

Ordinance No. 123433

Council Bill No. 117012

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of the Seattle Public Utilities to purchase certain real property located at 10032-10038 Rainier Avenue South, Seattle, Washington, King County Parcel Identification Nos. 807300-0525, -0526, -0531, and -0535, in settlement of a judgment entered into between The City of Seattle and Litchfield Family, LLC, in King County Superior Court Case No. 08-2-08628-3SEA, and to accept and record deeds on behalf of the City; and increasing appropriations to Seattle Public Utilities in the 2010 Budget.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: 
Councilmember

Committee Action:

10-25-10 Passed 9-0

CF No. _____

Date Introduced:	<u>10/18/10</u>	
Date 1st Referred:	<u>10/18/10</u>	To: (committee) <u>Full Council</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>10-25-10</u>	Full Council Vote: <u>9-0</u>
Date Presented to Mayor:	<u>10-26-10</u>	Date Approved: <u>Oct. 29, 2010</u>
Date Returned to City Clerk:	<u>Nov. 1, 2010</u>	Date Published: <input type="checkbox"/> T.O. <input checked="" type="checkbox"/> F.T.
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

- a. 10032 Rainier Avenue South, King County parcel number 807300-0526.
- b. 10034 Rainier Avenue South, King County parcel number 807300-0525.
- c. 10036 Rainier Avenue South, King County parcel number 807300-0531.
- d. 10038 Rainier Avenue South, King County parcel number 807300-0535.

Section 2. The property shall be placed in the jurisdiction of Seattle Public Utilities.

Section 3. To pay for the Property and for necessary related costs and expenses, the appropriation for the following in the 2010 Adopted Budget is increased from the fund shown, as follows:

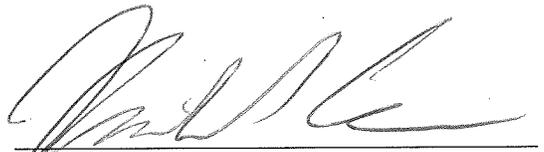
Fund Name and Number	Department	Budget Control Level*	2010 Appropriation
DWF-44010	SPU	N000B - DW General Expense	\$1,700,000
TOTAL			\$1,700,000

Section 4. Any acts taken after the passage but prior to the effective date of this ordinance are hereby ratified and confirmed.

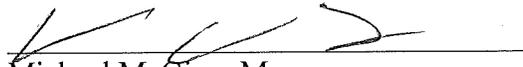


1 Section 5. This ordinance shall take effect and be in force 30 days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
3 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 25th day of October, 2010, and
5 signed by me in open session in authentication of its passage this
6 25th day of October, 2010.

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9 
10 President _____ of the City Council

11 Approved by me this 29th day of October, 2010.

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14 
15 Michael McGinn, Mayor

16 Filed by me this 1st day of November, 2010.

17
18 
19 City Clerk

20 (Seal)

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25 Attachment 1: Legal descriptions of properties to be acquired
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27
28



ATTACHMENT 1

LEGAL DESCRIPTIONS

1. King County Tax Account No. 807300-0525; 10034 Rainier Avenue South

Lots 17, 18, and 19, Block 9, Sturtevant's Rainier Beach Villa Tracts, according to plat thereof recorded in Volume 16 of Plats, Page 32, records of King County. Together with Second Class Shore Lands adjoining; described as follows:

Lot 17, except the southernmost 148.00 feet thereof;

Also, that portion of Lot 18, except the southernmost 140.00 feet thereof, lying west of the centerline of Taylor Creek;

Also, that portion(s) of Lot 19 lying west of the centerline of Taylor Creek thereof.

TOGETHER WITH an easement across the southern portion of Lots 17, 18 and 19, adjacent to Rainier Avenue South for ingress and egress of Sturtevant's Rainier Beach Villa Tracts owners, said easement to be not more than 15 feet in width.

TOGETHER with and SUBJECT to ACCESS EASEMENT for ingress and egress, over and along an existing fifteen foot wide, more or less, paved driveway (including bridges over Taylor Creek), the centerline of which commences at the mid point of the south line of Lot 19,

Thence running N 25° E 25.00 ft.,

Thence running N 8° W 12.00 ft.,

Thence running N 54° W 23.00 ft.,

Thence running N 27° W 19.00 ft.,

Thence running N 3° E 73.00 ft.,

Thence running N 9° E 48.00 ft.,

Thence running N 64 ½° E 17.00 ft.,

Thence running S 76 ½° E 12.00 ft. to the centerline of Taylor Creek.

TOGETHER with Water Service Easement running northeasterly 130 feet, more or less, along and within the easement 6 feet of Lot 19, thence meandering northwesterly to intersect the northernmost extension of the Access Easement;

TOGETHER with Refuse Can Easement within a half circle area east of the westerly line of Lot 19 and west of the westerly edge of the Access Easement's southern end



ATTACHMENT 1

SUBJECT to BEACH ACCESS EASEMENT including that portion of Lot 17 lying north of the southernmost 395 feet thereof, including that portion of Lot 18 lying north of the southernmost 390 feet thereof, including that portion of Lot 19 lying north of the southernmost 370 feet thereof and west of Taylor Creek centerline, and including a walkway to the west of, and within 15 feet of, Taylor Creek centerline, extending southwesterly from the beach to the northernmost extension of the Access Easement;

SUBJECT TO PARKING EASEMENT, either side of the described Access Easement consisting of two 30-foot x 20-foot paved areas, the centerpoints of which are at a point Along the N/S centerline of Lot 17, 185 feet northeast, more or less, from the south line of said lot, and at a point along the N/S centerline of Lot 18, 165 feet northeast, more or less from the south line of said lot;

SUBJECT to 12-foot Easement Ord. 99462 for Sanitary Main running perpendicular to lot lines and Taylor Creek;

SUBJECT to Overhead Power and Telephone Wire Easement from utility pole at southerly/westernmost corner of described property, thence northeasterly to easterly line of described property.

SUBJECT to Road Maintenance Agreement.

2. King County Tax Account No. 807300-0526; 10032 Rainier Avenue South

Lots 17 and 18, Block 9, Sturtevant's Rainier Beach Villa Tracts, according to plat thereof recorded in Volume 16 of Plats, Page 32, records of King County; described as follows:

The southernmost 146.00 feet of Lot 17;

Also, that portion of the southernmost 140.00 feet of Lot 18, lying west and south of the centerline of Access Easement described herein,

Together with and Subject to an easement across the southern portion of Lots 17, 18 & 19 adjacent to Rainier Avenue South for ingress and egress of Sturtevant's Rainier Beach Villa Tracts owners, said easement to be not more than 15 feet in width.

TOGETHER with and SUBJECT to ACCESS EASEMENT, for ingress and egress, over and along an existing fifteen foot wide, more or less, paved driveway (including bridges over Taylor Creek), the centerline of which commences at the mid point of the south line of Lot 19,

Thence running N 25° E 25.00 ft.,



ATTACHMENT 1

Thence running N 8° W 12.00 ft.,
Thence running N 54° W 23.00 ft.,
Thence running N 27° W 19.00 ft.,
Thence running N 3° E 73.00 ft.,
Thence running N 9° E 48.00 ft.,
Thence running N 64 1/2° E 17.00 ft.,
Thence running S 76 1/2° E 12.00 ft. to the centerline of Taylor Creek;

TOGETHER WITH PARKING EASEMENT, either side of the described Access Easement consisting of two 30 foot x 20 foot paved areas, the centerpoints of which are at a point along the N/S centerline of Lot 17, 185 feet northeast, more or less, from the south line of said lot, and at a point along the N/S centerline of Lot 18, 165 feet northeast, more or less from the south line of said lot;

TOGETHER WITH BEACH ACCESS EASEMENT including that portion of Lot 17 lying north of the southernmost 395 feet thereof, including that portion of Lot 18 lying north of the southernmost 390 feet thereof; including that portion of Lot 19 lying north of the southernmost 370 thereof and west of Taylor Creek centerline; and including a walkway to the west of, and within 15 feet of Taylor Creek centerline, extending southwesterly from the beach to the northernmost extension of the Access Easement.

TOGETHER with Easement across Parcels C and D, 2 1/2 feet either side of existing Side Sewer as it now lays, running northeasterly to follow east side of Taylor Creek, and with 12 foot Easement Ord. 99462 for Sanitary Main running perpendicular to Taylor Creek and across Parcel D;

TOGETHER with Refuse Can Easement within a half circle east of the westerly line of Lot 19 and west of the westerly edge of the Access Easement's southern end.

SUBJECT to Road Maintenance Agreement.

3. King County Tax Account No. 807300-0531; 10036 Rainier Avenue South

Lots 18 and 19, Block 9, Sturtevant's Rainier Beach Villa Tracts, according to plat thereof recorded in Volume 16 of Plats, Page 32, records of King County.

Together with Second Class Shore Lands adjoining, described as follows:

That portion of Lot 18 lying north of the southernmost 140.00 feet thereof and east of the centerline of Taylor Creek thereof,

ALSO, that portion of Lot 19 lying north of the southernmost 155.00 feet thereof and east of the centerline of Taylor Creek, thereof.



ATTACHMENT 1

TOGETHER with an easement across the southern portion of Lot 17, 18 and 19, adjacent to Rainier Avenue South for ingress and egress for Sturtevant's Rainier Beach Villa Tracts owners, said easement to be not more than 15 feet in width.

TOGETHER WITH AN EASEMENT, for ingress and egress, over and along an existing fifteen foot wide, more or less, paved driveway (including bridges over Taylor Creek), the centerline of which commences at the mid point of the south line of Lot 19,

Thence running N 25° E 25.00 ft.,
Thence running N 8° W 12.00 ft.,
Thence running N 54° W 23.00 ft.,
Thence running N 27° W 19.00 ft.,
Thence running N 3° E 73.00 ft.,
Thence running N 9° E 48.00 ft.,
Thence running N 64 ½° E 17.00 ft.,
Thence running S 76 ½° E 12.00 ft. to the centerline of Taylor Creek;

TOGETHER WITH PARKING EASEMENT, either side of the described Access Easement consisting of two 30 foot x 20 foot paved areas, the centerpoints of which are at a point along the N/S centerline of Lot 17, 185 feet northeast, more or less, from the south line of said lot, and at a point along the N/S centerline of Lot 18, 165 feet northeast, more or less from the south line of said lot;

TOGETHER WITH BEACH ACCESS EASEMENT including that portion of Lot 17 lying north of the southernmost 395 feet thereof; including that portion of Lot 18 lying north of the southernmost 390 feet thereof; including that portion of Lot 19 lying north of the southernmost 370 feet thereof and west of Taylor Creek centerline; and including a walkway to the west of, and within 15 feet of Taylor Creek centerline, extending southwesterly from beach to the northernmost extension of the Access Easement;

TOGETHER with Water Service Easement running along and within the easternmost 6 feet of Lot 19;

TOGETHER with Overhead Power & Telephone Wire Easement commencing at utility pole which is on westerly line of Lot 17, 146 feet northeast of said Lot's southwest corner, thence running northeasterly to westerly line of described property.

TOGETHER with Refuse Can Easement, within a half circle area east of the westerly line of Lot 19 and west of the westerly edge of the Access Easement's southern end.

SUBJECT to Easement on behalf of Parcels A and C, 2 ½ ft either side of existing Side Sewer as it now lays, running along east side of Taylor Creek; and to 12 foot Easement Ord. 99462 for Sanitary Main running perpendicular to Taylor Creek;



ATTACHMENT 1

SUBJECT to Water Service Easement running northwesterly and meandering from the mid section of property's southern boundary line to the northernmost extension of the Access Easement.

SUBJECT to Road Maintenance Agreement.

4. King County Tax Account No. 807300-0535; 10038 Rainier Avenue South

Lots 18 and 19, Block 9, Sturtevant's Rainier Beach Villa Tracts, according to the plat thereof recorded in Volume 16 of Plats, page 32 of King County, Washington,

Together with Second Class Shore Lands adjoining, described as follows:

That portion of Lot 18, lying north of the southernmost 140.00 feet thereof and east of the centerline of Taylor Creek, thereof;

ALSO, that portion of Lot 19 lying north of the southernmost 155.00 feet thereof and east of the centerline of Taylor Creek, thereof;

TOGETHER WITH ACCESS EASEMENT, for ingress and egress over and along an existing 15-foot wide, more or less, paved driveway (including bridges over Taylor Creek), the centerline of which commences at the mid point of the south line of Lot 19; Thence north 25° east 25.00 feet;
Thence north 8° west 12.00 feet;
Thence north 54° west 23.00 feet;
Thence north 27° west 19.00 feet;
Thence north 3° east 73.00 feet;
Thence north 9° east 48.00 feet;
Thence north 64.5° east 17.00 feet;
Thence south 76.5° east 12.00 feet, to the center line of Taylor Creek.

TOGETHER WITH PARKING EASEMENT, either side of the described Access Easement consisting of two 30 foot x 20 foot paved areas, the centerpoints of which are at a point along the N/S centerline of Lot 17, 185 feet northeast, more or less, from the south line of said lot, and at a point along the N/S centerline of Lot 18, 165 feet northeast, more or less from the south line of said lot;

TOGETHER WITH BEACH ACCESS EASEMENT including that portion of Lot 17 lying north of the southernmost 395 feet thereof; including that portion of Lot 18 lying north of the southernmost 390 feet thereof, including that portion of Lot 19 lying north of the southernmost 370 feet thereof and west of Taylor Creek centerline; and including a walkway to the west of, and within 15 feet of, Taylor Creek centerline, extending southwesterly from beach to the northernmost extension of the Access Easement.



ATTACHMENT 1

TOGETHER WITH Water Service Easement running along and within the easternmost 6 feet of Lot 19.

TOGETHER WITH Overhead Power & Telephone Wire Easement commencing at utility pole which is on westerly line of Lot 17, 146 feet northeast of said Lot's southwest corner, thence running northeasterly to westerly line of described property.

TOGETHER with Refuse Can Easement within a half circle area east of the westerly line of Lot 19 and west of the westerly edge of the Access Easement's southern end.

SUBJECT to Easement on behalf of Parcels A and C, 2 ½ ft either side of existing Side Sewer as it now lays, running along east side of Taylor Creek; and to 12 foot Easement Ord. 99462 for Sanitary Main running perpendicular to Taylor Creek;

SUBJECT to Water Service Easement, running northwesterly and meandering from the mid section of property's southern boundary line to the northernmost extension of the Access Easement.

Subject to Road Maintenance Agreement.

END OF DESCRIPTION



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Audrey Hansen/4-5877	Karen Grove/4-5805

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of the Seattle Public Utilities to purchase certain real property located at 10032-10038 Rainier Avenue South, Seattle, Washington, King County Parcel Identification Nos. 807300-0525, -0526, -0531, and -0535, in settlement of a judgment entered into between The City of Seattle and Litchfield Family, LLC, in King County Superior Court Case No. 08-2-08628-3SEA, and to accept and record deeds on behalf of the City; and increasing appropriations to Seattle Public Utilities in the 2010 Budget.

Summary of the Legislation:

This ordinance would authorize Seattle Public Utilities to purchase properties that were purported to have been adversely affected by work done by the City on Taylor Creek within Lakeridge Park. This ordinance would also increase the 2010 SPU Drainage and Wastewater Fund budget authority by an amount equal to the cost of the land purchase, stipulated in a settlement between the City and the property owners, Litchfield Family, LLC.

Background:

SPU replaced two culverts in Lakeridge Park on Taylor Creek in 1999. The Litchfield Family, LLC, which owns property on Lake Washington at the mouth of Taylor Creek, claimed the culvert replacements allowed sediments to flow down the creek, enlarging the creek delta. The enlarged delta prevented them from being able to float their dock and, hence, devalued the property.

In May 2009, the King County Superior Court found the City at fault but reserved the issue of damages and other relief for trial. The court subsequently partially granted the City's motion for reconsideration of its earlier order and reserved the issue of legal liability on the Litchfield Trust's inverse condemnation claim for trial. The City and Litchfield Trust agree the City will purchase the affected property for \$1,700,000 (which is supported by an appraisal). This agreement would end litigation and result in dismissal of the case. The proposed legislation authorizes the property purchase and increases SPU Drainage and Wastewater budget appropriations by the agreed purchase price.

SPU estimates 2010 Drainage and Wastewater Fund revenues are sufficient to fund the increased expenditure level while still meeting all adopted financial targets, albeit with less of a margin than projected earlier in the year. This legislation is not expected to impact 2011 rates as it was factored into the 2010 year end cash assumed in the 2011-2012 rate study.

Please check one of the following:



This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
DWF-44010	SPU	N000B-DW General Expense	\$1,700,000	\$0
TOTAL			\$1,700,000	

*See budget book to obtain the appropriate Budget Control Level for your department.

Appropriations Notes: Land purchase expense will be charged to N010202 Claims-DWF. An additional appropriation request of \$525,000 related to the settlement but unrelated to the property purchase will be included in the 4th quarter 2010 supplemental ordinance. There are no revenue or FTE changes.

What is the financial cost of not implementing the legislation?

Not implementing this legislation would void the settlement agreement and the cost to the City would be determined by the outcome of litigation.

Does this legislation affect any departments besides the originating department?

No

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

Resolution of the claim could be accomplished through continued litigation which could result in greater or lesser cost to the City. Another approach to resolution would be attempting to get permits and dredging the delta. The latter approach, if accomplished, would likely result in the need to periodically re-dredge.

Is the legislation subject to public hearing requirements?

No

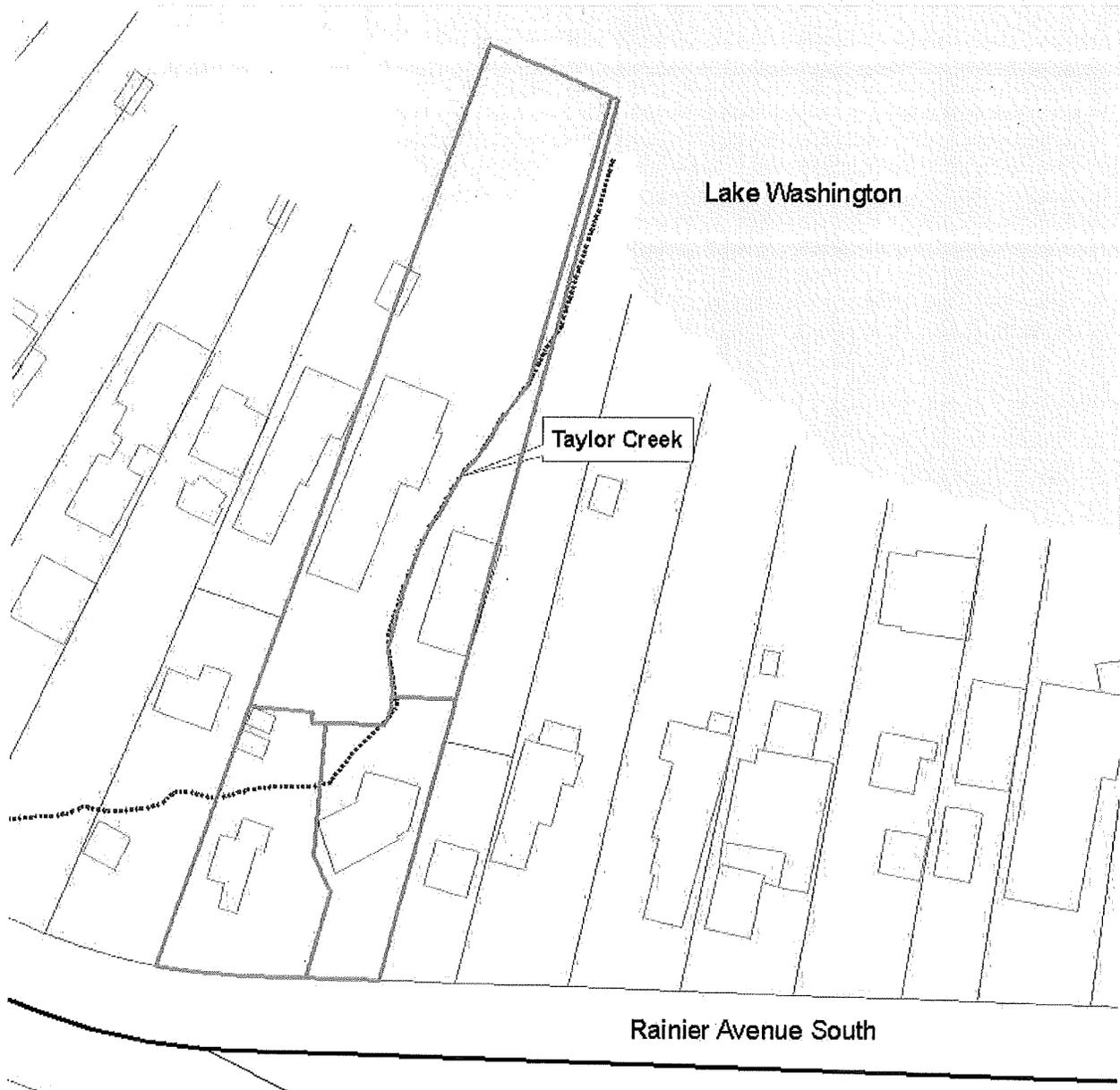
Other Issues:

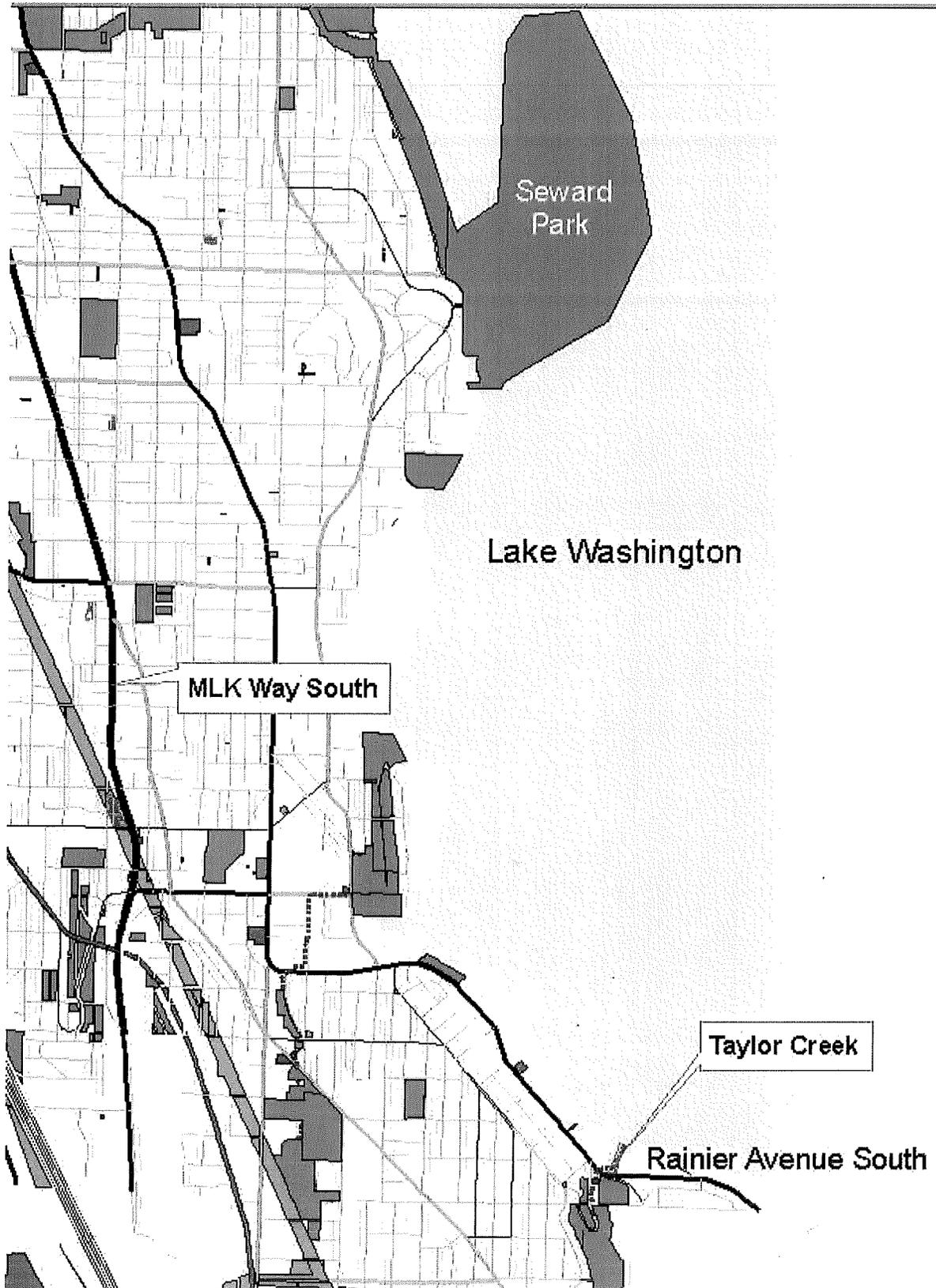
None

List attachments to the fiscal note below:

- Exhibit A – Parcel Map
- Exhibit B – Vicinity Map









**City of Seattle
Office of the Mayor**

October 5, 2010

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill authorizing the Director of Seattle Public Utilities to purchase four properties from the Litchfield Family, LLC as part of a settlement agreement negotiated by the Law Department. The parcels are in south Seattle, adjacent to Lake Washington, and include the mouth of Taylor Creek, one of the City's five major creeks.

The Litchfield Family, LLC claims its ability to float a dock was eliminated as a result of sediment which flowed down Taylor Creek in 2003; three years after Seattle Public Utilities replaced two culverts up stream in Lakeridge Park in 1999/2000. Several years of negotiation, court appearances and mediation resulted in a settlement through which SPU would purchase the property for \$1.7 million.

This real estate purchase will eliminate future claims of injury to this property for sediment movement that is sure to occur in Taylor Creek. It also brings into public ownership the mouth of Taylor Creek, an area of importance to Chinook juvenile salmon outmigrating from the Cedar River, as well as beach-spawning sockeye salmon. Thank you for considering this legislation. Should you have questions, please contact Judith Noble at 4-8078 or Joe Groshong, Assistant City Attorney, at 4-8223.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 4th Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

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TDD (206) 615-0476
mike.mcgin@seattle.gov



STATE OF WASHINGTON – KING COUNTY

--SS.

262799
CITY OF SEATTLE, CLERKS OFFICE

No.

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.

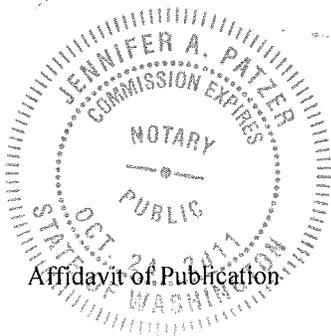
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT: 123432-123435 TITLE

was published on

11/08/10

The amount of the fee charged for the foregoing publication is the sum of \$ 75.08, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

11/08/10

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 ordinances, passed by the City Council on October 25, 2010, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123432

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

ORDINANCE NO. 123433

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of the Seattle Public Utilities to purchase certain real property located at 10032-10038 Rainier Avenue South, Seattle, Washington, King County Parcel Identification Nos. 807300-0525, -0526, -0531, and -0535, in settlement of a judgment entered into between The City of Seattle and Litchfield Family, LLC, in King County Superior Court Case No. 08-2-08628-3SEA, and to accept and record deeds on behalf of the City; and increasing appropriations to Seattle Public Utilities in the 2010 Budget.

ORDINANCE NO. 123434

AN ORDINANCE relating to a grant from the Department of Energy through the Puget Sound Clean Air Agency and allocated through the American Recovery and Reinvestment Act of 2009 for the purpose of installing electric vehicle charging infrastructure; accepting the grant funds, authorizing the Mayor or his designee to execute related agreements, increasing appropriations in the 2010 Adopted Budget and ratifying and confirming certain prior acts; all by a three-fourths vote of the City Council.

ORDINANCE NO. 123435

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to sign and to fulfill the obligations in an Agreed Order with the State of Washington Department of Ecology to achieve the greatest reasonable reduction of combined sewer overflows at the earliest possible date.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily

Journal of Commerce, November 8, 2010,
11/8(202799)