sidewalk adjoining a portion of Lot 7, Block 9, Compton's 1st Addition to the City of Seattle; the alley in Lots 7 and 8, Block 69, D.T. Denny's Park Addition to North Seattle; the alley in Lots 9 and 10, Block 69, D.T.

Denny's Park Addition to North Seattle; the sidewalk adjoining a portion of Lot 7, Block 19, Hill Tract Addition to the City of Seattle; the sidewalk abutting Lot 25, Block 13, Westholme; the alley in Lots 1, 2, and 3, Block 8, Jos. C. Kinnear's Addition to the City of Seattle; the alley in Lots 9 and 10, Block 23, South Park; the sidewalk adjoining portions of Lots 5 and 6, Block 23, Denny and Hoyt's Addition to the City of Seattle; the alley in Lot 4, Block 2, Daniel's University Grove; the alley turn-around in Lots 15 and 16, Block 48, Yesler's 2nd Addition (Supplemental) to the City of Seattle; the alley in Lots 46 and 47, Block 5, Pettit's University Addition; the alley in Lots 10 and 11, Block 9, Lake View Addition to the City of Seattle; the alley in Lots 3 and 4, Block 29, North Seattle; the alley in Lots 19, 20 and 21, Block 9, Lake View Addition to the City of Seattle; the alley in Lots 16, 17, 18, and 19, Block 9, Lake View Addition to the City of Seattle; the sidewalk adjoining Lot 7, Block 98, D.T. Denny's 5th Addition to North Seattle; the alley in Lots 14 and 15, Block 9, Latona First Addition to the City of Seattle; the alley in Lots 7 and 8, Block 11, Fairview Homestead Addition For The Benefit of Mechanics and Laborers; and placing the real property conveyed by said deeds and easements under the jurisdiction of the Seattle Department of Transportation.

#### ORDINANCE NO. 123060

AN ORDINANCE relating to the Seattle Department of Transportation's Duwamish Intelligent Transportation Systems (ITS) project; authorizing the Director of Transportation to acquire and accept, on behalf of the City, permanent and temporary construction easements from the Port of Seattle, located in portions of Lots 14, 15, and 16, Block 426, Seattle Tide Lands, for the purpose of constructing, operating, maintaining, repairing, replacing, modifying, improving, removing, and using the easement areas for use of the conduit for underground electrical transmission and communications lines and Dynamic Message Sign (DMS) pole and base in connection with the Duwamish ITS project; and placing the real property conveyed by such easements under the jurisdiction of the Seattle Department of Transportation.

#### ORDINANCE NO. 123059

AN ORDINANCE authorizing the Director of the City of Seattle's Fleets and Facilities Department to execute a lease agreement between the City and Morningstar Investments, LLC, d/b/a ChewChews, a Washington limited liability company, for the continued operation of a restaurant establishment in the Seattle Municipal Tower.

#### ORDINANCE NO. 123058

AN ORDINANCE relating to Capitol Hill Housing Improvement Program (CHHIP), a public corporation chartered by The City of Seattle, authorizing the Director of the Office of Housing to enter into an agreement with King County, consenting to a request from CHHIP to develop an affordable housing project located in the White Center neighborhood of unincorporated King County, and extending the City's powers, authorities and rights regarding public corporations and authorities beyond the city limits for that project.

#### ORDINANCE NO. 123057

AN ORDINANCE relating to the City's 2009-2012 Consolidated Plan for Housing and Community Development; authorizing acceptance of grant funds from the United States Department of Housing and Urban Development for programs included in the City's Consolidated Plan for Housing and Community Development; increasing appropriations in the 2009 Budget for activities under the Community Development Block Grant Program, the HOME program, and the Housing Opportunities for Persons with AIDS program; and decreasing appropriations for the Emergency Shelter Grant program; adding appropriations for the Neighborhood Stabilization Program; re-adopting the City's 2009-2012 Consolidated Plan originally adopted in Resolution 31087; amending the Neighborhood Notification and Community Relations Guidelines Policy and the Annual Allocation Plan components of the Consolidated Plan; authorizing the use of Housing Levy loan repayments for rent assistance; reallocating unexpended funds from prior years; authorizing other conforming amendments to the Consolidated Plan; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, August 21, 2009.  
8/21(243757)