Ordinance No. 122488

Council Bill No. 115992

AN ORDINANCE relating to the Department of Parks and Recreation, authorizing the grant of an easement over a 11,928 square foot parcel of land at the southwest corner of Discovery Park to allow the continued maintenance of a seawall that has existed since before the creation of the Park and to allow the maintenance and landscaping of the area behind the seawall in a manner that is not incompatible with the natural environment of the adjoining portion of Discovery Park, finding that this transaction is not subject to the requirements of Ordinance 118477, and in consideration of the agreement by the National Parks Service to release the area of this easement from the Declaration of Restrictions in the deed conveying this land to the City of Seattle, authorizing the acceptance of a Deed of Release and the execution of a new Declaration of Restrictions to limit the use of the land known as the Kiwanis Ravine Green Space to public park purposes; and authorizing acceptance of funds in exchange for the easement.

CF No.

Date Introduced: 9-4-07	
Date 1st Referred: 9-4-07	To: (committee) PARKS, EDUCATION LIBRARIES AND EDUCATION
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 9-10-07	Full Council Vote: 8-0
Date Presented to Mayor: 9-11-07	Date Approved: 9-21-07
Date Returned to City Clerk: 9-21-07	Date Published: S T.O. X 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: _____ Councilmember

Committee Action:

Sept 5, 2007

Yea = DD

nay = Ø

9-10-07 Passed 8-0 (Excused: Drago)

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

Law Department

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

ORDINANCE 122488

AN ORDINANCE relating to the Department of Parks and Recreation, authorizing the grant of an easement over an 11,928 square foot parcel of land at the southwest corner of Discovery Park to allow the continued maintenance of a seawall that has existed since before the creation of the Park and to allow the maintenance and landscaping of the area behind the seawall in a manner that is not incompatible with the natural environment of the adjoining portion of Discovery Park, finding that this transaction is not subject to the requirements of Ordinance 118477, and in consideration of the agreement by the National Parks Service to release the area of this easement from the Declaration of Restrictions in the deed conveying this land to the City of Seattle, authorizing the acceptance of a Deed of Release and the execution of a new Declaration of Restrictions to limit the use of the land known as the Kiwanis Ravine Green Space to public park purposes; and authorizing acceptance of funds in exchange for the easement.

WHEREAS, an 11,928 square foot parcel of land at the southwest corner of Discovery Park ("the Park"), west of unopened 48th Avenue West, is subject to encroachment by a seawall that has existed since before the creation of the Park; and

WHEREAS, a private residence and real property in the area of the seawall, as well as the portion of unopened 48th Avenue West that abuts Puget Sound, are protected from erosion by this seawall; and

WHEREAS, the principal value of this parcel to the Park is as passive open space over which the bluff within the Park can be viewed from the tidelands at low tide; and

WHEREAS, the Department of Parks and Recreation ("DPR") has hired an independent appraiser who has determined the economic value of the fee interest in this area west of 48th Avenue West that includes the seawall; and

WHEREAS, the owners of the residence that is protected by the seawall, and who maintain the seawall, have offered to purchase an easement to this area west of 48th Avenue West for the purpose of maintaining the seawall, stabilizing the area, and maintaining and landscaping the area behind the seawall in a naturalistic manner that is not incompatible with the natural environment of the adjoining portion of the Park; and

WHEREAS, in exchange for the easement the owners of the residence that is protected by the seawall, and who maintain the seawall, have agreed to pay the appraised value of the fee interest in this area ($25,000), have deposited this appraised value into escrow, and are prepared to enter into a Seawall Maintenance and Landscaping Easement Agreement with the City of Seattle ("City"); and

CITY CLERK

WHEREAS, the Board of Park Commissioners and the Superintendent of the Department of Parks and Recreation ("Superintendent") have recommended that the Seattle City Council ("Council") authorize DPR to grant the proposed easement; and

WHEREAS, the City has acquired land known as the Kiwanis Ravine Green Space, that is located one block east of the Park and is an important open space and heron habitat; and

WHEREAS, it is appropriate that the funds received for the easement be used to help defray the cost of establishing the easement and purchasing the Kiwanis Ravine Green Space; and

WHEREAS, the National Park Service has approved the grant of the easement and has agreed to release the area of the easement from the Declaration of Restrictions that limits the Park to park use, on the condition that the City impose the same restrictions on the Kiwanis Ravine Green Space; and

WHEREAS, the Council agrees that a similar Declaration of Restrictions should be imposed on the Kiwanis Ravine Green Space; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. **Findings.** The City Council finds that the proposed grant of easement is not subject to the requirements of Ordinance 118477 because the use of the land is not changing from what it has been since before the creation of the Park, and the easement requires the continued maintenance of the land and its landscaping in a naturalistic manner that is not incompatible with the adjoining portion of the Park; and

Section 2. As recommended by the Board of Park Commissioners and the Superintendent, the Superintendent is authorized to grant an easement over the following area:

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M. IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND 41ST AVENUE WEST;

CITY CLERK

THENCE NORTH 89°51'16" WEST, ALONG THE CENTERLINE OF WEST EMERSON STREET, 525.42 FEET TO THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND MAGNOLIA BOULEVARD WEST;

THENCE NORTH 89°52'17" WEST 1868.73 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 16;

THENCE SOUTH 00°14'06" EAST, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 457.28 FEET TO INTERSECT THE NORTHERLY RIGHT-OF-WAY OF WEST RUFFNER STREET;

THENCE SOUTH 89°45'54" WEST, ALONG THE WESTERLY EXTENSION OF SAID NORTHERLY RIGHT-OF-WAY, 30.00 FEET TO THE WEST MARGIN OF 48TH AVENUE WEST AND THE POINT OF BEGINNING OF SAID PORTION;

THENCE CONTINUING SOUTH 89°45'54" WEST 45.00 FEET;

THENCE SOUTH 08°51'53" WEST 33.98 FEET TO A POINT ON THE TOE OF AN EXISTING ROCK SEAWALL;

THENCE SOUTHERLY ALONG THE TOE OF SAID SEAWALL THE FOLLOWING 10 COURSES;

THENCE SOUTH 44°04'32" WEST 20.79 FEET;

THENCE SOUTH 35°29'55" WEST 32.39 FEET;

THENCE SOUTH 05°40'11" WEST 20.04 FEET;

THENCE SOUTH 12°21'19" EAST 19.83 FEET;

THENCE SOUTH 34°46'15" EAST 20.79 FEET;

THENCE SOUTH 33°22'09" EAST 31.71 FEET;

THENCE SOUTH 36°11'47" EAST 23.69 FEET;

THENCE SOUTH 56°19'09" EAST 22.34 FEET;

THENCE SOUTH 82°00'15" EAST 16.42 FEET;

THENCE SOUTH 55°00'09" EAST 4.76 FEET TO SAID WEST MARGIN;

CITY CLERK

THENCE LEAVING THE SAID TOE, NORTH 00°14'06" WEST, ALONG SAID WEST MARGIN, 194.45 FEET TO THE POINT OF BEGINNING.

Section 3. The Easement Agreement shall be in a form substantially as shown in Attachment A to this ordinance, and shall be executed with the owners of the following described real property, in exchange for payment of the appraised value of the fee interest in this easement area; and the Superintendent is directed to apply the funds received for this easement to help defray the costs of establishing the easement and to the acquisition of the Kiwanis Ravine Green Space near Discovery Park;

LEGAL DESCRIPTION OF PROPERTY BENEFITED BY EASEMENT:

Parcel No. 503530-1029

That portion of Lot 1, Block M and adjacent vacated streets and Esplanade, subject to City Ordinances 56455, 63671 and 82554, Magnolia Heights Addition to the City of Seattle, according to the plat recorded in Volume 15 of Plats, page 31, in King County, Washington, beginning at a point 120.50 feet North 52°05'27" West from the Southeast corner of said Lot 1, Block M;

thence South 77°27'33" West 187.00 feet to a point;

thence North 0°14'06" West 127.15 feet to a point;

thence North 89°45'54" East 60.41 feet to a point;

thence South 17°41'23" East 5.45 feet to a point;

thence North 89°45'54" East 16.22 feet to a point;

thence South 52°05'27" East 132.80 feet to the point of beginning.

Section 4. The Superintendent is hereby authorized to accept a Deed of Release in a form substantially similar to Attachment B to this ordinance, and execute a Declaration of Restrictions in a form substantially similar to Attachment C to this ordinance, agreeing to use and maintain the real property known as the Kiwanis Ravine Green Space for public park purposes.

EDS CITY CLERK

Section 5. The Superintendent is hereby authorized to accept Twenty-five Thousand Dollars ($25,000) in exchange for the easement. The funds are to be used to help defray the cost of establishing the easement and purchasing the Kiwanis Ravine Green Space (K733201). The funds shall be deposited in the 2000 Parks Levy Fund (33850).

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 10th day of September, 2007, and signed by me in open session in authentication of its passage this 10th day of September, 2007.

President _____ of the City Council

Approved by me this 21st day of September, 2007.

Gregory J. Nickels, Mayor

Filed by me this 21st day of September, 2007.

City Clerk

(Seal)

Attachment A: SEAWALL MAINTENANCE AND LANDSCAPING EASEMENT AGREEMENT
Exhibit 1 to Attachment A: LEGAL DESCRIPTION OF SERVIENT ESTATE
Exhibit 2 to Attachment A: LEGAL DESCRIPTION OF DOMINANT ESTATE

EDS CITY CLERK

Attachment B: DEED OF RELEASE
Schedule 1: Exchange Property
Schedule 2: Kiwanis Ravine Property
Schedule 3: Declaration of Restrictions

Attachment C: DECLARATION OF RESTRICTIONS
Exhibit 1 to Attachment C: Kiwanis Ravine Property
Exhibit 2 to Attachment C: Exchange Property

BOS CITY CLERK

AFTER RECORDING RETURN TO:

Patrick J. Schneider
Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101

SEAWALL MAINTENANCE AND LANDSCAPING EASEMENT AGREEMENT

This Seawall Maintenance and Landscaping Easement Agreement ("Agreement") is made this ___ day of _____, 2007, by The City of Seattle, a Washington municipal corporation ("Grantor"), in favor of Mark and Sharon Bloome, husband and wife ("Grantees").

RECITALS:

A. Grantor is the owner of Discovery Park, located in the Magnolia neighborhood of Seattle. The portion of the Park that is the subject of this Agreement (the "Easement Area") is an area of approximately 11,928 square feet in size that is more particularly described in Exhibit 1, attached hereto and made a part hereof. This Easement Area is the Servient Estate under this Agreement.

B. Grantees are the owners of that certain parcel of real property used for residential purposes that is more particularly described in Exhibit 2 attached hereto and made a part hereof ("Grantees' Lot"), which is the Dominant Estate under this Agreement.

C. A seawall was built on the Easement Area before Discovery Park was created, and the seawall protects from erosion the Easement Area, the adjoining unopened right-of-way of 48th Avenue West, and the Grantees' Lot.

D. Grantees have requested, and Grantor is willing to grant, a perpetual exclusive easement for the purpose of maintaining the seawall and the Easement Area, and for the purpose of landscaping the Easement Area in a manner that preserves its park-like character.

AGREEMENT:

In consideration of the covenants contained herein, the payment of Twenty Five Thousand dollars ($25,000) by Grantees, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Recitations. The foregoing recitations are true and correct and are hereby incorporated herein by this reference.

CITY CLERK

2. Grant of Easement. Grantor hereby grants to Grantees and to their heirs, successors, transferees and assigns, a perpetual exclusive easement over and to the Easement Area for the purposes of maintaining, repairing, modifying and replacing the seawall, and maintaining and landscaping the area behind the seawall in a naturalistic manner that is not incompatible with, and does not interfere with views of, the natural environment of the adjoining portion of Discovery Park. This grant of easement includes the right, if all regulatory approvals are obtained, to extend the seawall within the easement area and to install other forms of shoreline protection and land stabilization structures and processes if such actions are reasonably necessary to maintain and preserve the Easement Area or adjacent areas from erosion or earth movement, and the right to install low-to-the-ground lighting. "Land stabilization structures" include such structures as culverts, catch basins, retaining walls, cribbing, and drains, but does not include buildings or other above-ground structures. Grantor reserves the right to inspect the Easement area to determine compliance with the terms of this Grant of Easement. Except when urgent circumstances make it unreasonable or impracticable, Grantor shall provide Grantee with actual notice of its intent to inspect and shall give Grantee a reasonable opportunity to be present during the inspection.

3. Costs. Grantees shall pay all costs incident to the exercise of the rights granted by this Agreement and shall comply with all laws and regulations applicable to the construction and maintenance of the seawall or other forms of shoreline protection.

4. Binding Effect. The covenants contained in this Agreement are not personal, but shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors-in-interest to the Easement Area and Grantees' Lot.

5. Release and Indemnification. Grantee hereby releases and agrees to indemnify, defend and hold the Grantor harmless from any and all losses, claims, actions, costs damages and expenses (including reasonable attorney's fees) arising out of or resulting from the acts, errors or omissions of Grantee, its agents, contractors or employees in connection with any acts or activities authorized by this Easement, but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence of Grantee its authorized agents, contractors or employees. In the event that any suit based upon such losses, claims, actions, damages or expenses is brought against Grantor, the Grantee, upon notice of the commencement thereof, shall defend the same at its sole cost and expense; and, if final judgment be adverse to the Grantor or to the Grantor and Grantee jointly, the Grantee shall promptly satisfy the same. This obligation shall not include such claims, costs, damages or expense which may be caused by the sole negligence of the Grantor, its authorized agents, contractors or employees.

6. Remedies. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to

BNS CITY CLERK

be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorneys' fees (including appellate fees) and court costs.

7. Amendment. This Agreement may not be modified, amended or terminated without the prior written approval of The City of Seattle and the then owner(s) of Grantees' Lot.

8. Waiver. No waiver of any of the provisions of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

9. Captions. The captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

DATED as of the day and year first above written.

GRANTOR:
THE CITY OF SEATTLE, a Washington municipal corporation

By _____
Betty Jean "B.J." Brooks, Interim Superintendent of the Department Parks and Recreation

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____day of _____, 200_, before me, personally appeared Betty Jean "B.J." Brooks, Interim Superintendent of the Department of Parks and Recreation of The City of Seattle, who executed the foregoing agreement, and acknowledged the same to be the free and voluntary act and deed of The City of Seattle for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said agreement.

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

(Signature) _____
(Printed or typed name of Notary Public):
_____
Notary Public in and for the State of Washington,
residing at _____
My appointment expires _____

DIS CITY CLERK

GRANTEES:
MARK BLOOME

_____

SHARON BLOOME

_____

STATE OF WASHINGTON | ss.
COUNTY OF
_____

I certify that I know or have satisfactory evidence that _____ and _____ are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2007.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington, residing at _____
My appointment expires _____

EMS CITY CLERK

EXHIBIT 1

LEGAL DESCRIPTION OF SERVIENT ESTATE

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M. IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
COMMENCING AT THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND 41ST AVENUE WEST;
THENCE NORTH 89°51'16" WEST, ALONG THE CENTERLINE OF WEST EMERSON STREET, 525.42 FEET TO THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND MAGNOLIA BOULEVARD WEST;
THENCE NORTH 89°52'17" WEST 1868.73 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 16;
THENCE SOUTH 00°14'06" EAST, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 457.28 FEET TO INTERSECT THE NORTHERLY RIGHT-OF-WAY OF WEST RUFFNER STREET;
THENCE SOUTH 89°45'54" WEST, ALONG THE WESTERLY EXTENSION OF SAID NORTHERLY RIGHT-OF-WAY, 30.00 FEET TO THE WEST MARGIN OF 48TH AVENUE WEST AND THE POINT OF BEGINNING OF SAID PORTION;
THENCE CONTINUING SOUTH 89°45'54" WEST 45.00 FEET;
THENCE SOUTH 08°51'53" WEST 33.98 FEET TO A POINT ON THE TOE OF AN EXISTING ROCK SEAWALL;
THENCE SOUTHERLY ALONG THE TOE OF SAID SEAWALL THE FOLLOWING 10 COURSES;
THENCE SOUTH 44°04'32" WEST 20.79 FEET;
THENCE SOUTH 35°29'55" WEST 32.39 FEET;
THENCE SOUTH 05°40'11" WEST 20.04 FEET;
THENCE SOUTH 12°21'19" EAST 19.83 FEET;
THENCE SOUTH 34°46'15" EAST 20.79 FEET;
THENCE SOUTH 33°22'09" EAST 31.71 FEET;
THENCE SOUTH 36°11'47" EAST 23.69 FEET;
THENCE SOUTH 56°19'09" EAST 22.34 FEET;
THENCE SOUTH 82°00'15" EAST 16.42 FEET;
THENCE SOUTH 55°00'09" EAST 4.76 FEET TO SAID WEST MARGIN;
THENCE LEAVING THE SAID TOE, NORTH 00°14'06" WEST, ALONG SAID WEST MARGIN, 194.45 FEET TO THE POINT OF BEGINNING.

CITY CLERK

EXHIBIT 2

LEGAL DESCRIPTION OF DOMINANT ESTATE

Parcel No. 503530-1029

That portion of Lot 1, Block M and adjacent vacated streets and Esplanade, subject to City Ordinances 56455, 63671 and 82554, Magnolia Heights Addition to the City of Seattle, according to the plat recorded in Volume 15 of Plats, page 31, in King County, Washington, beginning at a point 120.50 feet North 52°05'27" West from the Southeast corner of said Lot 1, Block M;
thence South 77°27'33" West 187.00 feet to a point;
thence North 0°14'06" West 127.15 feet to a point;
thence North 89°45'54" East 60.41 feet to a point;
thence South 17°41'23" East 5.45 feet to a point;
thence North 89°45'54" East 16.22 feet to a point;
thence South 52°05'27" East 132.80 feet to the point of beginning.

CITY CLERK

Attachment B

DEED OF RELEASE

This Deed of Release (this "Release") is from THE UNITED STATES OF AMERICA, acting by and through the undersigned Regional Director, Pacific West Region, National Park Service, under and pursuant to the power and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 337), as amended (the "Act"), and regulations and orders promulgated thereunder (hereinafter designated "Grantor"), to City of Seattle ("Grantee"), and its assigns.

Recitals:

A. On August 30, 1972, Grantor conveyed to Grantee, pursuant to authority delegated by the Secretary of the U.S. Department of the Interior, and as authorized by the Act and regulations and orders promulgated thereunder, 390.9 acres of real property, more or less, located in Seattle, Washington (the "Discovery Park Property"), as more fully described in the Quitclaim Deed dated August 30, 1972, and recorded in King County Recorder's Office in File No. 721006037D, King County, Washington (the "Quitclaim Deed").

B. The Discovery Park Property was conveyed to Grantee upon the express condition that the Discovery Park Property was to be used exclusively for public park and recreational purposes and certain restrictions were expressly set forth as paragraphs 1 through 12 of the Quitclaim Deed (collectively, the "Restrictions").

C. Subsequent to the said conveyance of August 30, 1972, Grantee sought to convey an exclusive, perpetual easement to an adjacent landowner for the purpose of maintaining a seawall on the Discovery Park Property over an area of 11,928 square feet, as more fully described on Schedule 1 attached hereto and made a part hereof (the "Exchange Property"), and to obtain a release of the said condition that the Exchange Property was to be used exclusively for public park and recreation purposes, in exchange for which Grantee would acquire other real property, as more fully described in Schedule 2 attached hereto and made a part hereof, consisting of 21,119 square feet, more of less, known as the Kiwanis Ravine Property and located at 4441 Brygger Drive West, Seattle, Washington (the "Kiwanis Ravine Property") and would impose a condition that the Kiwanis Ravine Property be used exclusively for public park and recreation purposes, as required pursuant to the Act.

D. Grantor and Grantee wish to make the Kiwanis Ravine Property available to be used exclusively for public park and recreation purposes.

E. The Act authorizes the Secretary of the Interior to release the Exchange Property from the Restrictions if certain conditions are met, which authority has been redelegated to the Director of the National Park Service and the Regional Directors of the National Park Service.

F. The General Services Administration has advised the National Park Service by its endorsement of a Federal Lands to Parks Land Exchange Recommendation dated 10/11/2006, that it concurs with releasing all Restrictions set forth in the Quitclaim Deed placed upon the Exchange Property for public park and recreational purposes.

NOW, THEREFORE, the said Regional Director, acting on behalf of the United States of America, does hereby release the Exchange Property from all Restrictions placed upon it in the Quitclaim Deed, including, without limitation, the requirement that the Exchange Property be used exclusively for public park and recreational purposes. This Release does not affect, and the Exchange Property remains subject to, all legal easements, leases, agreements, rights-of-way, and other restrictions.

CITY CLERK

Attachment B

In consideration of the release of the Exchange Property from the Restrictions, Grantee has on this same day entered into a Declaration of Restrictions with the United States of America, acting by and through the Secretary of the Interior, whereby Grantee will pledge certain rights and interests in the Kiwanis Ravine Property to the United States of America, acting by and through the Secretary of the Interior. This Declaration of Restrictions is attached as Schedule 3 to this Release.

IN WITNESS WHEREOF, the Grantor has caused this Deed or Release to be executed in its name and on its behalf on this the _____ day of _____, 200____.

UNITED STATES OF AMERICA
Acting by and through the Secretary of the Interior

By _____
Jonathan B. Jarvis
Regional Director, Pacific West
National Park Service

(COUNTY OF ALAMEDA)
) SS.
(STATE OF CALIFORNIA)

On this _____day of _____, 200_, before me, the subscriber, personally appeared Jonathan B. Jarvis, to be known and personally known to me to be the Regional Director, Pacific West, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director, Pacific West aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

Witness my hand and official seal.

_____

NOTARY PUBLIC

CITY CLERK

Attachment B

The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements therein contained.

City of Seattle, Washington

By_____

Date_____

(COUNTY OF _____)
) SS.
(STATE OF WASHINGTON)

On this _____ day of _____, 200_, before me, the undersigned notary, the subscriber, personally appeared and being the duly authorized official of the City of Seattle, Washington and known to me to be the same person described herein and who executed the foregoing acceptance of said on behalf of the City of Seattle, Washington, for the purposes and uses therein described.

Witness my hand and official seal.

_____
NOTARY PUBLIC

EDS CITY CLERK

SCHEDULE 1

Exchange Property

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M. IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
COMMENCING AT THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND 41ST AVENUE WEST;
THENCE NORTH 89°51'16" WEST, ALONG THE CENTERLINE OF WEST EMERSON STREET, 525.42 FEET TO THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND MAGNOLIA BOULEVARD WEST;
THENCE NORTH 89°52'17" WEST 1868.73 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 16;
THENCE SOUTH 00°14'06" EAST, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 457.28 FEET TO INTERSECT THE NORTHERLY RIGHT-OF-WAY OF WEST RUFFNER STREET;
THENCE SOUTH 89°45'54" WEST, ALONG THE WESTERLY EXTENSION OF SAID NORTHERLY RIGHT-OF-WAY, 30.00 FEET TO THE WEST MARGIN OF 48TH AVENUE WEST AND THE POINT OF BEGINNING OF SAID PORTION;
THENCE CONTINUING SOUTH 89°45'54" WEST 45.00 FEET;
THENCE SOUTH 08°51'53" WEST 33.98 FEET TO A POINT ON THE TOE OF AN EXISTING ROCK SEAWALL;
THENCE SOUTHERLY ALONG THE TOE OF SAID SEAWALL THE FOLLOWING 10 COURSES;
THENCE SOUTH 44°04'32" WEST 20.79 FEET;
THENCE SOUTH 35°29'55" WEST 32.39 FEET;
THENCE SOUTH 05°40'11" WEST 20.04 FEET;
THENCE SOUTH 12°21'19" EAST 19.83 FEET;
THENCE SOUTH 34°46'15" EAST 20.79 FEET;
THENCE SOUTH 33°22'09" EAST 31.71 FEET;
THENCE SOUTH 36°11'47" EAST 23.69 FEET;
THENCE SOUTH 56°19'09" EAST 22.34 FEET;
THENCE SOUTH 82°00'15" EAST 16.42 FEET;
THENCE SOUTH 55°00'09" EAST 4.76 FEET TO SAID WEST MARGIN;
THENCE LEAVING THE SAID TOE, NORTH 00°14'06" WEST, ALONG SAID WEST MARGIN, 194.45 FEET TO THE POINT OF BEGINNING.

CITY CLERK

SCHEDULE 2

Kiwanis Ravine Property

Lots 1 through 4, inclusive, Block 5, Lawton Heights, according to the plat thereof recorded in Volume 16 of Plats, page 94, in King County, Washington.

CITY CLERK

Attachment B

SCHEDULE 3

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions is made by and between the City of Seattle, a Municipal Corporation ("Grantor"), and the UNITED STATES OF AMERICA, acting by and through the Regional Director, Pacific West Region, National Park Service, U.S. Department of the Interior ("Grantee"), pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 337), as amended (the "Act"), and regulations and orders promulgated thereunder.

Recitals:

A. Grantor is the owner of 21,119 square feet of real property known as the Kiwanis Ravine Property and located at 4441 Brygger Drive West, Seattle, Washington, as more fully described on Schedule 2 (the "Kiwanis Ravine Property").

B. This Declaration of Restrictions is made in consideration of the Deed of Release dated of even date herewith between Grantee and Grantor relative to 11,928 square feet of real property, more or less, located in a portion of Discovery Park, West 48th Ave. W, east of 4751 West Ruffner Street, Seattle, Washington, and more fully described on Schedule 1 ("Exchange Property").

C. Grantor has agreed to impose on the Kiwanis Ravine Property, for the benefit of Grantee and its successors and assigns, restrictive covenants to ensure that the Kiwanis Ravine Property will be permanently used solely for park and recreational purposes.

Agreement:

NOW THEREFORE, in consideration of one dollar, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby declare, covenant, and agree, for itself and its successors and assigns, that the said Kiwanis Ravine Property shall hereafter and perpetually be held and conveyed subject to the following conditions and restrictions, to-wit:

1. The Kiwanis Ravine Property shall be used and maintained exclusively for public park and recreational purposes in perpetuity as set forth in the program of utilization and plan contained in Grantor's application submitted to Grantee by Grantor on 07/14/2006 (the "Program of Utilization"), which program and plan may be amended from time to time at the written request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments will be added to and become a part of the original application.

2. The Grantor shall, within 6 months of the date of this Declaration of Restrictions, erect and maintain a permanent sign or marker near the point of principal access to the Kiwanis Ravine Property indicating that the Kiwanis Ravine Property is a park or recreation area and has been acquired in substitution for property acquired from the Federal Government through the Federal Lands to Parks Program of the U.S. Department of the Interior, for use by the general public.

3. The Kiwanis Ravine Property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior approves in writing. Any such disposition shall assure the continued use and maintenance of the Kiwanis Ravine Property for public

CITY CLERK

park or public recreational purposes subject to the same terms and conditions in this Declaration of Restrictions. Any mortgage, lien, or any other encumbrance not wholly subordinate to the interest of the Grantee in this Declaration of Restrictions shall constitute an impermissible disposal. However, this provision shall not preclude the Grantor, its heirs, successors and assigns from using revenue or other bonds related to the use of the Kiwanis Ravine Property to the extent that such bonds shall not in any way restrict, encumber, or constitute a lien on the Kiwanis Ravine Property. Furthermore, this provision shall not preclude the Grantor from providing related recreation facilities and services compatible with the approved application though concession agreements, permits, and licenses entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the National Park Service.

4. Funds generated on the Kiwanis Ravine Property may not be expended for non-recreational purposes. Until the Kiwanis Ravine Property has been fully developed in accordance with the Program of Utilization, all revenues generated on the Kiwanis Ravine Property must be used for the development, operation, and maintenance of the Kiwanis Ravine Property. After the Kiwanis Ravine Property has been fully developed in accordance with the Program of Utilization, revenue generated by the Kiwanis Ravine Property may be expended on other recreation properties operated by Grantor.

5. From the date of this Declaration of Restrictions, the Grantor, its heirs, successors and assigns, shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the Kiwanis Ravine Property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports or as further determined by the Secretary of the Interior.

6. Grantor further covenants and agrees for itself, its heirs, successors and assigns, that: (1) any use, operation, program or activity on or related to the Kiwanis Ravine Property will be conducted in compliance with all Federal laws and regulations relating to nondiscrimination, including but not limited to the following laws and regulations as may be amended from time to time: (a) the regulations of the U.S. Department of the Interior at 43 CFR Part 17, (b) Title VI of the Civil Rights Act of 1964, (c) Title III of the Age Discrimination Act of 1975, (d) Section 504 of the Rehabilitation Act of 1973, and (e) the Architectural Barriers Act of 1968; (2) this covenant shall be subject in all respects to the provisions of said laws and regulations; (3) the Grantor, its heirs, successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantor, its heirs, successors and assigns, will (a) obtain from each other person (any legal entity) who, through contractual or other arrangements with the Grantor, its heirs, successors or assigns, is authorized to provide services or benefits on or in connection with the Kiwanis Ravine Property, a written agreement pursuant to which such other person shall, with respect to the services or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the Grantor, its heirs, successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior or his successor or assign; (6) this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantee and enforceable by the Grantee against the Grantor, its heirs, successors and assigns; and (7) the Grantee shall have a right of access to, and entrance upon, the Kiwanis Ravine Property in order to determine compliance with the terms of this conveyance.

7. The Grantor, its heirs, successors and assigns, shall indemnify, defend, protect, save and hold harmless the Grantee, its employees, officers, attorneys, agents, and representatives from and against any and all debts, duties, obligations, liabilities, law suits, claims, demands, causes of action, damages, losses,

CITY CLERK

costs, and expenses (including without limitation attorneys' fees and expenses, consultant fees and expenses, expert fees and expenses, and court costs) arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to real or personal property or economic loss) that relates to the Grantor's failure to comply with the terms of this Declaration of Restrictions or from the use or occupancy of the Kiwanis Ravine Property by the Grantor, it heirs, successors, assigns, transferees, or agents.

8. In the event that there is a breach by the Grantor, its heirs, successors or assigns, of any of the covenants, conditions or restrictions set forth herein, whether caused by the legal or other inability of the Grantor, its heirs, successors or assigns, to perform said covenants, conditions or restrictions, the Grantee will give written notice, with a reasonable time stated therein, for the elimination, rectification or cure of said breach. Upon failure to eliminate, rectify or cure said breach within the time set forth in the notice, all right, title, and interest in and to the Kiwanis Ravine Property shall, at the Grantee's option, become the property of Grantee. In addition to all other remedies for such breach, the Grantor, its heirs, successors and assigns, at the Grantee's option, shall forfeit all right, title, and interest in any and all of the tenements, hereditaments, and appurtenances thereunto belonging.

9. The failure of the Grantee to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but obligation of the Grantor, its heirs, successors and assigns, with respect to such future performance shall continue in full force and effect.

10. The National Park Service and any representative it may so delegate shall have the right of entry upon the Kiwanis Ravine Property at all reasonable times to conduct inspections of the Kiwanis Ravine Property for the purposes of evaluating the Grantor's compliance with the terms and conditions of this Declaration of Restrictions.

11. The Grantor covenants and agrees for itself, its heirs, successors and assigns, that in the event the Grantee exercises its option as set forth in paragraph 8 above to have all right, title, and interest in and to the Kiwanis Ravine Property become Grantee's property, or the Grantor voluntarily conveys title to the Kiwanis Ravine Property, then the Grantor shall provide protection to and maintenance of said property at all times until such time as the title is actually accepted by the Grantee, including the period of any notice of intent to exercise Grantee's rights. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in its regulations 41 CFR 102-75.690 as such may be amended.

12. The covenants, conditions, and restrictions set forth herein are intended to be covenants running with the land in accordance with all applicable law and shall burden and run with the Kiwanis Ravine Property and every part thereof or interest therein, and shall be binding on Grantor, its heirs, successors, assigns, and every successor in interest to all or any part of the property, and shall benefit Grantee and Grantee's heirs, successors and assigns. All restrictions and conditions contained herein are for the sole benefit of the United States of America and may be modified or abrogated by the Secretary of the Interior, or his successor in function, as provided by the Act.

EMS CITY CLERK

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and on its behalf on this the _____ day of _____, 200_.

UNITED STATES OF AMERICA
Acting by and through the Secretary of the Interior

By _____
Jonathan B. Jarvis
Regional Director, Pacific West
National Park Service

(COUNTY OF ALAMEDA)
) SS.
(STATE OF CALIFORNIA)

On this _____day of _____, 200_, before me, the subscriber, personally appeared Jonathan B. Jarvis, to be known and personally known to me to be the Regional Director, Pacific West, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director, Pacific West aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

Witness my hand and official seal.

_____

NOTARY PUBLIC

EMS CITY CLERK

The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements therein contained.

City of Seattle, Washington

By_____

Date_____

(COUNTY OF _____)
) SS.
(STATE OF WASHINGTON)

On this _____ day of _____, 200_, before me, the undersigned notary, the subscriber, personally appeared and being the duly authorized official of the City of Seattle, Washington and known to me to be the same person described herein and who executed the foregoing acceptance of said on behalf of the City of Seattle, Washington, for the purposes and uses therein described.

Witness my hand and official seal.

_____

DIS CITY CLERK

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions is made by and between the City of Seattle, a _____ ("Grantor"), and the UNITED STATES OF AMERICA, acting by and through the Regional Director, Pacific West Region, National Park Service, U.S. Department of the Interior ("Grantee"), pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 337), as amended (the "Act"), and regulations and orders promulgated thereunder.

Recitals:

A. Grantor is the owner of 21,119 square feet of real property known as the Kiwanis Ravine Property and located at 4441 Brygger Drive West, Seattle Washington, as more fully described on Exhibit 1 (the "Kiwanis Ravine Property").

B. This Declaration of Restrictions is made in consideration of the Deed of Release dated of even date herewith between Grantee and Grantor relative to 11,928 square feet of real property, more or less, located at 4751 West Ruffner St., in Seattle, Washington, and more fully described on Exhibit 2.

C. Grantor has agreed to impose on the Kiwanis Ravine Property, for the benefit of Grantee and its successors and assigns, restrictive covenants to ensure that the Kiwanis Ravine Property will be permanently used solely for park and recreational purposes.

Agreement:

NOW THEREFORE, in consideration of one dollar, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby declare, covenant, and agree, for itself and its successors and assigns, that the said Kiwanis Ravine Property shall hereafter and perpetually be held and conveyed subject to the following conditions and restrictions, to-wit:

1. The Kiwanis Ravine Property shall be used and maintained exclusively for public park and recreational purposes in perpetuity as set forth in the program of utilization and plan contained in Grantor's application submitted to Grantee by Grantor on _____ (the "Program of Utilization"), which program and plan may be amended from time to time at the written request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments will be added to and become a part of the original application.

2. The Grantor shall, within 6 months of the date of this Declaration of Restrictions, erect and maintain a permanent sign or marker near the point of principal access to the Kiwanis Ravine Property indicating that the Kiwanis Ravine Property is a park or recreation area and has been acquired in substitution for property acquired from the Federal Government through the Federal Lands to Parks Program of the U.S. Department of the Interior, for use by the general public.

3. The Kiwanis Ravine Property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior approves in writing. Any such disposition shall assure the continued use and maintenance of the Kiwanis Ravine Property for public park or public recreational purposes subject to the same terms and conditions in this Declaration of

CITY CLERK

Restrictions. Any mortgage, lien, or any other encumbrance not wholly subordinate to the interest of the Grantee in this Declaration of Restrictions shall constitute an impermissible disposal. However, this provision shall not preclude the Grantor, its heirs, successors and assigns from using revenue or other bonds related to the use of the Kiwanis Ravine Property to the extent that such bonds shall not in any way restrict, encumber, or constitute a lien on the Kiwanis Ravine Property. Furthermore, this provision shall not preclude the Grantor from providing related recreation facilities and services compatible with the approved application though concession agreements, permits, and licenses entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the National Park Service.

4. Funds generated on the Kiwanis Ravine Property may not be expended for non-recreational purposes. Until the Kiwanis Ravine Property has been fully developed in accordance with the Program of Utilization, all revenues generated on the Kiwanis Ravine Property must be used for the development, operation, and maintenance of the Kiwanis Ravine Property. After the Kiwanis Ravine Property has been fully developed in accordance with the Program of Utilization, revenue generated by the Kiwanis Ravine Property may be expended on other recreation properties operated by Grantor.

5. From the date of this Declaration of Restrictions, the Grantor, its heirs, successors and assigns, shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the Kiwanis Ravine Property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports or as further determined by the Secretary of the Interior.

6. Grantor further covenants and agrees for itself, its heirs, successors and assigns, that: (1) any use, operation, program or activity on or related to the Kiwanis Ravine Property will be conducted in compliance with all Federal laws and regulations relating to nondiscrimination, including but not limited to the following laws and regulations as may be amended from time to time: (a) the regulations of the U.S. Department of the Interior at 43 CFR Part 17, (b) Title VI of the Civil Rights Act of 1964, (c) Title III of the Age Discrimination Act of 1975, (d) Section 504 of the Rehabilitation Act of 1973, and (e) the Architectural Barriers Act of 1968; (2) this covenant shall be subject in all respects to the provisions of said laws and regulations; (3) the Grantor, its heirs, successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantor, its heirs, successors and assigns, will (a) obtain from each other person (any legal entity) who, through contractual or other arrangements with the Grantor, its heirs, successors or assigns, is authorized to provide services or benefits on or in connection with the Kiwanis Ravine Property, a written agreement pursuant to which such other person shall, with respect to the services or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the Grantor, its heirs, successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior or his successor or assign; (6) this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantee and enforceable by the Grantee against the Grantor, its heirs, successors and assigns; and (7) the Grantee shall have a right of access to, and entrance upon, the Kiwanis Ravine Property in order to determine compliance with the terms of this conveyance.

7. The Grantor, its heirs, successors and assigns, shall indemnify, defend, protect, save and hold harmless the Grantee, its employees, officers, attorneys, agents, and representatives from and against any and all debts, duties, obligations, liabilities, law suits, claims, demands, causes of action, damages, losses,

BHS CITY CLERK

costs, and expenses (including without limitation attorneys' fees and expenses, consultant fees and expenses, expert fees and expenses, and court costs) arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to real or personal property or economic loss) that relates to the Grantor's failure to comply with the terms of this Declaration of Restrictions or from the use or occupancy of the Kiwanis Ravine Property by the Grantor, it heirs, successors, assigns, transferees, or agents.

8. In the event that there is a breach by the Grantor, its heirs, successors or assigns, of any of the covenants, conditions or restrictions set forth herein, whether caused by the legal or other inability of the Grantor, its heirs, successors or assigns, to perform said covenants, conditions or restrictions, the Grantee will give written notice, with a reasonable time stated therein, for the elimination, rectification or cure of said breach. Upon failure to eliminate, rectify or cure said breach within the time set forth in the notice, all right, title, and interest in and to the Kiwanis Ravine Property shall, at the Grantee's option, become the property of Grantee. In addition to all other remedies for such breach, the Grantor, its heirs, successors and assigns, at the Grantee's option, shall forfeit all right, title, and interest in any and all of the tenements, hereditaments, and appurtenances thereunto belonging.

9. The failure of the Grantee to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but obligation of the Grantor, its heirs, successors and assigns, with respect to such future performance shall continue in full force and effect.

10. The National Park Service and any representative it may so delegate shall have the right of entry upon the Kiwanis Ravine Property at all reasonable times to conduct inspections of the Kiwanis Ravine Property for the purposes of evaluating the Grantor's compliance with the terms and conditions of this Declaration of Restrictions.

11. The Grantor covenants and agrees for itself, its heirs, successors and assigns, that in the event the Grantee exercises its option as set forth in paragraph 8 above to have all right, title, and interest in and to the Kiwanis Ravine Property become Grantee's property, or the Grantor voluntarily conveys title to the Kiwanis Ravine Property, then the Grantor shall provide protection to and maintenance of said property at all times until such time as the title is actually accepted by the Grantee, including the period of any notice of intent to exercise Grantee's rights. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in its regulations 41 CFR 102-75.690 as such may be amended.

12. The covenants, conditions, and restrictions set forth herein are intended to be covenants running with the land in accordance with all applicable law and shall burden and run with the Kiwanis Ravine Property and every part thereof or interest therein, and shall be binding on Grantor, its heirs, successors, assigns, and every successor in interest to all or any part of the property, and shall benefit Grantee and Grantee's heirs, successors and assigns. All restrictions and conditions contained herein are for the sole benefit of the United States of America and may be modified or abrogated by the Secretary of the Interior, or his successor in function, as provided by the Act.

EPS CITY CLERK

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and on its behalf on this the _____ day of _____, 200_.

UNITED STATES OF AMERICA
Acting by and through the Secretary of the Interior

By _____
Jonathan B. Jarvis
Regional Director, Pacific West
National Park Service

(COUNTY OF ALAMEDA)
) SS.
(STATE OF CALIFORNIA)

On this _____day of _____, 200_, before me, the subscriber, personally appeared Jonathan B. Jarvis, to be known and personally known to me to be the Regional Director, Pacific West, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director, Pacific West aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

Witness my hand and official seal.

_____

NOTARY PUBLIC

BMS CITY CLERK

Attachment C

The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements therein contained.

City of Seattle, Washington

By_____

Date_____

(COUNTY OF _____)
) SS.
(STATE OF WASHINGTON)

On this _____ day of _____, 200_, before me, the undersigned notary, the subscriber, personally appeared and being the duly authorized official of the City of Seattle, Washington and known to me to be the same person described herein and who executed the foregoing acceptance of said on behalf of the City of Seattle, Washington, for the purposes and uses therein described.

Witness my hand and official seal.

_____
NOTARY PUBLIC

CITY CLERK

Exhibit 1 to Attachment C

Kiwanis Ravine Property

Lots 1 through 4, inclusive, Block 5, Lawton Heights, according to the plat thereof recorded in Volume 16 of Plats, page 94, in King County, Washington.

CITY CLERK

Exchange Property

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 3 EAST, W.M. IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
COMMENCING AT THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND 41ST AVENUE WEST;
THENCE NORTH 89°51'16" WEST, ALONG THE CENTERLINE OF WEST EMERSON STREET, 525.42 FEET TO THE CONCRETE MONUMENT AT THE INTERSECTION OF WEST EMERSON STREET AND MAGNOLIA BOULEVARD WEST;
THENCE NORTH 89°52'17" WEST 1868.73 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 16;
THENCE SOUTH 00°14'06" EAST, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 457.28 FEET TO INTERSECT THE NORTHERLY RIGHT-OF-WAY OF WEST RUFFNER STREET;
THENCE SOUTH 89°45'54" WEST, ALONG THE WESTERLY EXTENSION OF SAID NORTHERLY RIGHT-OF-WAY, 30.00 FEET TO THE WEST MARGIN OF 48TH AVENUE WEST AND THE POINT OF BEGINNING OF SAID PORTION;
THENCE CONTINUING SOUTH 89°45'54" WEST 45.00 FEET;
THENCE SOUTH 08°51'53" WEST 33.98 FEET TO A POINT ON THE TOE OF AN EXISTING ROCK SEAWALL;
THENCE SOUTHERLY ALONG THE TOE OF SAID SEAWALL THE FOLLOWING 10 COURSES;
THENCE SOUTH 44°04'32" WEST 20.79 FEET;
THENCE SOUTH 35°29'55" WEST 32.39 FEET;
THENCE SOUTH 05°40'11" WEST 20.04 FEET;
THENCE SOUTH 12°21'19" EAST 19.83 FEET;
THENCE SOUTH 34°46'15" EAST 20.79 FEET;
THENCE SOUTH 33°22'09" EAST 31.71 FEET;
THENCE SOUTH 36°11'47" EAST 23.69 FEET;
THENCE SOUTH 56°19'09" EAST 22.34 FEET;
THENCE SOUTH 82°00'15" EAST 16.42 FEET;
THENCE SOUTH 55°00'09" EAST 4.76 FEET TO SAID WEST MARGIN;
THENCE LEAVING THE SAID TOE, NORTH 00°14'06" WEST, ALONG SAID WEST MARGIN, 194.45 FEET TO THE POINT OF BEGINNING.

CITY CLERK

Donald M Harris
DPR Bloome Easement FISC
7/12/07
Version #2

Form revised December 4, 2006

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	Donald Harris / 684-8018	Jennifer Devore / 615-1328

Legislation Title:
AN ORDINANCE relating to the Department of Parks and Recreation, authorizing the grant of an easement over a 11,928 square foot parcel of land at the southwest corner of Discovery Park to allow the continued maintenance of a seawall that has existed since before the creation of the Park and to allow the maintenance and landscaping of the area behind the seawall in a manner that is not incompatible with the natural environment of the adjoining portion of Discovery Park, finding that this transaction is not subject to the requirements of Ordinance 118477, and in consideration of the agreement by the National Parks Service to release the area of this easement from the Declaration of Restrictions in the deed conveying this land to the City of Seattle, authorizing the acceptance of a Deed of Release and the execution of a new Declaration of Restrictions to limit the use of the land known as the Kiwanis Ravine Green Space to public park purposes; and authorizing acceptance of funds in exchange for the easement.

Summary and background of the Legislation:

This proposed legislation authorizes the Superintendent of Parks and Recreation (Superintendent) to grant an easement in Discovery Park (Park) that will allow the owner of property that abuts the seawall, in the southwest corner of the Park, to assume the maintenance responsibility for that section of the seawall. In addition, it authorizes the execution of a covenant limiting the use of the Kiwanis Ravine Green Space to public park purposes, in exchange for a similar covenant being removed from the area of Discovery Park over which the easement is being granted. This action has been approved by both the National Parks Service and the General Services Administration. The value of the easement (based on an independent appraisal) at $25,000 will help defray the acquisition cost of the Kiwanis Reserve Property that was acquired in 2005 via Ordinance 121170.

For a number of years the Department of Parks and Recreation (DPR) has been trying to determine the most appropriate mechanism to facilitate the continued maintenance, repair, and reinforcement of a seawall that has existed since well before the transfer of Fort Lawton to the City of Seattle (City) and the creation of Discovery Park. A private residence protected by the seawall is at risk if it is not maintained, and the City is not well-positioned to carry out this responsibility. Therefore, of primary interest to the City is protecting itself from liability and removing any ongoing responsibility for maintenance of the seawall.
Under permits from the City, the property owners have repaired and reinforced the seawall at their expense for a number of years.

EMS CITY CLERK

In effect the granting of the easement will be to safeguard and assure:

- Nothing changes from both the past and current "as is" condition that existed before the City acquired Discovery Park from the Federal Government;
- The activities are to be carried out in a way compatible with the naturalistic setting of Discovery Park;
- All values and views of the park will be preserved;
- No structures will be allowed; and
- The property owners' right to maintain the seawall, and landscaping behind it, is clearly established.

The underlying federal covenant that applies to the area over which the easement is to be granted will be transferred to a property in Kiwanis Ravine.

Project Name:	**Project I.D.**	**Project Location:**	**Start Date:**	**End Date**
Kiwanis Ravine Green Space Acq	K733201	4441 Brygger Drive West, Seattle, Washington	4Q/2004	3Q/2007

- *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.**

_X_ **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

CITY CLERK

Appropriations: N/A

Fund Name and Number	Department	Budget Control Level*	2007 Appropriation	2008 Anticipated Appropriation
TOTAL	N/A			

Notes: In exchange for the easement DPR will accept a one time payment of $25,000 from the property owners. The proposed use of these funds is to defray $11,660 of the 2005 acquisition costs for the Kiwanis Ravine Green Space (K733201) and $13,340 in costs to establish the easement (appraisal and other related costs). The Kiwanis Ravine Green Space was acquired in 2005 with funding from the 2000 Parks Levy (Ordinance 121170) which authorized the purchase of Green Spaces with 2000 Levy Funds. Since appropriation authority for acquisition and other related costs was already included in that legislation no additional appropriation authority is necessary.

Spending Plan and Future Appropriations for Capital Projects:

Spending Plan and Budget	2007	2008	2009	2010	2011	Total
Spending Plan	$0	$0	$0	$0	$0	**$0**
Current Year Appropriation	$0					**$0**
Future Appropriations		$0	$0	$0	$0	$0

Notes: See above note.

Funding source:

Funding Source (Fund Name and Number, if applicable)	2007	2008	2009	2010	2011	2012	Total
2000 Parks Levy Fund (33850) – Revenue received in exchange for easement	$25,000	0	0	0	0	**0**	**$25,000**
TOTAL	**$25,000**	**0**	**0**	**0**	**0**	**0**	**$25,000**

Notes: The owners of the residence, which is protected by the seawall, will continue to maintain the seawall and have agreed to pay the appraised value of the fee interest in this area ($25,000). These funds will be deposited into the 2000 Parks Levy Fund.

CITY CLERK

Bond Financing Required: N/A

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL	**N/A**				

Uses and Sources for Operation and Maintenance Costs for the Project: N/A

O&M	2007	2008	2009	2010	2011	2012	Total
Uses							
Start Up							
On-going							
Sources (itemize)							
	N/A						

Notes: There will be no additional O&M costs as a result of this legislation.

Periodic Major Maintenance costs for the project: N/A

Major Maintenance Item	Frequency	Cost	Likely Funding Source
TOTAL	N/A	N/A	N/A

Funding sources for replacement of project: N/A

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

Position Title and Department*	Fund Name	Fund Number	Part-Time/ Full Time	2007 Positions	2007 FTE	2008 Positions**	2008 FTE**
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes: N/A

CITY CLERK

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

- **What is the financial cost of not implementing the legislation**: The costs of not implementing this legislation are the maintenance, repair and reinforcement of the seawall and the small landscaped area behind it. With this legislation the full responsibility for the seawall and landscaped area will transfer to the owner of the residence located at 4751 West Ruffner Street, which is protected by the seawall. This legislation will also protect the City from significant monetary and legal liability for any damage resulting from failure of the seawall.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives:** A possible alternative would be for the City to fund an on-going preventative maintenance program and provide for reinforcement of the seawall. A transfer of a fee rather than the granting of an easement could also be explored.

- **Is the legislation subject to public hearing requirements:** No, because of the finding that it is not subject to the requirements of Ordinance 118477 because the fee interest in the land is not being transferred nor the use of the land changed from what it has been since before the creation of the Park, and the easement permits only the maintenance of the land and its landscaping.

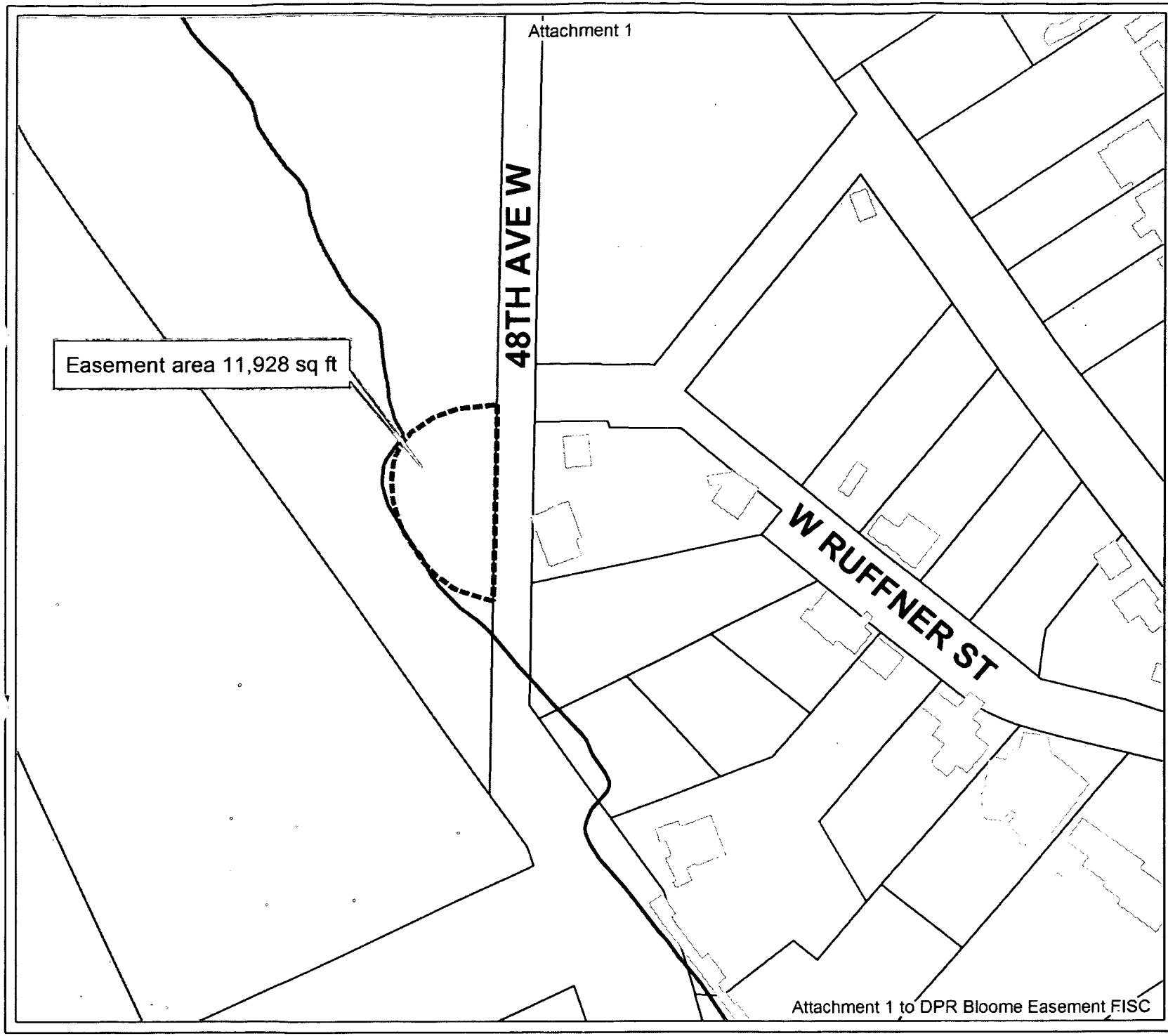
- **Other Issues:** This legislation also provides for the addition of federal restrictions on a portion of the Kiwanis Ravine property and adds an additional level of protection.

Please list attachments to the fiscal note below:

Attachment 1: Discovery Park Easement Area (map)
Attachment 2: Kiwanis Ravine Property (map)

CITY CLERK

Attachment 1



SEATTLE PARKS AND RECREATION

Discovery Park
Easement Area

Legend

- Proposed Easement Area
- Building Outline
- Park Boundary
- Parcel Boundary

N
W E
S

1 inch equals 100 feet

0 50 100
Feet

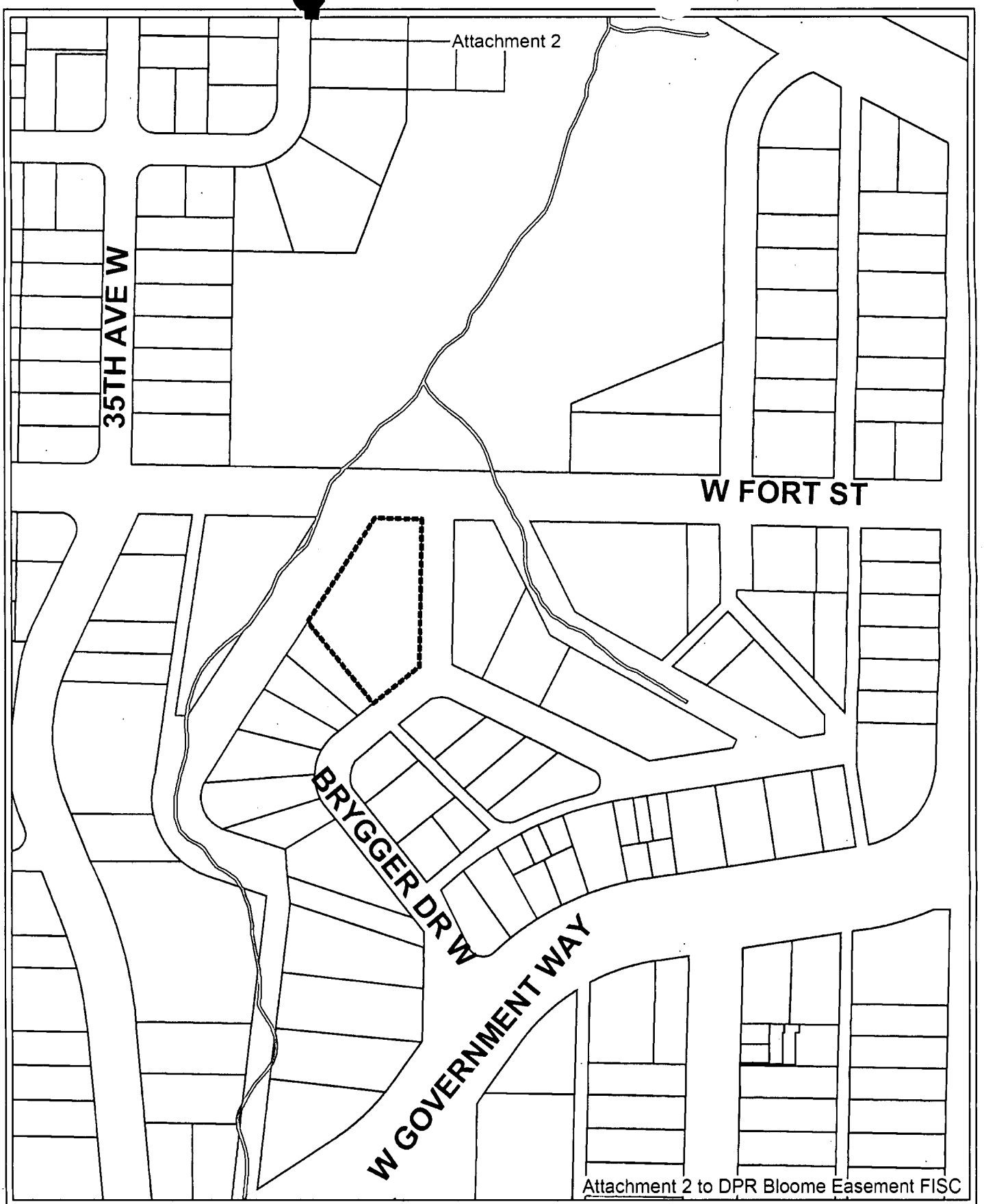
©2007, CITY OF SEATTLE
All rigths reserved.

No warranties of any sort, including accuracy, fitness or merchantability accompany this product.

Map date: July 26, 2007

Attachment 1 to DPR Bloome Easement FISC

Attachment 1 to FISC



Kiwanis Ravine Property - Area of Restriction

SEATTLE PARKS AND RECREATION

Legend
- Stream
- Parcel of Interest
- Parks Property
- Parcel Boundary

1 inch equals 150 feet

50 0 50 100 150 200
Feet

N

©2007, CITY OF SEATTLE
All rights reserved.

No warranties of any sort, including accuracy, fitness or merchantability accompany this product.

Map date: July 26, 2007

ITS CITY CLERK

Attachment 2 to Fiscal Note

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 14, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to submit the attached proposed Council Bill that authorizes the granting of an easement over a parcel of land at the southwest corner of Discovery Park. This easement will provide for the continued maintenance, repair, and reinforcement of a seawall that existed well before the City acquired Discovery Park from the federal government. The legislation also authorizes the execution of a covenant limiting the use of the Kiwanis Ravine Green Space to public park purposes in exchange for a similar covenant being removed from the area of Discovery Park over which the easement is being granted.

The Department of Parks and Recreation has been working for several years to determine the most appropriate mechanism to facilitate the continued maintenance, repair, and reinforcement of the seawall that protects a privately owned residence and the property on which it is located. With the granting of the easement, the property owner will assume responsibility for maintenance of the seawall and the landscaping behind it. This also releases the City from any liability and future maintenance responsibilities related to the seawall. There will be no changes permitted to the area of the Park where the easement is being granted.

The release of the federal covenant from this portion of the Discovery Park property in exchange for a covenant on a property in the Kiwanis Ravine Green Space has been approved by both the National Park Service and the General Services Administration. Following approval by both the Friends of Discovery Park and the Discovery Park Advisory Council, the Seattle Board of Park Commissioners recommended granting the easement and applying the covenant to the Kiwanis Ravine Green Space property. Thank you for your consideration of this legislation. Should you have questions, please contact Donald Harris at 684-8018.

Sincerely,

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

CITY CLERK

122488

STATE OF WASHINGTON – KING COUNTY

--ss.

215854 No. TITLE ONLY

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:122483-88,90,92-94

was published on

09/27/07

The amount of the fee charged for the foregoing publication is the sum of $ 167.40, which amount has been paid in full.

Subscribed and sworn to before me on

09/27/07

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 10, 2007, and published here by title only, will be mailed upon request, or can be accessed electronically at http://clerk.ci.seattle.wa.us. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122494

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

ORDINANCE NO. 122493

AN ORDINANCE relating to the selection of providers of and standards for indigent public defense services and amending Ordinance 121501.

ORDINANCE NO. 122492

AN ORDINANCE stating the City Council's intent not to propose or to enact any ordinance that would have the effect of approving any amendment to the Premises Use & Occupancy Agreement between the City of Seattle and the Professional Basketball Club, L.L.C. allowing the Seattle SuperSonics to vacate the KeyArena prior to September 30, 2010.

ORDINANCE NO. 122490

AN ORDINANCE authorizing the Fleets and Facilities Department Director to execute an amendment to a lease agreement with the General Services Administration of the U.S. Government for warehouse space at Federal Center South, 4735 East Marginal Way South, in Seattle.

ORDINANCE NO. 122488

AN ORDINANCE relating to the Department of Parks and Recreation, authorizing the grant of an easement over an 11,928 square foot parcel of land at the southwest corner of Discovery Park to allow the continued maintenance of a seawall that has existed since before the creation of the Park and to allow the maintenance and landscaping of the area behind the seawall in a manner that is not incompatible with the natural environment of the adjoining portion of Discovery Park, finding that this transaction is not subject to the requirements of Ordinance 118477, and in consideration of the agreement by the National Parks Service to release the area of this easement from the Declaration of Restrictions in the deed conveying this land to the City of Seattle, authorizing the acceptance of a Deed of Release and the execution of a new Declaration of Restrictions to limit the use of the land known as the Kiwanis Ravine Green Space to public park purposes; and authorizing acceptance of funds in exchange for the easement.

ORDINANCE NO. 122487

AN ORDINANCE relating to development in the Central Area neighborhood; amending Ordinance 121740; authorizing a loan of federal Section 108 loan proceeds to finance development of 1700 South Jackson Street; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce debt service obligations on the loan, to provide loan loss reserves and to finance project costs associated with the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; authorizing use of the Central Area Capital Fund Program as additional security for the loan; and authorizing amendments to the City's 2005-2008 Consolidated Plan to reflect the transactions contemplated by this ordinance.

ORDINANCE NO. 122486