

Ordinance No. 123492

Council Bill No. 117038

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment ("Amendment") to the agreement between the City of Seattle and Boys and Girls Clubs of King County and Rainier Valley Boys and Girls Club to extend the term of the Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club initially approved by Ordinance 122772 in 2008.

CF No. _____

Date Introduced:	<u>Nov. 1, 2011</u>	
Date 1st Referred:	<u>Nov. 1, 2011</u>	To: (committee) <u>Parks and Seattle Center</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>12.6.10</u>	Full Council Vote: <u>9-0</u>
Date Presented to Mayor:	<u>12.7.10</u>	Date Approved: <u>Dec. 13, 2010</u>
Date Returned to City Clerk:	<u>Dec. 14, 2010</u>	Date Published: _____ T.O. <input checked="" type="checkbox"/> F.T. _____
Date Vetoed by Mayor:		Date Veto Published: _____
Date Passed Over Veto:		Veto Sustained: _____

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

SgBoghen
Councilmember

Committee Action:

12/2/10 PASS AS AMENDED ^{EU} 1-0 (SB)

12.6.10 PASS 9-0

This file is complete and ready for presentation to Full Council. Committee: SgB 12.02.10
(initial/date)

Law Department

Law Dept. Review OMP Review City Clerk Review Electronic Copy Loaded Indexed

ORDINANCE 123492

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4 AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an
5 amendment (“Amendment”) to the agreement between the City of Seattle and Boys and
6 Girls Clubs of King County and Rainier Valley Boys and Girls Club to extend the term of
7 the Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club
8 initially approved by Ordinance 122772 in 2008.

9 WHEREAS, Ordinance 122772, authorized the Superintendent of Parks and Recreation to enter
10 into an agreement with the Boys and Girls Clubs of King County (the “Boys and Girls
11 Clubs”) and its subsidiary, the Rainier Valley Boys and Girls Club (the “RVBGC”), for
12 the purchase of a restrictive covenant and easement in gross (the “Covenant”) for fifteen
13 years; and

14 WHEREAS, the Boys and Girls Clubs and RVBGC opened the Rainier Vista Boys and Girls
15 Club facility (“Club”) in November 2008; and

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

19 WHEREAS, Ordinance 123062 released a portion of the property that was originally
20 encumbered by the Covenant because the released property was not needed for Club
21 purposes and was conveyed to the Seattle Housing Authority; and

22 WHEREAS, the City wishes to extend the term of the easement and covenant so that these
23 programs, services, and recreational activities shall continue for 3.75 additional years and
24 to record an amended and restated restrictive covenant that reflects the extended term and
25 the property description; NOW, THEREFORE,

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

27 Section 1. Contingent upon an effective ordinance appropriating the funds, the City
28 Budget Director (the “Director”) is authorized to spend \$250,000 budgeted in the Finance
General Support to Community Development Budget Control Level for the purpose of extending



1 the term of the easement and restrictive covenant granted to the City under Agreement Regarding
2 Purchase of a Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls
3 Club ("Agreement"). The Director shall spend the money in accordance with the conditions in
4 the First Amendment to the Agreement, which is attached hereto as Exhibit 1 (the
5 "Amendment").

6 Section 2. Contingent upon an effective ordinance appropriating the funds, the
7 Superintendent of Parks and Recreation ("Superintendent") is authorized to execute the
8 Amendment on behalf of The City of Seattle ("City") and is further authorized to accept, for and
9 on behalf of the City, a Restated and Amended Restrictive Covenant and Easement in Gross
10 ("Restated and Amended Easement") substantially in the form of Attachment A-1 to the
11 Amendment. The Superintendent is authorized to record the Restated and Amended Easement
12 with the King County Recorder's Office.

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14
15 Section 3. The Superintendent is further authorized to administer and manage the
16 Restated and Amended Easement, and the City's rights thereunder, and to make such minor
17 additions, modifications, or deletions to the Restated and Amended Easement as the
18 Superintendent deems to be consistent with the purposes of this ordinance and in the best interest
19 of the City.
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1 Section 4. Any act consistent with the authority of this ordinance taken after its passage
2 and prior to its effective date is hereby ratified and confirmed.

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

6 Passed by the City Council the 6^r day of December, 2010, and
7 signed by me in open session in authentication of its passage this
8 6^r day of December, 2010.

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11 
12 President _____ of the City Council

13 Approved by me this 13th day of December, 2010.

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16 
17 Michael McGinn, Mayor

18 Filed by me this 14th day of December, 2010.

19
20
21 
22 City Clerk

23 (Seal)

24 Attachment 1 – First Amendment to Agreement Regarding Purchase of a Restrictive
25 Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club



FIRST AMENDMENT TO AGREEMENT REGARDING PURCHASE OF A RESTRICTIVE COVENANT AND EASEMENT IN GROSS

This First Amendment to the October 2, 2008, Agreement Regarding Purchase of a Restrictive Covenant and Easement in Gross ("First Amendment") is by and between **THE CITY OF SEATTLE ("City")** and **BOYS AND GIRLS CLUBS OF KING COUNTY ("Boys and Girls Clubs")**, a Washington non-profit corporation, and **RAINIER VALLEY BOYS AND GIRLS CLUB ("RVBGC")**, a Washington non-profit corporation. The Boys and Girls Clubs and RVBGC are collectively referred to herein as the "**Clubs**" or "**Grantors**".

Recitals

Whereas, on or about October 2, 2008, the City and the Clubs entered into an Agreement Regarding Purchase of a Restrictive Covenant and Easement in Gross (the "Agreement") whereby the City purchased a restrictive covenant and easement, all for purposes of ensuring the Clubs would construct, open, and continuously operate a recreational center in the Rainier Valley (the "Rainier Vista Club") for the benefit of teens, youth, and the general public; and

Whereas, the Clubs opened the Rainier Vista Club on or about October 27, 2008, and are performing under the terms of the restrictive covenant and easement; and

Whereas, the City desires to extend the period of time that the restrictive covenant and easement in gross will be in effect, and the Clubs are willing to grant the extension under certain terms and conditions;

Therefore, in consideration of the mutual promises contained herein, the parties hereby agree to amend the Agreement as follows:

First Amendment to Agreement

- A. The term of the restrictive covenant and easement granted to the City under the Agreement and the recorded Covenant is hereby extended from 15 years to 18 years and nine months. The term "Use Period" as defined in Section 1 of the Agreement is amended as follows:

Use Period: The period of time beginning on October 27, 2008, and ending July 27, 2027, except as it may be extended pursuant to Section 9 hereof.

- B. The Easement attached as Exhibit A to the Agreement is hereby replaced with the Restated and Amended Restrictive Covenant and Easement in Gross attached as Exhibit A-1 to this First Amendment. All references to "Easement" in



Attachment 1

the Agreement will be deemed to mean the Restated and Amended Restrictive Covenant and Easement in Gross attached as Exhibit A-1.

- C. The definition of "Property" in Section 1 of the Agreement is replaced with the following:

The land generally located at 4520 Martin Luther King Way S, Seattle, and legally described in Exhibit A-1, and all improvements and fixtures now or hereafter thereon, including without limitation the entire building to be known as the Joel E. Smilow Clubhouse at Rainier Vista.

- D. In consideration of the extended Use Period herein, the City will pay Grantors \$250,000. The City will make payment to Grantors upon receipt of two complete and originals of this First Amendment and the Restated and Amended Restrictive Covenant and Easement in Gross executed by an authorized representative of Grantors. The City shall record the Easement and pay the recording costs. The City will be responsible for no other costs associated with the Property.
- E. In the event of any conflict between the terms of this Amendment and the terms of the Agreement, the provisions of this Amendment shall control.
- F. Except as modified by this Amendment, the Agreement remains in full force and effect.
- G. This First Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which shall constitute part of a single Amendment.
- H. This First Amendment is subject to authorization by an ordinance of Seattle City Council. Neither party intends to or shall be bound to the terms herein until the First Amendment is fully authorized and executed by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures with the intent to be bound by the terms hereof as of the Effective Date.



Attachment 1

CITY OF SEATTLE:

By: _____

Christopher Williams,

Acting Superintendent, Department of Parks and Recreation

GRANTOR 1:

By: _____

Daniel Johnson, President/CEO

Boys and Girls Clubs of King County

GRANTOR 2:

By: _____

Daniel Johnson, President/CEO

Rainier Valley Boys and Girls Club

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

On this ___ day of _____, 2010, before me personally appeared _____, to me known to be the Acting Superintendent of The



AFTER RECORDING, MAIL TO:

City of Seattle Department of Parks and Recreation
Magnuson Park and Business Resources
c/o Manager
6310 NE 74th Street, Suite 109E
Seattle, WA 98115

**RESTATED AND AMENDED RESTRICTIVE COVENANT AND EASEMENT IN
GROSS AT THE RAINIER VISTA BOYS AND GIRLS CLUB**

GRANTORS: Rainier Valley Boys and Girls Club, a Washington nonprofit
corporation (as owner and operator of the Property)

Boys and Girls Clubs of King County, a Washington nonprofit
corporation (as owner's parent corporation)

GRANTEE: The City of Seattle, a Washington municipal corporation

Legal Description Summary: Block 31 and 33 of NEW RAINIER VISTA II, ACCORDING TO
THE PLAT THEREOF RECORDED IN VOLUME 252 OF PLATS, PAGES 031 THROUGH
053, KING COUNTY, WASHINGTON

Additional legal description on p. 2

Assessor's Property Tax Parcel ID No: 605610-0670

THIS RESTATED AND AMENDED RESTRICTIVE COVENANT AND EASEMENT
IN GROSS is executed this ____ day of _____, 2010 by the Boys and Girls Clubs of
King County, a Washington nonprofit corporation ("Boys and Girls Clubs") and Rainier Valley
Boys and Girls Club, a Washington nonprofit corporation ("RVBGC"). Boys and Girls Clubs
and RVBGC are referred to collectively as ("Grantor"), in favor of The City of Seattle
("Grantee" or "City").

Exhibit A-1

Recitals

This Restated Restrictive Covenant and Easement in Gross is made with reference to the following facts:

On or about October 2, 2008, Grantor granted the City a Restrictive Covenant and Easement in Gross (the "Easement") recorded under King County recording number 20081008000327.

On or about September 1, 2009, the City released certain property that was no longer essential for the purposes of the covenant and easement.

The City and Grantor have agreed to extend the term of the Easement to extend the public benefits the City will derive under the Easement.

Additionally, the City and Grantor desire to clarify the commencement date of the use period and the term of the Easement and the common name of the property encumbered.

Therefore, for the mutual obligations herein, the parties agree as follows:

**RESTATED AND AMENDED RESTRICTIVE COVENANT
AND EASEMENT IN GROSS**

For and in consideration of TEN DOLLARS in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants and warrants to Grantee, The City of Seattle, a municipal corporation, a negative easement, restrictive use covenant and non-exclusive easement in gross (the "Easement"), on the terms set forth below, in and over the real property located at 4520 Martin Luther King Way S, Seattle, in King County, Washington, and legally described as follows (together with the improvements now or hereafter thereon, the "Property"):

BLOCK 30 AND BLOCK 31 OF NEW RAINIER VISTA II, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 252 OF PLATS, PAGES 031 THROUGH 053, IN KING COUNTY, WASHINGTON, WHICH IS A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON

Situate in the City of Seattle, County of King, State of Washington.

The easements and covenants herein are intended to run with the land and burden the Property described subject to the terms and conditions and for the use and benefit of the Grantee, as follows:

1. Purchase Agreement. The easements and covenants granted herein are made pursuant to that certain AGREEMENT Between the City and Grantor regarding the City's PURCHASE

Exhibit A-1

OF A RESTRICTIVE COVENANT AND EASEMENT IN GROSS AT THE RAINIER VISTA BOYS AND GIRLS CLUB dated on or about October 2, 2008 as amended by the First Amendment to Agreement Regarding Purchase of a Restrictive Covenant and Easement In Gross dated _____, 2010 (collectively, the "Purchase Agreement") which is filed with the Seattle City Clerk and is incorporated herein by this reference.

2. Definitions. The following underlined terms have the following meanings when used with initial capital letters in this Easement, unless the context clearly otherwise requires:

Community User: Any non-City government agency, nonprofit corporation, community group or neighborhood association, or other member of the general public.

Department: The Seattle City Department of Parks and Recreation.

Easement: This Restrictive Covenant and Easement in Gross.

Easement Term: The period of time beginning on or about October 2, 2008 and when the Use Period has ended, or on any earlier date when the Easement is terminated or extended under the terms and conditions herein or under the Purchase Agreement.

Grantee: The City of Seattle.

Grantor: Together, the Rainier Valley Boys and Girls Club, owner and operator of the Property, and Boys and Girls Clubs of King County, by which RVBGC is wholly controlled.

Property: The land generally located at 4520 Martin Luther King Way S, Seattle, and legally described above, and all improvements and fixtures now or hereafter thereon, including without limitation the entire building to be known as the Joel E. Smilow Clubhouse at Rainier Vista (also referred to as the "Club" herein).

Purchase Agreement: The Agreement entered into on or about October 2, 2008 between the City of Seattle and Grantor regarding Purchase of a Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club, including the First Amendment to Agreement Regarding Purchase of a Restrictive Covenant and Easement In Gross dated _____, 2010, and all exhibits.

Teen Center: A portion of the Club comprising approximately 20,000 square feet suitable for use by teens and the general public for recreational and educational activities, as shown on Exhibit B to this Agreement.

Use Period: The period of time beginning on October 27, 2008 and ending on July 27, 2027, except as it may be extended pursuant to Section 9 hereof.

Exhibit A-1

Use Rights: The rights granted to the City and the public to access and use the Teen Center, as described and subject to the conditions set forth in this Agreement and Exhibit A.

3. Restrictive Use Covenant.

3.1 Grantor covenants and agrees that from the date hereof throughout the end of the Use Period, Grantor will use the portion of the Property comprising approximately 20,000 square feet as shown on Exhibit B to the Purchase Agreement for the purpose of constructing and operating a Teen Center. Grantor further covenants that the Teen Center will be operating and open to teens and providing safe, age appropriate recreational, learning, and community service activities for an average of 1040 hours per year for the duration of the Use Period, and will use that area of the Property described on Exhibit B for no other purpose whatsoever unless the Teen Center is relocated pursuant to 3.3 below.

3.2 Grantor covenants and agrees that throughout the full duration of the Use Period, Grantor shall make the Teen Center programs publicly accessible and available to all youth of appropriate age either free of charge or for a nominal membership fee comparable to the fees the Department charges for similar programs and facilities. Grantor further covenants and agrees that throughout the full duration of the Use Period, Grantor will not exclude any youth from membership and access to the facility due to inability to pay the membership fee.

3.3 Grantor covenants and agrees that in the event the Grantor wishes to relocate the Teen Center to another area of the Property during the term of this Easement, Grantor guarantees that the area will be equivalent to the area shown on Exhibit B in both size and quality, and that the operation of the Teen Center shall remain substantially the same. Additionally, Grantor covenants that it will not make any use of any other area of the Property that will prevent or impair the operation of the Teen Center.

3.4 Grantor may implement procedures and guidelines for use of the Teen Center, including codes of conduct, so long as the procedures and guidelines are for the purpose of ensuring equitable access to the Teen Center programs, safety of participants and the general public, protection of the Teen Center and other portions of the Property, and so long as such rules and guidelines are uniformly applied and do not result in unreasonable restrictions upon youth or public access to the Teen Center.

3.4 Grantor is solely responsible for maintaining, managing, and operating the Property and the Teen Center according to its own discretion, subject to the terms of this Easement. The Grantor shall maintain the Property and the Teen Center in good condition and repair, and in compliance with all applicable laws, codes, permits, and regulations.

Exhibit A-1

4. Easement in Gross for Public Use. For the duration of the Use Period, the Grantor grants and warrants to the City that Community Users will have the right to use the Rainier Vista Boys and Girls Club as described in this Section.

4.1 Grantors shall make the computer lab, the gym, or other recreational space on the Property available to Community Users for public recreational or educational use for no less than six (6) hours per week during reasonable hours and at such times when the Rainier Vista Boys and Girls Club is not providing recreational services to children and teens. Grantor reserves the right to determine which portions of the facility will be available for public use in fulfillment of this requirement.

4.2 For the public access secured by this Easement in Gross, Grantor may charge Community Users a use fee that is reasonably calculated to reimburse Grantor for its actual operating costs and building maintenance.

4.3 Grantor may establish procedures that guide use, including times of operation, the availability of the Club, codes of conduct, and other policies necessary to efficiently and fairly operate the Property. Grantor may require that Community Users enter a use agreement provided that the use agreement does not impair or unreasonably restrict the Use Rights granted herein, and such agreement is designed to ensure safe and equitable access to the Rainier Vista Boys and Girls Club, to limit damage to the Rainier Vista Boys and Girls Club, and to limit Grantor's risk in operating and managing the Property.

4.4 Grantor is solely responsible for maintaining, managing, and operating the Rainier Vista Boys and Girls Club according to its own discretion, subject to the terms of this Easement. The Grantor shall maintain the Club in good condition and repair, and in compliance with all applicable laws, codes, permits, and regulations.

5. Indemnity.

Grantor shall have control over and responsibility for the development, operation, and maintenance of the Property, including the Teen Center, the Club, and the services and programs provided at the Property. As a result, Grantor agrees to defend, indemnify, and hold the City of Seattle, its elected officials, officers, employees, and agents harmless from any and all damages, claims, liabilities, losses, and/or costs of any kind, including attorney's fees, that arise in any way from the development, construction, financing, operation, maintenance, or use of the Property, including without limitation any use by the public or by Boys and Girls Clubs members under this Restrictive Covenant and Easement, including, but not limited to, use of the Teen Center, the Club and surrounding grounds and property. This clause applies to claims, liabilities, costs, losses, and/or damages of any kind notwithstanding any acts, omissions, or negligence of the City or its officers, officials, employees, contractors, or agents; provided, that nothing herein shall be construed as requiring Grantor to indemnify the City against liability for bodily injury or damage to property caused by or resulting from the sole negligence of the City or of any of its officers, elected officials, employees, or agents, and further provided, that if RCW 4.24.115 (or

successor provision) shall apply to any claim for any such damage or injury, then to the extent required by such statute, (1) this indemnity shall not apply in case of any liability for damages arising out of bodily injury to persons or damage to property caused or resulting from the sole negligence of the City, its agents or employees, and (2) in case of liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Grantor or its agents or employees, this indemnity shall apply only to the extent of Grantor's negligence. The indemnification obligation set forth in this section shall survive the expiration or earlier termination of this Easement.

For purposes of this Section, Grantor waives, solely with respect to City, its immunity under RCW Title 51, Industrial Insurance. Grantor and City acknowledge that this waiver has been specifically negotiated and that City would not have entered into the Purchase Agreement absent this waiver.

THE PARTIES CERTIFY BY THEIR INITIALS BELOW THAT THIS INDEMNIFICATION PROVISION WAS INDIVIDUALLY NEGOTIATED.

Grantor: _____ City: _____

6. Insurance.

6.1 Grantor shall maintain at all times during the Use Period the following insurance:

A. All risk property insurance, including earthquake, on the building in which the Teen Center is located. The amount of insurance shall be not less than the current replacement cost of the building as established upon each annual insurance policy renewal. The City of Seattle shall be an additional insured and loss payee as its interest may appear.

B. General (premises) liability insurance on the Easement with a minimum limit of liability of \$1,000,000 each occurrence bodily injury and property damage combined single limit. The City of Seattle shall be an additional insured for primary and non-contributory limits of liability.

6.2 The insurance described in paragraphs 6.1(A) and (B) above shall be placed with insurers having A.M. Best's ratings of not less than A- and VII and shall not be cancelled without thirty (30) days prior written notice to the City, except ten (10) days as respects non-payment of premium.

6.3 A copy of all insurance required herein shall be provided to the Department no later than seven (7) days after completion of construction of the facility. Grantor shall also provide the City with documentation of the above insurance policies on an annual basis.

7. Priority.

This Easement shall have priority over any and all liens, encumbrances, leases, subleases, or other interests in the burdened property, except as permitted by Section 12 of the Purchase Agreement and as may be expressly agreed in writing by the Grantee. The Grantor shall, at its sole cost and expense, obtain any and all consents and/or subordinations of other interests in the Property, including the subordination of the rights of any mortgagees, lessees, sublessees, successors, and assignees as may be necessary to assure the Grantee its rights under this Easement are and remain free and clear of all liens, exceptions, encumbrances, or other interests affecting the rights of the Grantee under this easement, except as expressly approved by Grantee in writing or otherwise permitted herein or in the Purchase Agreement.

8. Burden and Benefit.

The negative easements, use easement, and restrictive covenants granted under this Easement run with the land and the rights, duties, covenants, restrictions, agreements, limitations, and obligations herein created shall constitute covenants running with the land and burden the Property, and all such easements, covenants, restrictions, agreements, limitations, and obligations contained herein shall be binding upon the successors in interest and assigns of the Grantor. The obligations of Grantor hereunder shall be the joint and several obligations of Boys and Girls Clubs and Rainier Valley Boys and Girls Club and their respective successors in interest and assigns. This Easement shall inure to the benefit of the City, and solely to the extent that the City shall have designated another entity to exercise use rights hereunder, shall inure to the benefit and be enforceable by such entity. Except as expressly stated in this Section, this Easement is not intended to create any legal rights or interests in parties other than the City.

9. Nondiscrimination.

Grantor shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.06, and 14.10 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

Grantor further agrees that, with respect to the Teen Center, it shall not engage in, nor permit, any act or practice that would be prohibited by any such law, regulation, rule, or ordinance but for the existence of any present or future exemption therein, or other limit on the effect thereof, that is based on the type of organization, character, mission, or beliefs of Grantor or of any lessee or sublessee of the Teen Center.

10. Damage or Destruction.

If the Property or Teen Center shall be damaged or destroyed by fire or other casualty when the City or its designee shall have Use Rights remaining, then Grantor shall restore or rebuild such Teen Center if sufficient insurance proceeds are available, and the Use Rights shall apply to such rebuilt or restored Teen Center, and the Use Period shall be extended by a period equal to the time that Use Rights under this Easement were not available. In the alternative, if the Teen Center is not rebuilt or restored, or if such building or restoration does not commence within 24 months of the damage or destruction, Grantor shall pay the City an amount equal to the liquidated damages as determined under Section 18 of the Purchase Agreement, computed as if Default and demand for payment thereof had occurred on the date of damage or destruction, with interest from that date. After receipt of such payment in cleared funds, the City shall, within a reasonable time, record an instrument releasing this Easement.

11. Compliance with Law.

Grantor shall comply at its sole expense with all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof.

12. Applicable Law; Venue.

This Easement 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.

Duration; Termination. Except as otherwise expressly provided herein, the provisions hereof shall be in effect from the date hereof until the end of the Use Period, or until the City shall execute and record in the real property records of King County an instrument expressly terminating this Easement. If the Use Period shall not commence, all the terms hereof, except Section 3, shall be in effect in perpetuity, unless and until the City shall record such an instrument of termination.

13. Ownership and Operation of Property. The City acknowledges that the Property is owned and the Club and the Teen Center will be operated by RVBGC, a controlled subsidiary of Boys and Girls Clubs.

Exhibit A-1

Dated this ____ day of _____, 2010.

Grantor(s):

Accepted: THE CITY OF SEATTLE

Boys and Girls Club of King County

By: _____

Name: _____

Title: _____

Rainier Valley Boys and Girls Club

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, and on oath stated that s/he was authorized to execute the instrument as the _____ of Boys and Girls Club of King County, the Washington nonprofit corporation that executed the within and foregoing instrument, and acknowledged it to be the free and voluntary act of said corporation, for the uses and purposes mentioned in the instrument.

DATED: _____.

NOTARY PUBLIC in and for the State of Washington

residing at _____

Print Name: _____

My commission expires: _____

Exhibit A-1

STATE OF _____)
) ss. (Acknowledgement for Rainier Valley Boys and
 Girls Club)
COUNTY OF _____)

On this ____ day of _____, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the Executive Director of the _____, the not-for-profit corporation that executed the foregoing instrument as sole member of _____, a Washington limited liability company, and acknowledged said instrument to be the free and voluntary act and deed of said corporation on behalf of such company for the purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate above written.

[Signature] [Printed Name]
NOTARY PUBLIC in and for the State of _____ residing at _____.
My commission expires _____.

STATE OF WASHINGTON)
) ss. (Acknowledgement for The City of Seattle)
COUNTY OF KING)

On this ____ day of _____, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the Acting Superintendent of the Department of Parks and Recreation of **THE CITY OF SEATTLE**, the municipal corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

[Signature] [Printed Name]
NOTARY PUBLIC in and for the State of Washington residing at _____.
My commission expires _____.

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Parks and Recreation	Isabel Hamilton/684-4218	Jennifer Devore/615-1328

Legislation Title:

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment (“Amendment”) to the agreement between the City of Seattle and Boys and Girls Clubs of King County and Rainier Valley Boys and Girls Club to extend the term of the Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club initially approved by Ordinance 122772 in 2008.

Summary of the Legislation:

The proposed legislation authorizes an amendment to the Restrictive Covenant and Easement Agreement with the Rainier Vista Boys and Girls Club facility initially approved by Ordinance 122772 in 2008. The amendment provides an additional \$250,000 to Rainier Vista Boys and Girls Club on condition that the current 15 year term of the Restrictive Covenant and Easement is extended by 3.75 years, extending the easement through autumn 2027. These funds will not be expended until the money is appropriated by Council in 2010 for this purpose.

Background:

Ordinance 122772, (August 2008) authorized the City to pay \$1,000,000 to Boys and Girls Clubs of King County (BGC) and Rainier Valley Boys and Girls Club (RVBGC) 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 was 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 guarantees the availability of facilities for after school programming and activities, with an emphasis on teens. When the facility is not being used for teen activities, such as during hours when schools are open, it is to be available to the public for recreational and community programs. The Club opened in November 2008 and is fulfilling the requirements of the Easement. The City wishes to ensure that these services and benefits are available for an additional 3.75 years.

- *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.)*

Appropriations: N/A

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL	N/A	N/A	N/A	N/A

Notes: The proposed legislation does not request any appropriation authority. However, the release of the City's payment to the Rainier Vista Boys and girls Club is contingent on the Seattle City Council appropriating these funds in 2010 for this purpose.

Anticipated Revenue/Reimbursement: Resulting From This Legislation: N/A

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
TOTAL	N/A	N/A	N/A	N/A

Notes: No revenue is anticipated as a result of this legislation.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: N/A

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes: No staffing is requested as a result of this legislation.

- **Do positions sunset in the future?** N/A

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level	2010 Expenditures	2011 Anticipated Expenditures
General Fund (00100)	Finance General	Support to Community Development BCL	\$250,000	\$0
TOTAL			\$250,000	\$0

Notes: Once the Amendment between the City and BGC and RVBGC is finalized and the proposed legislation is adopted, and provided the City Council approves the 2010 budget, the City's allocated funds of \$250,000 will be released in one installment.

- **What is the financial cost of not implementing the legislation?** While there would be no direct financial cost to the City if this legislation is not implemented, the City would forgo the opportunity to ensure after school teen programming an additional 3.75 years beyond the fifteen years previously purchased at the new Rainier Vista Boys and Girls Club facility as well as use by the community of the meeting and activity space.
- **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?** The City could build and operate a recreational facility in the Rainier Valley with similar gym facilities and programs for teens, but has neither the plans nor funding to do so.
- **Is the legislation subject to public hearing requirements:** No
- **Other Issues:** This proposed legislation guarantees that the Rainier Vista Boys and Girls Club will have space and hours dedicated to programs and activities for teens for an additional 3.75 years. Currently, no other facilities exist in the Rainier Valley community that would devote so much space and time to serving teens. In addition, the community would have the added value of available space during school hours for other types of community recreational use.
- **List attachments to the fiscal note below:**

Attachment A: Contract Summary Form

Seattle Department of Parks and Recreation

CONTRACT SUMMARY

Date: August 23, 2010

Name of Contracting Party/ Lessee/ Concessionaire/Other: Boys and Girls Club of King County and Rainier Valley Boys and Girls Club

Contract Type: Amendment to a Restrictive Covenant and Easement extending the term

Non-Profit **or** **For Profit** _____

New _____ **or** **Amendment to existing Agreement**

Term of Amendment: 3.75 years added to 15 years of initial agreement

Purpose of Amendment: To extend the 15 year term by an additional 3.75 years of the restrictive covenant and easement for property in the Rainier Vista Boys and Girls Club approved for purchase by Ordinance 122772 in October 2008. The restrictive covenant and easement ensures teen programming and access to public space in approximately 20,000 square feet of the facility for at least 20 hours per week.

Public Benefit: A guarantee of free or affordable activities for teens to engage in within a structured environment for as long as the restrictive covenant and easement is in effect. In addition, the public has access to the space for community activities during hours it is not programmed for teens.

Revenue or Offsets (as applicable): Teens will have access to a facility and programming in sports, education and community geared to their age level for at least 20 hours per week for fifteen years plus the additional 3.75 years proposed in this agreement.

Brief description, overview, history, general terms and other pertinent info: In 2008, Ordinance 122772 authorized the Superintendent of Parks and Recreation to enter into a restrictive covenant and easement with the Rainier Vista Boys and Girls Club. The 2008 agreement guaranteed the Rainier Vista Boys and Girls Club would provide teen programming and public assembly space in their newly-constructed Rainier Valley Club for fifteen years. The new facility has been

opened for over one year and the Rainier Vista Boys and Girls Club has been complying with the obligations of the easement.

This amendment amends this restrictive covenant and easement agreement and provides an additional \$250,000 to Rainier Vista Boys and Girls Club, with the condition that the same programming and services will be offered for an additional 3.75 years, extending the easement through autumn 2027. However, these funds will not be expended until the money is appropriated by Council in 2010 for this purpose.



City of Seattle
Office of the Mayor

September 21, 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 Superintendent of Parks and Recreation to amend the restrictive covenant and easement approved by Ordinance 122772 in 2008. The 2008 agreement guaranteed the Rainier Vista Boys and Girls Club would provide teen programming and public assembly space in their newly-constructed Rainier Valley Club for fifteen years. The new facility has been open for over one year and the Rainier Vista Boys and Girls Club has been complying with the obligations of the easement.

This amendment provides an additional \$250,000 to Rainier Vista Boys and Girls Club and extends the term of the original agreement, with the condition that the same programming and services will be offered for an additional 3.75 years, extending the easement through autumn 2027. However, these funds will not be expended until the money is appropriated by Council in 2010 for this purpose.

Extending the term of the agreement with Rainier Vista Boys and Girls Club will ensure continued programs for teens in southeast Seattle. Thank you for your consideration of this legislation. Should you have questions, please contact Rebecca Salinas at 684-7279.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

264646

No.

CITY OF SEATTLE, CLERKS OFFICE

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.

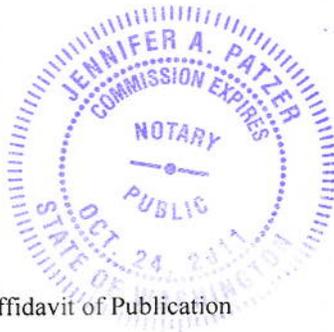
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123491 & 123492 TITLE

was published on

12/17/10

The amount of the fee charged for the foregoing publication is the sum of \$ 40.95, which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
12/17/10 

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 December 6, 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. 123491

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

ORDINANCE NO. 123492

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment ("Amendment") to the agreement between the City of Seattle and Boys and Girls Clubs of King County and Rainier Valley Boys and Girls Club to extend the term of the Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls Club initially approved by Ordinance 122772 in 2008.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, December 17, 2010.
12/17(264646)

1 the term of the easement and restrictive covenant granted to the City under Agreement Regarding
2 Purchase of a Restrictive Covenant and Easement in Gross at the Rainier Vista Boys and Girls
3 Club ("Agreement"). The Director shall spend the money in accordance with the conditions in
4 the First Amendment to the Agreement, which is attached hereto as Exhibit 1 (the
5 "Amendment").

6
7 Section 2. Contingent upon an effective ordinance appropriating the funds, the
8 Superintendent of Parks and Recreation ("Superintendent") is authorized to execute the
9 Amendment on behalf of The City of Seattle ("City") and is further authorized to accept, for and
10 on behalf of the City, a Restated and Amended Restrictive Covenant and Easement in Gross
11 ("Restated and Amended Easement") substantially in the form of Attachment A-1 to the
12 Amendment. The Superintendent is authorized to record the Restated and Amended Easement
13 with the King County Recorder's Office.

14
15 Section 3. The Superintendent is further authorized to administer and manage the
16 Restated and Amended Easement, and the City's rights thereunder, and to make such minor
17 additions, modifications, or deletions to the Restated and Amended Easement as the
18 Superintendent deems to be consistent with the purposes of this ordinance and in the best interest
19 of the City.
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1 Section 4. 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 ____ day of _____, 2010, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2010.

7
8
9
10 _____
11 President _____ of the City Council

12 Approved by me this ____ day of _____, 2010.

13
14 _____
15 Michael McGinn, Mayor

16 Filed by me this ____ day of _____, 2010.

17
18 _____
19 City Clerk

20 (Seal)

21
22
23 Attachment 1 – First Amendment to Agreement Regarding Purchase of a Restrictive Covenant
24 and Easement in Gross at the Rainier Vista Boys and Girls Club

