

Ordinance No. 123716

Council Bill No. 117266

AN ORDINANCE relating to State of Washington restrictions on the use of certain property under the jurisdiction of the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to grant to the State of Washington a Deed of Right limiting the use of certain property in the Duwamish Head Greenspace to conservation purposes and to accept the release of a Deed of Right limiting the use of certain property in the Cheasty Greenspace to public recreation purposes.

CF No. _____

Date Introduced:	<u>Aug. 15, 2011</u>	
Date 1st Referred:	<u>Aug. 15, 2011</u>	
Date Re - Referred:	To: (committee) <u>Parks and Seattle Center</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>Sept. 30, 2011</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Sy Bagshaw
Councilmember

Committee Action:

9/22/2011 PASS 1-0

9.26.11 Passed 9-0

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
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ORDINANCE

123716

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2 AN ORDINANCE relating to State of Washington restrictions on the use of certain property
3 under the jurisdiction of the Department of Parks and Recreation; authorizing the
4 Superintendent of Parks and Recreation to grant to the State of Washington a Deed of
5 Right limiting the use of certain property in the Duwamish Head Greenspace to
6 conservation purposes and to accept the release of a Deed of Right limiting the use of
7 certain property in the Cheasty Greenspace to public recreation purposes.

8 WHEREAS, on March 18, 1991, the City of Seattle ("City") acquired .73 acres of real property
9 in an area now known as the Cheasty Greenspace, as more fully described in the
10 Warranty Deed dated March 18, 1991, and recorded in King County Recorder's Office in
11 File No. 199104180655, King County, Washington ("Cheasty Property"); and

12 WHEREAS, the Cheasty Property was purchased, in part, using Washington State Outdoor
13 Recreation funding ("State Funding"); and

14 WHEREAS, as a condition of using the State Funding, the City was required to grant to the State
15 of Washington ("State") a Deed of Right restricting the use of the property for public
16 recreation purposes in perpetuity; and

17 WHEREAS, the alignment of the light rail system, as described in the Central Link Light Rail
18 Beacon Hill Tunnel Plans (Contract # C710), passes below the surface of the Cheasty
19 Property; and

20 WHEREAS, in order to meet Central Puget Sound Regional Transit Authority's ("Sound
21 Transit") construction schedule, Sound Transit and the City entered into a Right of Entry
22 Agreement (BH009) on March 30, 2004, as extended by letter agreement on November 3,
23 2004, for the temporary occupancy of surface portions of the Cheasty Property and
24 construction of a subsurface tunnel for the light rail system, as described in the Central
25 Link Light Rail Beacon Hill Tunnel Plans (Contract # C710); and

26 WHEREAS, Sound Transit has finished construction and currently operates its light rail system
27 known as the Central Link Light Rail Project; and

28 WHEREAS, the City has agreed to convey a subsurface tunnel easement to Sound Transit for
operation of the Central Link Light Rail Project; and

WHEREAS, before conveying the subsurface tunnel easement to Sound Transit, the City must
receive from the State a release of the Deed of Right restricting the use of the Cheasty
Property to public recreation purposes; and



1 WHEREAS, the State has agreed to release the Deed of Right restricting the Cheasty Property to
2 public recreation purposes, on the condition that the City grant a Deed of Right to the
State imposing restrictions on other City park property of equal or greater value; and

3 WHEREAS, on June 30, 2010, the City acquired .70 acres of real property in an area known as
4 the Duwamish Head Greenspace, as more fully described in the Warranty Deed dated
5 June 30, 2010, and recorded in King County Recorder's Office in File No.
20100630002218, King County, Washington ("Duwamish Head Property"); and

6 WHEREAS, prior to closing on the Duwamish Head Property, the City received a waiver of
7 retroactivity from the State that kept it eligible to be used as a replacement property [for
Deed of Right purposes]; and

8 WHEREAS, the City has selected the Duwamish Head Property for the new Deed of Right; and

9 WHEREAS, independent appraisers were hired to determine the fair market value of the Cheasty
10 Property and the Duwamish Head Property; and

11 WHEREAS, the value of the Duwamish Head Property is greater than the value of Cheasty
12 Property; and

13 WHEREAS, it is in the best interests of the City to facilitate the conveyance of the subsurface
14 tunnel easement to Sound Transit by accepting a release of a Deed of Right on the
15 Cheasty Property and granting a Deed of Right on the Duwamish Head Property; NOW,
THEREFORE,

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

17
18 Section 1. The Superintendent of Parks and Recreation ("Superintendent") or his
19 designee is hereby authorized to accept, for and on behalf of the City of Seattle ("City"), a
20 Release of Deed of Right from the State of Washington ("State") in a form substantially similar
21 to Attachment 1 to this ordinance for the real property in the Cheasty Greenspace that is legally
22 described in Attachment 1. The Superintendent is further authorized to make minor deletions
23 and revisions to Attachment 1 as may be required by the State so long as the Superintendent
24 determines that the revisions are for accuracy and are in the best interest of the City.
25



1 Section 2. For and on behalf of the City, the Superintendent or his designee is authorized
2 to execute and grant to the State a Deed of Right in a form substantially similar to Attachment 2
3 to this ordinance, promising to use and maintain, exclusively for conservation purposes, the real
4 property in the Duwamish Head Greenspace that is legally described in Exhibit A to Attachment
5 2. The Superintendent is further authorized to make minor deletions and revisions to Attachment
6 2 as may be required by the State so long as the Superintendent determines that the revisions are
7 for accuracy and are in the best interest of the City.
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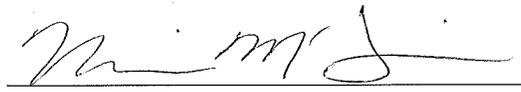


1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4
5 Passed by the City Council the 26th day of September, 2011, and
6 signed by me in open session in authentication of its passage this
7 26th day of September, 2011.

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10 President _____ of the City Council

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12 Approved by me this 30th day of September, 2011.

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15 Michael McGinn, Mayor

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17 Filed by me this 30th day of September, 2011.

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21 Monica Martinez Simmons, City Clerk

22 (Seal)

23 Attachment 1: Release of Deed of Right

24 Attachment 2: Deed of Right

25 Exhibit A to Attachment 2: Legal Description of Duwamish Head Property



AFTER RECORDING RETURN TO:
Seattle Department of Parks and Recreation
800 Maynard Avenue S
Seattle, WA 98104
ATTN: Property Management

RELEASE OF DEED OF RIGHT

Reference number of related documents: 199110300646

Grantor: State of Washington through its Recreation and Conservation Office

Grantee: The City of Seattle

Abbreviated Legal Description: lots 3 through 10, inclusive, block 32, T. Hanford's Addition, v. 1, pg. 205, in King County, WA

Tax Parcel Numbers: 3085001995

WHEREAS, by instrument dated and recorded on October 22, 1991, Auditor's File No. 199110300646 ("Deed of Right"), the City of Seattle, a municipal corporation of the State of Washington ("City"), committed the lands described herein to public recreation purposes forever, pursuant to provisions of the Project Agreement, (entitled Cheasty G.B/N.A./Mt. View N.A.), RCO #91-246 A, and as thereafter amended, entered into between the City and the State of Washington through its Recreation and Conservation Office¹ ("State"), and

WHEREAS, the City needs to convey a subsurface tunnel easement to Puget Sound Regional Transit Authority's for operation of the Central Link Light Rail Project that runs underneath the real property restricted by the Deed of Right ("Cheasty Property"); and

¹ On July 1, 2007, the name of the Interagency Committee for Outdoor Recreation changed to the *Recreation and Conservation Funding Board* and the office name changed to the *Recreation and Conservation Office*.



WHEREAS, before the City can convey the subsurface tunnel easement, the State must release the Deed of Right from the Cheasty Property, which requires the property to be used exclusively for public recreation purposes; and

WHEREAS, the State, through its Recreation and Conservation Office, has agreed to release the Deed of Right on the Cheasty Property on the condition that the City impose Deed of Right restrictions on property of equal or greater value.

NOW THEREFORE, the State does hereby relinquish all rights, title and interest in and to the following described lands, and forever releases said lands from the restrictions and covenants contained in the aforesaid instrument recorded under Auditor's File No. 199110300646, legally described as follows.

LOTS 3 THROUGH 10, INCLUSIVE, BLOCK 32, T. HANFORD'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 205, IN KING COUNTY, WASHINGTON.



AFTER RECORDING RETURN TO:
The Recreation and Conservation Office
Natural Resources Building
P.O. Box 40917
Olympia, WA 98504-0917
ATTN: Laura Moxham

DEED OF RIGHT TO USE LAND FOR CONSERVATION PURPOSES

Reference number of related documents: 20100630002218

Grantor: The City of Seattle

Grantee: State of Washington through the Recreation and Conservation Funding Board

Abbreviated Legal Description: lots 18 through 27, inclusive, Blk 85, Replat of West Seattle Land & Improvement Company's Third Plat, v. 9, pg. 58, in King County, WA

Tax Parcel Numbers: 9275702865, 9275702885, 9275702905, 9275702915

The Grantor enters this Deed for and in consideration of monies coming in whole or in part from the Urban Wildlife Account. Such grant is made pursuant to the project agreement entered into between the Grantor and the Grantee entitled Cheasty G.B/N.A./Mt. View N.A.: RCO #91 246 A, signed by the Grantor on October 16, 1991 and by the Grantee on September 30, 1991 and supporting materials, which are on file with the Grantor and the Grantee in connection with the project agreement.

The Grantor hereby conveys and grants to the Grantee as the representative of the people of the State, the right to enforce the following duties:

1. The Grantor shall take such reasonable and feasible measures as are necessary to protect the Real Property as described in Exhibit A: Legal Description, in perpetuity. Such measures shall be consistent with the purposes in the project agreement, including protecting, preserving, restoring and/or enhancing the habitat functions on the Real Property, which includes forested habitat. This habitat supports or may support priority species.

2. The Grantor shall allow public access to the Property as provided in the project agreement. Such access shall be subject to the restrictions allowed under the project agreement, by written agreement with the Grantee, or under state law. This provision is not intended to prevent reasonable access or use restrictions that are necessary for safe and effective management of the property consistent with habitat conservation purposes and the project agreement.

3. The Grantor shall provide access by the Grantee to inspect the Real Property for compliance with the terms of this Deed and the applicable project agreement to which the Grantor is a



signatory. Such access shall be subject to the restrictions, if any, allowed under the project agreement, by written agreement with the Grantee, or under state law. The Grantor warrants it has and shall maintain the legal right and means to reach the property.

4. Without prior written consent by the Grantee or its successors, through an amendment to the project agreement or the process set forth below, the Grantor shall not use or allow any use of the Real Property (including any part of it) that is inconsistent with the conservation purposes herein granted and as stated in the project agreement. The Grantor shall also not grant or suffer the creation of any property interest that is inconsistent with the conservation purposes herein granted and as stated in the project agreement.

Grantee's consent to an inconsistent use or property interest under this Deed shall be granted only to the extent permitted by law and upon the following three conditions, which ensure the substitution of other eligible land. The conditions are: (1) the substitute conservation land must be of reasonably equivalent habitat qualities, characteristics and location for the conservation purposes as the Real Property prior to any inconsistent use; (2) the substitute conservation land must be of at least equal fair market value to the Real Property at the time of Grantee's consent to the inconsistent use; and (3) the fair market value of the Real Property at the time of the Grantee's consent to the inconsistent use shall not take into consideration any encumbrances imposed on or alterations made to that land as a result of the original state grant and other grants if such encumbrances or alterations reduce the value of the Real Property from what it would be without them.

For purposes of this Deed the project agreement includes any amendments thereto that occur prior to or subsequent to the execution of this Deed.

This Deed contains covenants running with the land and shall be binding upon the Grantor, its successors and assigns, and upon any person acquiring the Property, or any portion thereof, or any interest therein, including a leasehold interest, whether by operation of law or otherwise. If the Grantor sells all or any portion of its interest, the new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be subject to applicable covenants and requirements under the Deed.

This Deed may not be removed or altered from the Real Property unless specific approval has been granted by the Washington State Recreation and Conservation Office and/or the Washington State Recreation and Conservation Funding Board or its successors.

The Washington State Recreation and Conservation Office and the Recreation and Conservation Funding Board and/or its successors shall each have a separate and independent right to enforce the terms of this deed.



GRANTEE:

STATE OF WASHINGTON, acting by and through THE RECREATION AND
CONSERVATION BOARD, administered by the RECREATION AND
CONSERVATION OFFICE

By:

Name:

Title:

Dated this day _____ of _____, 2011

GRANTEE ACKNOWLEDGMENT

STATE OF WASHINGTON)

)SS

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the
person who appeared before me, and said person acknowledged that (he/she) signed this
instrument, on oath stated that (he/she) was authorized to execute the instrument and
acknowledge it as the _____ Director, _____ of the
Recreation and Conservation Office and to be the free and voluntary act of such party for the
uses and purposes mentioned in the instrument.

Notary Public in and for the State of Washington,
residing at _____

My appointment expires _____



EXHIBIT A
Legal Description

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The real property covered by this deed is described as follows:

LOTS 18 THROUGH 27, INCLUSIVE, BLOCK 85, REPLAT OF WEST SEATTLE LAND & IMPROVEMENT COMPANY'S THIRD PLAT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 58, IN KING COUNTY, WASHINGTON.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Parks and Recreation	Donald Harris / 684-8018	Amy Williams / 233-2651

Legislation Title:

AN ORDINANCE relating to State of Washington restrictions on the use of certain property under the jurisdiction of the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to grant to the State of Washington a Deed of Right limiting the use of certain property in the Duwamish Head Greenspace to conservation purposes and to accept the release of a Deed of Right limiting the use of certain property in the Cheasty Greenspace to public recreation purposes.

Summary of the Legislation:

This proposed legislation authorizes the granting of a Deed of Right restricting the use of certain property in the Duwamish Head Greenspace to conservation purposes, in exchange for the release of a Deed of Right restricting use of a parcel in the Cheasty Greenspace. The legislation is necessary to allow the transfer of a subsurface tunnel easement for the Beacon Hill Light Rail tunnel to Sound Transit as described in companion legislation.

Background:

Companion legislation authorizes the Superintendent of Parks and Recreation to convey a subsurface tunnel easement beneath a parcel of property in the Cheasty Greenspace to Sound Transit for the operation of Sound Transit's Link Light Rail Project. The Cheasty Greenspace parcel was acquired using both Washington State Outdoor Recreation funds and King County Conservation Futures funds. Before the City can transfer the subsurface easement to Sound Transit, the City requires the consent of, and release of restrictions on the Cheasty Greenspace parcel imposed by the State of Washington through its Recreation and Conservation Office. Conveyance of a subsurface tunnel easement does not trigger replacement property requirements of the other funding source, King County Conservation Futures funds.

The State of Washington is willing to allow the removal of the restrictions on the Cheasty Greenspace parcel if similar restrictions are placed on another property of equal or greater value and similar utility. The State's replacement property conditions, unlike King County's replacement property conditions, do not require that the replacement property be located in the same area as the released property. The Department of Parks and Recreation (DPR) has suggested a replacement parcel, currently owned by the City and under the jurisdiction of DPR, in the Duwamish Head Greenspace. Before the City acquired the Duwamish Head property, it obtained a waiver of retroactivity from the State Recreation and Conservation Office that kept the Duwamish Head Greenspace property eligible as a replacement property.

With this proposed legislation, DPR will be able to obtain a release of restrictions from the Cheasty Greenspace parcel and will impose restrictions on the Duwamish Head Greenspace parcel. Based on recent appraisals, the Duwamish Head Greenspace parcel is more valuable than



the Cheasty Greenspace parcel, and thus meets the State's requirement that the replacement property be of equal or greater value than the released property.

Please check one of the following:

This legislation does not have any financial implications.

List attachments to the fiscal note below:

Attachment A: Map of Cheasty Greenspace Property

Attachment B: Map of Duwamish Head Greenspace Property



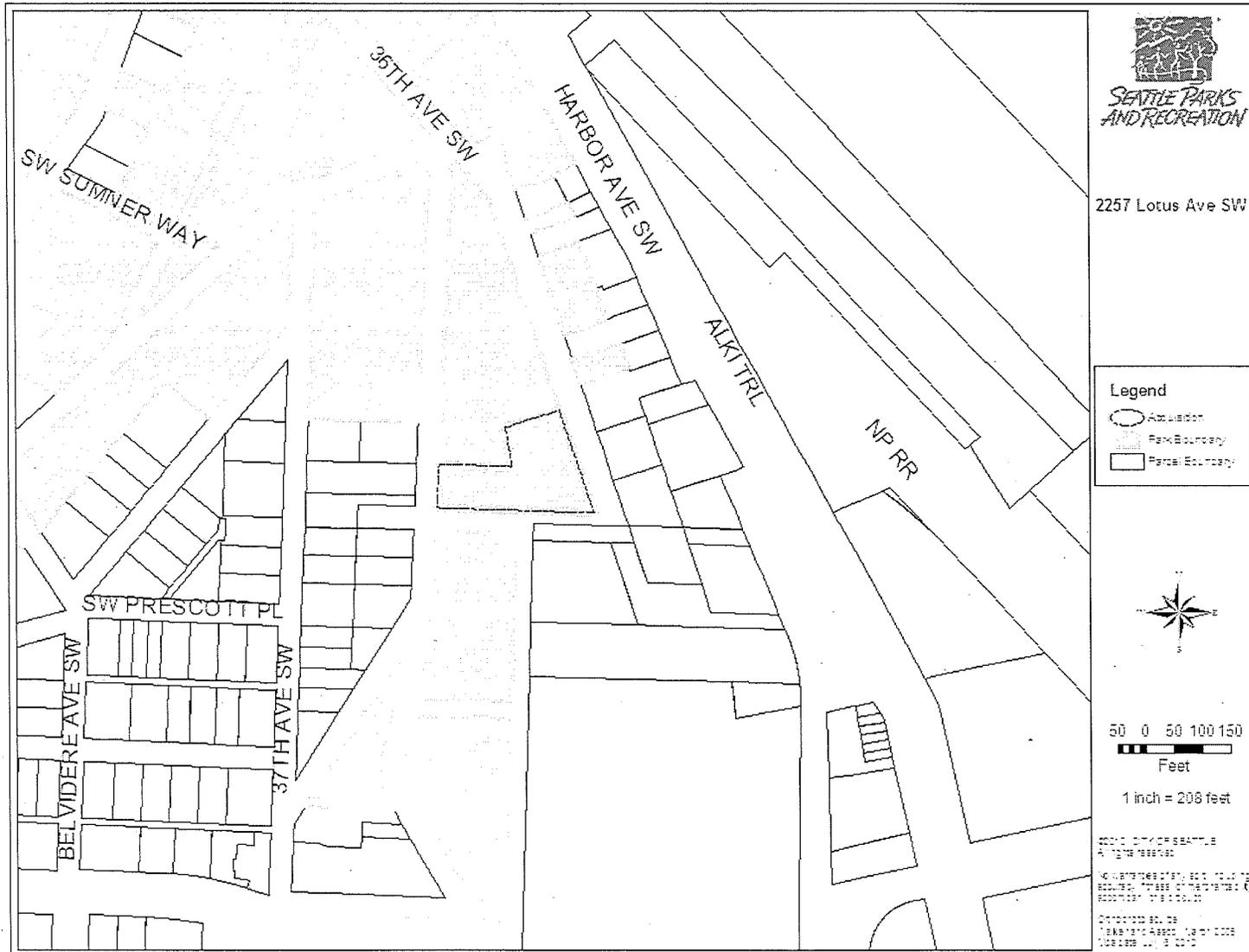
ATTACHMENT A: Map of Cheasty Greenspace Property



This map is intended for informational purposes only.



ATTACHMENT B: Map of Duwamish Head Greenspace Property



This map is intended for informational purposes only.

ATT B to DPR Cheasty DOR Transfer FISC





City of Seattle
Office of the Mayor

July 26, 2011

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 (DPR) to grant a Deed of Right to the State of Washington limiting the use of a parcel in the Duwamish Head Greenspace to conservation purposes in exchange for the removal of a similar Deed of Right from a Cheasty Greenspace parcel in the Rainier Valley.

The Sound Transit Beacon Hill Tunnel passes below the surface of a parcel in the Cheasty Greenspace, which is City-owned park property. Companion legislation authorizes the Superintendent of Parks and Recreation to convey a subsurface tunnel easement beneath the parcel of property in the Cheasty Greenspace to Sound Transit for the operation of Sound Transit's Link Light Rail Project. The Cheasty Greenspace parcel was acquired using both Washington State Outdoor Recreation funds and King County Conservation Futures funds. Before the City can convey the subsurface easement to Sound Transit, the City requires the consent of, and release of restrictions on the Cheasty Greenspace parcel imposed by the State of Washington, through its Recreation and Conservation Office. Conveyance of a subsurface tunnel easement does not trigger replacement property requirements of the other funding source, King County Conservation Futures funds.

The State of Washington will allow the removal of the restrictions on the Cheasty Greenspace parcel if similar restrictions are placed on another property of equal or greater value. The attached legislation will enable DPR to accept a release of Deed of Right restrictions on the Cheasty Greenspace parcel and, as required by the State of Washington, impose restrictions on a City-owned parcel of park property in the Duwamish Head Greenspace.

Thank you for your consideration of this legislation. Should you have any questions, please contact Donald Harris at 684-8018.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

277354
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:123714-123721 TITLE

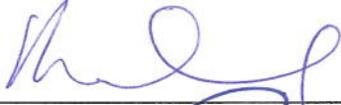
was published on

10/17/11

The amount of the fee charged for the foregoing publication is the sum of \$ 150.15, which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
10/17/11 

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on September 26, 2011, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123714

AN ORDINANCE establishing a Seattle Tourism Business Improvement Area; levying special assessments upon hotel businesses within the area; providing for the deposit of revenues in a special account and expenditures therefrom; providing for collection of and penalties for delinquencies; providing for the establishment of a Ratepayers Advisory Board, and providing for an implementation agreement with a Program Manager.

ORDINANCE NO. 123715

AN ORDINANCE relating to Seattle Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to enter into an easement agreement granting and conveying a permanent subsurface tunnel easement under portions of the Cheasty Greenspace to the Central Puget Sound Regional Transit Authority and to accept payment therefor; finding that the grant of a permanent subsurface tunnel easement meets the requirements of Ordinance 118477, adopting Initiative 42, to the extent applicable; ratifying and confirming the grant of temporary surface rights on portions of the Cheasty Greenspace to the Central Puget Sound Regional Transit Authority for temporary construction purposes and authorizing acceptance of payment therefor; and exempting the grant of temporary surface rights from the requirements of Ordinance 118477, to the extent applicable.

ORDINANCE NO. 123716

AN ORDINANCE relating to State of Washington restrictions on the use of certain property under the jurisdiction of the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to grant to the State of Washington a Deed of Right limiting the use of certain property in the Duwamish Head Greenspace to conservation purposes and to accept the release of a Deed of Right limiting the use of certain property in the Cheasty Greenspace to public recreation purposes.

ORDINANCE NO. 123717

AN ORDINANCE relating to the business license tax; amending the Seattle Municipal Code to provide that all return or tax information is confidential, privileged, and subject to disclosure in the manner provided by RCW 82.32.330; and amending Section 5.55.200 of the Seattle Municipal Code in connection therewith.

ORDINANCE NO. 123718

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a ten year lease agreement, with additional options to extend, with Friends of KEXP; under which agreement KEXP will renovate and lease space in the Northwest Rooms and a portion of the adjacent courtyard at Seattle Center for use as KEXP's radio broadcast studios and offices, performance spaces, a cafe, a shared use outdoor stage, and other uses supporting KEXP's operations.

ORDINANCE NO. 123719

AN ORDINANCE relating to economic development; authorizing the Council President to sign a letter of understanding with Wyndham Publications, Inc. to sponsor the creation of an economic development and tourism publication consisting potentially of a three-book series about the City with the working title, Seattle: The Emerald City; and ratifying and confirming prior acts.

ORDINANCE NO. 123720

AN ORDINANCE relating to the Department of Parks and Recreation,

authorizing the Superintendent of Parks and Recreation to enter into an egress easement agreement with Seattle School District No. 1 over portions of vacated N. 42nd Street between Woodlawn Avenue N. and Densmore Avenue N., and to execute a covenant restricting the use of property at Wallingford Playfield to satisfy permit requirements related to the construction of a new gymnasium on the Hamilton International Middle School property; authorizing acceptance of reimbursed City-incurred costs related to the egress easement agreement and covenant; superseding the requirements of Ordinance 118477, which adopted Initiative 42, for the purposes of this ordinance; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123721

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

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, October 17, 2011.
10/17(277354)