

Ordinance No. 124374

Council Bill No. ~~1178~~ 117900

AN ORDINANCE relating to the Department of Transportation's Hazard Mitigation Program; authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of slope stabilization along a portion of Rainier Avenue South; placing the real property rights under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Tom Roemer
Councilmember

Committee Action:

12-10-13	PASS	TR JCBH 3-0
Full Council		
12-16-13	passed	9-0

CF No. _____

Date Introduced:	9.3.13	
Date 1st Referred:	9-3-13	To: (committee) Transportation
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	12.16.13	Full Council Vote: 12.16.13
Date Presented to Mayor:	12.10.13	Date Approved: 12.19.13
Date Returned to City Clerk:	12.23.13	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:

This file is complete and ready for presentation to Full Council. Committee: _____ (Initial/date)

LAW DEPARTMENT

Law Dept. Review

OMP Review

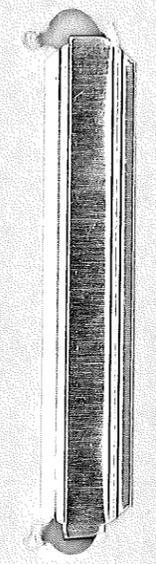
City Clerk Review

Electronic Copy Loaded

Indexed

124374

SC17015



CITY OF SEATTLE

ORDINANCE 124374

COUNCIL BILL 117900

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4 AN ORDINANCE relating to the Department of Transportation's Hazard Mitigation Program;
5 authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a
6 permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and
7 wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of
8 slope stabilization along a portion of Rainier Avenue South; placing the real property
rights under the jurisdiction of the Seattle Department of Transportation; and ratifying
and confirming prior acts.

9 WHEREAS, a segment of Rainier Avenue South was closed between 57th Avenue South and
10 Cornell Avenue South as a result of a landslide that blocked a portion of Rainier Avenue
South on April 7, 2013; and

11 WHEREAS, the landslide debris was subsequently cleared by the Seattle Department of
12 Transportation ("SDOT") and on April 8, 2013, the City re-channelized traffic between
13 South Perry Street and South Norfolk Street as a temporary precaution in the event that
other landslides occurred along this portion of Rainier Avenue South; and

14 WHEREAS, the temporary re-channelization, resulting in the addition of traffic control devices
15 and the loss of parking, has inconvenienced residents of the area; and

16 WHEREAS, this was the second landslide occurring from the same slope within a consecutive
17 two-week period and, according to City records, this slope area has a long history of
18 landslides, and the City currently spends valuable resources to respond to landslides and
ensure public safety; and

19 WHEREAS, due to the high probability of a reoccurrence of landslide activity from this slope, it
20 is necessary and advisable for the City to build a retaining wall to mitigate potential
21 adverse impacts to Rainier Avenue South and the surrounding residents in the event of
another landslide; and

22 WHEREAS, the City believes it is in the best interest of the City of Seattle to take permanent
23 measures to prevent further slope erosion by restoring and stabilizing the steep slope
24 between South Perry Street and South Norfolk Street and stabilizing and providing
integral ground support to the roadway embankment below; and

1 WHEREAS, the City must first obtain, and the City Council must accept, a permanent easement
2 from the private property owners of the land where the slope exists to build such a
retaining wall to prevent further erosion; and

3 WHEREAS, the Landslide Mitigation Project under the Hazard Mitigation Program provides for
4 SDOT to identify landslide concerns that affect the right-of-way and prioritize and make
5 repairs as necessary to maintain public safety; NOW, THEREFORE,

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

7 Section 1. The easement dated June 28, 2013, granted by Dan J. and Mary F. Del Duca,
8 husband and wife, recorded under King County recording number 20130703001060 and attached
9 as Attachment 1 to this ordinance, granting to the City an easement to construct, repair, replace,
10 and maintain a retaining wall and any other modifications associated with the retaining wall as
11 described in the easement over property legally described in Exhibit A of Attachment 1 to this
12 ordinance (the "Easement"), is accepted.

13 Section 2. The Easement is placed under the jurisdiction of the Seattle Department of
14 Transportation.

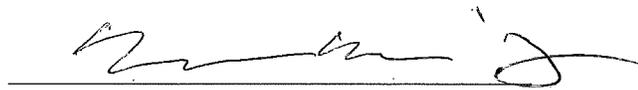
15 Section 3. Any act consistent with the authority and prior to the effective date of this
16 ordinance is approved and accepted.

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

1 Passed by the City Council the 10th day of December, 2013, and
2 signed by me in open session in authentication of its passage this
3 10th day of December, 2013.

4
5 
6 President _____ of the City Council

7
8 Approved by me this 19th day of December, 2013.

9
10 
11 Michael McGinn, Mayor

12
13 Filed by me this 23rd day of December, 2013.

14
15 
16 Monica Martinez Simmons, City Clerk

17 (Seal)

18
19 Attachment 1: Recorded Easement
20
21
22
23
24
25
26
27

After recording return document to:

City of Seattle
Department of Transportation
700 5th Avenue - Suite 3900
PO Box 34996
Seattle, WA 98124-4966
Attn: Larry Huggins



20130703001060

SEATTLE DEPART EAS 76.00
PAGE-001 OF 005
07/03/2013 10:57
KING COUNTY, WA

Document Title: Easement
Reference Number of Related Document: N/A
Grantor(s): Dan J. and Mary F. Del Duca
Grantee: City of Seattle
Abbreviated Legal Description: Ptn. of Lots 1 and 2, Blk 35, Plat of Rainier Beach, Vol. 8, PP 11, and ptn of vac S. Perry St, Vol. 14, PP 247, NW 1/4 of the NE 1/4 of S2, T23N, R4E, WM, King County, Washington
Additional Legal Description is on Page(s) 4 of Document.
Assessor's Tax Parcel Number(s): 712930-1740

EASEMENT

Project: Rainier Avenue South Landslide

The Grantors, **DAN J. and MARY F. DEL DUCA**, husband and wife; for and in consideration of **TEN AND NO/100 DOLLARS (\$10.00)**, and other valuable consideration, receipt of which is hereby acknowledged, hereby convey(s) and grant(s) to the Grantee, the **CITY OF SEATTLE**, a municipal corporation of the State of Washington, its successors and assigns an Easement over, under, across and upon the below-described lands ("the Easement Area") for the purposes of constructing, repairing, replacing and maintaining a retaining wall and other modifications associated with the retaining wall, to the same extent and purpose as if the rights granted by this Easement had been acquired under Eminent Domain statutes of the State of Washington.

In order to facilitate Grantors' development of their property, Grantors and Grantors' successors and assigns shall have the right to request that the City terminate this Easement at such time as they obtain a permit to develop the property. The request for termination shall be made in writing to the Director of Seattle Department of Transportation. The City will conditionally approve such request which approval will not become final until completion of construction of a new building or a replacement

Tax Parcel Number 712930-1740

Page 1 of 5 pages

EXCISE TAX NOT REQUIRED
King Co. Records
By Lisa Ohm, Deputy

EASEMENT

retaining wall. So long as this Easement is in effect, Grantors shall take no action to disturb the stability and/or integrity of the retaining wall constructed by Grantee pursuant to this Easement.

To the extent allowed by law, Grantors and their successors and assigns agree to indemnify Grantee from and against any and all claims, demands, suits, damages, loss or liability of any kind arising out of or resulting from the removal or replacement of the retaining wall by Grantors or Grantors' successors and assigns. The foregoing indemnity shall survive the termination of this easement and is intended to run with the land and bind Grantors' successors and assigns.

The Easement Area is located in King County, State of Washington, and is described in Exhibit A that is attached to and made a part of this Easement.

Grantors:



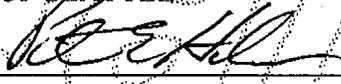
Dan J. Del Duca



Mary Frances Del Duca

Dated: 6/24/2013

Accepted and Approved:
CITY OF SEATTLE

By: 

Name: Peter E. Hahn

Its: Director of Transportation

Dated: 6.28.13

Tax Parcel Number 712930-1740

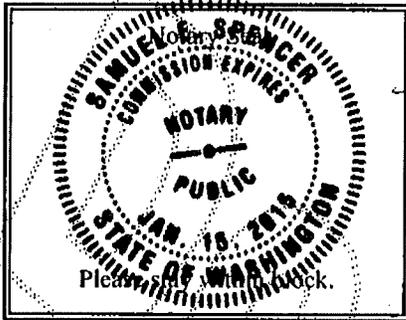
EASEMENT

STATE OF WASHINGTON)

County of King)

On this 24 day of June, 2013, before me personally appeared DAN J. DEL DUCA and MARY F. DEL DUCA, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.



Samuel E. Spencer
Notary (print name) Samuel E. Spencer
Notary Public in and for the State of Washington,
residing at Seattle, WA
My Appointment expires 1-15-15

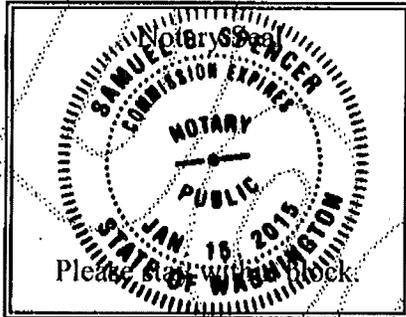
Tax Parcel Number 712930-1740

EASEMENT

STATE OF WASHINGTON)
County of King)

On this 20th day of June, 2013, before me personally appeared PETER E. HAHN, to me known to be the Director of Transportation of the City of Seattle, a Washington Municipal Corporation, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.



Samuel E. Spencer
Notary (print name) Samuel E. Spencer
Notary Public in and for the State of Washington,
residing at Seattle, WA
My Appointment expires 1-15-15

Tax Parcel Number 712930-1740

EASEMENT

EXHIBIT A

KING COUNTY PARCEL #712930-1740

A 5.00 FOOT WIDE STRIP OF LAND BEING A PORTION OF LOT 1 AND 2, BLOCK 35, THE PLAT OF RAINIER BEACH RECORDED IN VOLUME 8 OF PLATS, PAGE 11, RECORDS OF KING COUNTY, WA, AND THAT PORTION OF VACATED SOUTH PERRY STREET PER COUNTY COMMISSIONERS, VOL 14, PAGE 247, SITUATE IN THE NW QUARTER OF THE NE QUARTER OF SECTION 2, TOWNSHIP 23 N, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

THE NORTHEASTERLY FIVE FEET OF SAID LOT 1, LOT 2 AND VACATED SOUTH PERRY STREET ADJACENT TO SAID LOT 1; BEING PARALLEL AND COINCIDENT WITH THE SOUTHWESTERLY RIGHT OF WAY MARGIN OF RAINIER AVE SOUTH.

CONTAINING 540 SQUARE FEET, MORE OR LESS.



Tax Parcel Number 712930-1740

Page 5 of 5 pages

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Larry Huggins/684-5001	Christie Parker/684-5211

Legislation Title:

AN ORDINANCE relating to the Department of Transportation’s Hazard Mitigation Program; authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of slope stabilization along a portion of Rainier Avenue South; placing the real property rights under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

Summary and background of the Legislation:

This legislation authorizes the acquisition, acceptance, and recording of a permanent easement granted to the City of Seattle by private property owners in connection with the landslide mitigation work in the 9700 block of Rainier Avenue South as part of the Seattle Department of Transportation’s (“SDOT”) Hazard Mitigation Program, Landslide Mitigation Projects, and places the easement under the jurisdiction of SDOT.

On the evening of April 7, 2013, a segment of Rainier Avenue South was closed between 57th Avenue South and Cornell Avenue South as a result of a landslide that blocked a portion of the street. The landslide debris was subsequently cleared by SDOT and on April 8, 2013, the City re-channelized traffic between South Perry Street and South Norfolk Street to respond to public safety concerns in the event of more occurrences. This traffic detour is currently in operation and is inconveniencing the local residents due to the increase of traffic control devices, rerouting, and the loss of parking in the area.

According to City records, this segment of Rainier Avenue South has historically experienced many landslides indicating that there is a high probability of reoccurrence. The cost outlay to build a permanent retaining wall is intended to reduce the risk of future landslides in the area and save City resources in the long term.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:
Hazard Mitigation Program-Landslide Mitigation Projects	TC365510	Various	Ongoing	Ongoing

Please check any of the following that apply:

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

Yes. The property owners granted the easement in consideration of mutual and offsetting benefits. Therefore, no monetary compensation was paid. However, the wall would be considered to be another asset that the City is responsible to maintain and will be included in a list of similar assets scheduled for regular maintenance by the City.

b) What is the financial cost of not implementing the legislation?

Historically, this segment along Rainier Avenue South has experienced many landslides. When landslides occur, the City must respond to ensure public safety and mitigate further damages. The cost outlay to build the retaining wall is intended to reduce the risk of additional damages and unforeseen costs to the City that could result from future landslides in this area.

c) Does this legislation affect any departments besides the originating department?

No.

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

Other alternatives were considered; however, there are no other cost-effective construction options available that would manage the risk associated with the potential future landslides along this portion of Rainier Avenue South.

e) Is a public hearing required for this legislation?

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

Please check any of the following that apply:

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

Yes. The property owners granted the easement in consideration of mutual and offsetting benefits. Therefore, no monetary compensation was paid. However, the wall would be considered to be another asset that the City is responsible to maintain and will be included in a list of similar assets scheduled for regular maintenance by the City.

b) What is the financial cost of not implementing the legislation?

Historically, this segment along Rainier Avenue South has experienced many landslides. When landslides occur, the City must respond to ensure public safety and mitigate further damages. The cost outlay to build the retaining wall is intended to reduce the risk of additional damages and unforeseen costs to the City that could result from future landslides in this area.

c) Does this legislation affect any departments besides the originating department?

No.

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

Other alternatives were ^{well} considered, however, there are no other cost-effective construction options available that would manage the risk associated with the potential future landslides along this portion of Rainier Avenue South. ^{semicolon}

e) Is a public hearing required for this legislation?

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

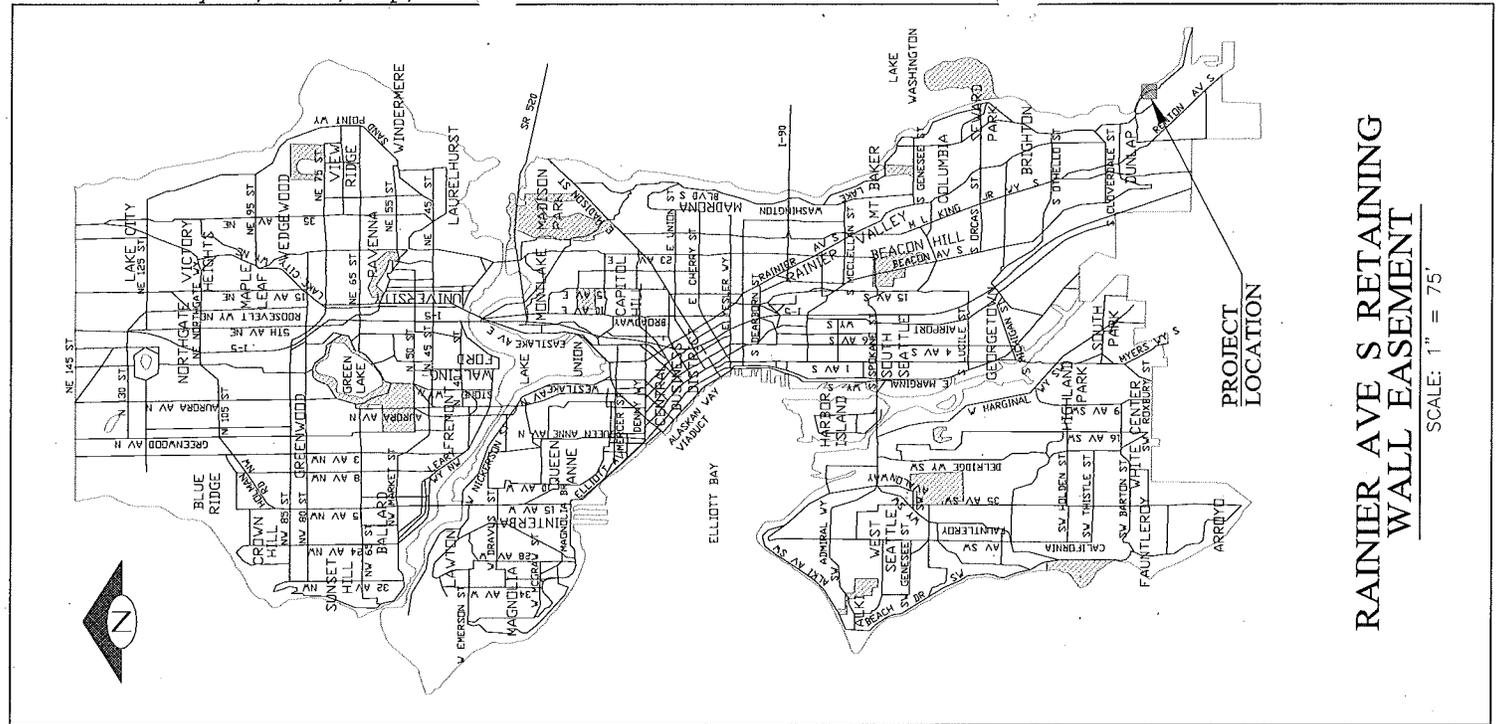
Yes, private property owners are granting an easement to the City to complete and maintain the project.

h) Other Issues:

None.

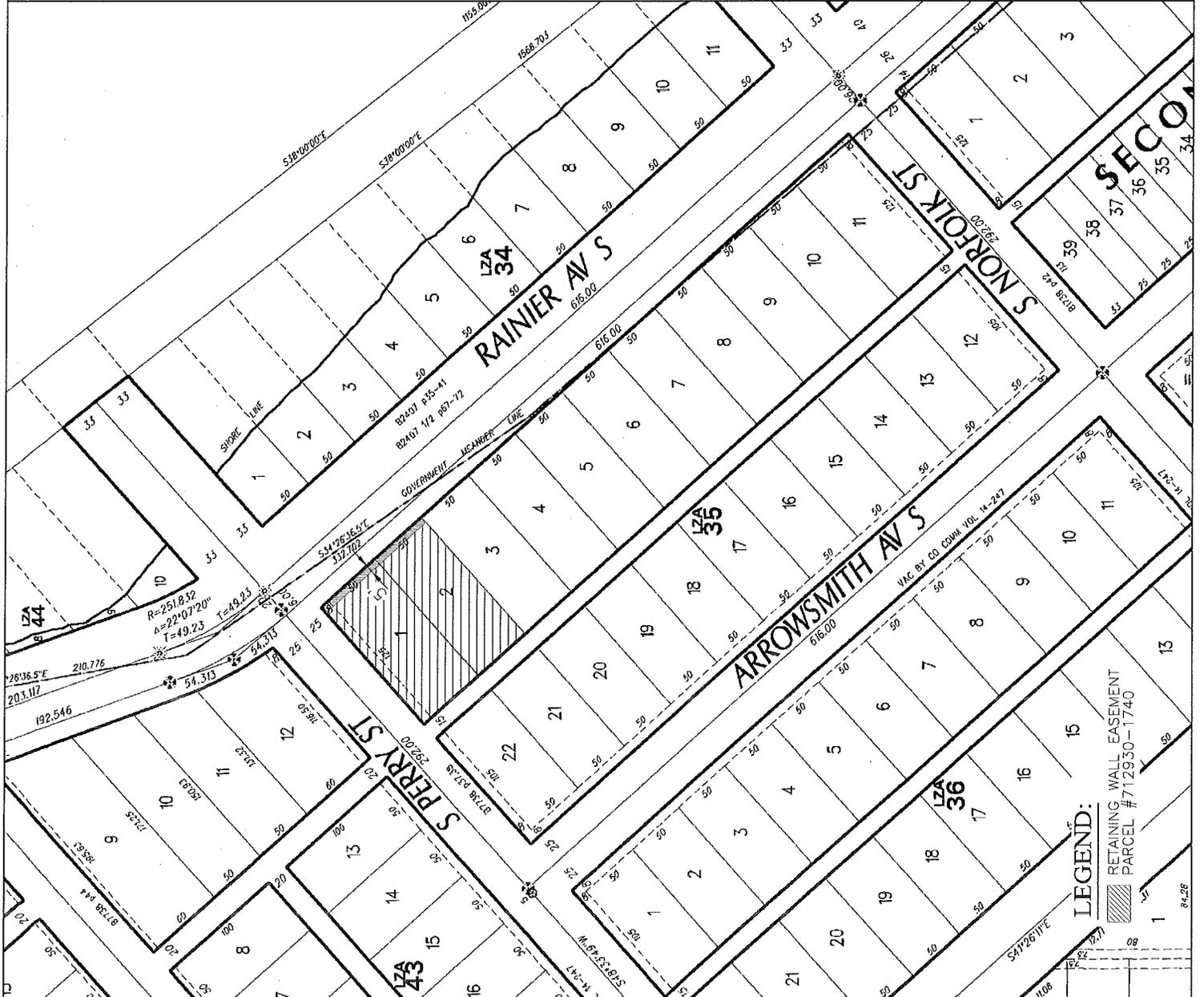
List attachments to the fiscal note below:

Attachment A: Rainier Avenue South Retaining Wall Easement Map



RAINIER AVE S RETAINING WALL EASEMENT

SCALE: 1" = 75'





City of Seattle
Office of the Mayor

August 20, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that authorizes acquisition, acceptance, and recording of a permanent easement granted by property owners abutting Rainier Avenue South and places the easement under the jurisdiction of the Seattle Department of Transportation. The easement is necessary to construct and maintain a retaining wall and is being acquired from private property owners whose property abuts that portion of Rainier Avenue South that is at risk of future landslides and erosion.

The Hazard Mitigation Program-Landslide Mitigation Projects enables the Seattle Department of Transportation ("SDOT") to address and repair landslide concerns that affect the right-of-way. It provides SDOT with the resources to identify and prioritize landslide concerns and to make repairs accordingly. Due to the high probability of a landslide reoccurring along this slope, it is necessary for the City to acquire property to complete and maintain this project.

This project consists of designing and constructing a retaining wall that will be erected at the bottom of the slope area at risk, behind the sidewalk along Rainier Avenue South. The retaining wall will reduce the risk of transportation disruptions and expenditures caused by future landslides in the area.

Thank you for your consideration of this legislation. Should you have any questions, please contact Larry Huggins at 684-5001.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

FILED
CITY OF SEATTLE

2014 FEB -6 PM 4: 22

CITY CLERK

STATE OF WASHINGTON -- KING COUNTY

--SS.

306495
CITY OF SEATTLE, CLERKS OFFICE

No. 124374,375,376,377,378,79

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:TITLE ONLY ORDINANCE

was published on

01/15/14

The amount of the fee charged for the foregoing publication is the sum of \$149.50 which amount has been paid in full.



Janele Coleby

Subscribed and sworn to before me on
01/15/2014 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle Title Only Ordinances

The full text of the following legislation, passed by the City Council on December 16, 2013, 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. 124374

AN ORDINANCE relating to the Department of Transportation's Hazard Mitigation Program; authorizing the Director to acquire, accept, and record on behalf of the City of Seattle, a permanent easement from Dan J. Del Duca and Mary Frances Del Duca, husband and wife, located in a portion of Lots 1 and 2, Block 35, Rainier Beach, for the purpose of slope stabilization along a portion of Rainier Avenue South; placing the real property rights under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

ORDINANCE NO. 124375

AN ORDINANCE relating to historic preservation, imposing controls upon Old Norway Hall, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

ORDINANCE NO. 124376

AN ORDINANCE relating to historic preservation, imposing controls upon the Palladian Apartments, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

ORDINANCE NO. 124377

AN ORDINANCE relating to a utility tunnel under and across Broadway between East Olive Street and East Howell Street; amending Ordinance 116634, as amended by Ordinance 121855; updating the insurance and bond requirements; amending the annual fee and other terms and conditions of the permit; renewing the term of the permit to the Seattle Central Community College; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124378

AN ORDINANCE relating to land use and zoning; amending Sections 23.22.062, 23.22.066, 23.22.074, 23.22.100, 23.24.020, 23.24.040, 23.24.045, 23.28.030, 23.40.020, 23.41.004, 23.41.012, 23.42.124, 23.43.008, 23.43.010, 23.43.012, 23.44.014, 23.44.016, 23.44.018, 23.44.026, 23.44.028, 23.44.030, 23.44.036, 23.44.041, 23.44.044, 23.45.502, 23.45.508, 23.45.510, 23.45.514, 23.45.518, 23.45.520, 23.45.522, 23.45.526, 23.45.529, 23.45.532, 23.45.536, 23.45.545, 23.45.570, 23.47A.004, 23.47A.005, 23.47A.008, 23.47A.009, 23.47A.013, 23.47A.014, 23.47A.032, 23.49.013, 23.49.014, 23.49.015, 23.49.025, 23.49.181, 23.50.038, 23.50.044, 23.52.002, 23.52.008, 23.53.005, 23.53.006, 23.53.035, 23.54.015, 23.54.025, 23.54.030, 23.55.034, 23.55.040, 23.58A.024, 23.66.030, 23.66.032, 23.66.115, 23.66.318, 23.69.032, 23.71.014, 23.71.018, 23.72.008, 23.72.010, 23.75.015, 23.75.020, 23.75.140, 23.75.170, 23.76.004, 23.76.012, 23.76.020, 23.76.022, 23.76.024, 23.76.026, 23.76.032, 23.76.046, 23.76.050, 23.76.056, 23.79.010, 23.84A.002, 23.84A.006, 23.84A.018, 23.84A.028, 23.84A.030, 23.84A.032, 23.84A.036, 23.84A.038, 23.84A.040, 23.84A.048, 23.86.007, 23.86.016, 23.88.020, 23.90.018, 23.90.019, 23.91.002, 25.05.350, and 25.05.675 of the Seattle Municipal Code, to correct typographical errors, correct section references, clarify regulations, and make minor amendments.

ORDINANCE NO. 124379

AN ORDINANCE relating to the City Light Department; declaring surplus a certain portion of real property in Pend Oreille County owned by The City of Seattle that is no longer required for providing public utility service; and authorizing the sale and conveyance of the surplus property to the Bonneville Power Administration ("BPA") by quit claim deed.

Date of publication in the Seattle Daily Journal of Commerce, January 15, 2014.

1/15(306495)