

#12
CB117351

ORDINANCE _____

1
2 AN ORDINANCE relating to the NE 45th Street Viaduct project; authorizing the Director of the
3 Seattle Department of Transportation to accept, on behalf of the City of Seattle, a
4 Maintenance Easement and Agreement from the University of Washington for the
5 purposes of accessing, maintaining, cleaning, repairing, reconstructing, and replacing a
6 retaining wall supporting the west approach of the NE 45th Street Viaduct; placing the
7 easement under the jurisdiction of the Seattle Department of Transportation; and ratifying
8 and confirming prior acts.

9 WHEREAS, the NE 45th Street Viaduct project (the "Project") is part of the City's Bridge
10 Rehabilitation and Replacement project which is funded primarily from the "Bridging the
11 Gap" levy voted on and passed by the citizens of Seattle in November of 2006 and
12 provided for in the City of Seattle's 2011 Adopted Budget; and

13 WHEREAS, the NE 45th Street Viaduct (the "Viaduct"), located in the University District,
14 provides a vital link between Interstate 5 and the Laurelhurst neighborhood, and provides
15 east/west connections between the University of Washington, the University District, the
16 University Village Shopping Center, Seattle Children's Hospital, and businesses along
17 Sandpoint Way NE; and

18 WHEREAS, since the Viaduct was built in 1938, sections of it have been replaced and it has
19 been retrofitted, but many sections no longer comply with current City of Seattle
20 structural and seismic design standards, so that the Viaduct is nearing the end of its
21 structural life; and

22 WHEREAS, the structurally deficient 468-foot west approach of the Viaduct needs to be
23 replaced to maintain a safe and efficient travel corridor for vehicles, pedestrians, and
24 bicycles; and

25 WHEREAS, the current phase of the Project consists of replacing the 468-foot west approach of
26 the Viaduct and evaluating the east approach and main span for seismic retrofit needs,
27 minimizing the need for long-term maintenance and short-term fixes; and

28 WHEREAS, to complete the Project and maintain the Viaduct, the Seattle Department of
Transportation must obtain an easement from the University of Washington in order to
access a retaining wall that supports the 468-foot west approach of the Viaduct; NOW,
THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:



1 Section 1. The easement granted by the Board of Regents of the University of
2 Washington to the City of Seattle, recorded under King County recording number
3 20110829000852, and dated August 29, 2011, which is attached as Attachment A and
4 incorporated into this ordinance, is accepted (~~(; and all prior actions taken by the Director of the~~
5 ~~Seattle Department of Transportation or his designees in acquiring the easement are ratified and~~
6 ~~confirmed~~)). The easement is granted for the purposes of accessing, maintaining, cleaning,
7
8 repairing, reconstructing and replacing a retaining wall structure supporting the west approach of
9 the Viaduct and includes the right of ingress and egress. The easement area is the following-
10 described real property:

11 That portion of the Northeast Quarter of the Northwest quarter of Section 16,
12 Township 25 North, Range 4 East, W.M. lying south of the south margin of NE
13 45th Street as established by Washington State Legislature, Chapter 81, Laws of
14 1957, being a strip of land 15.00 feet in width described as follows;

15 Commencing at a survey monument in case marking the intersection of the
16 monument lines of said NE 45th Street and 22nd Avenue NE from which the
17 North Quarter Corner of said Section 16 bears South 88°51'04" East a distance of
18 936.42 feet;

19 Thence South 10°35'50" West a distance of 56.93 feet to the south margin of said
20 NE 45th Street and the POINT OF BEGINNING;

21 Thence North 86°28'57" East along said south margin a distance of 237.33 feet to
22 the beginning of a non-tangent curve concave to the south from which the radius
23 point for said curve bears South 03°51'02" East a distance of 485.00 feet;

24 Thence east along the arc of said curve and said south margin through a central
25 angle of 4°59'59" a distance of 42.32 feet;

26 Thence continuing along said south margin South 88°51'04" East a distance of
27 385.71 feet;

28 Thence South 01°08'56" West a distance of 15.00 feet;



1 Thence North 88°51'04" West parallel with said south margin a distance of
2 385.71 feet to the beginning of a tangent curve concave to the south having a
radius of 470.00 feet;

3 Thence west along the arc of said curve and said parallel line through a central
4 angle of 4°59'59" a distance of 41.01 feet;

5 Thence continuing along said parallel line South 86°28'57" West a distance of
6 237.42 feet;

7 Thence North 03°31'03" West a distance of 15.00 feet to the POINT OF
8 BEGINNING.

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

10 Easement area contains 9,971 square feet, more or less.

11 Section 2. The real property conveyed by the easement described in Section 1
12 above is placed under the jurisdiction of the Seattle Department of Transportation.

13 Section 3. Any act consistent with the authority of this ordinance taken prior to its
14 effective date is hereby ratified and confirmed.

15 Section 4((3)). This ordinance shall take effect and be in force 30 days after its
16 approval by the Mayor, but if not approved and returned by the Mayor within ten days
17 after presentation, it shall take effect as provided by Seattle Municipal Code Section
18 1.04.020.
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1 Passed by the City Council the ____ day of _____, 2012, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2012.

4 _____
5 _____
6 President _____ of the City Council

7
8 Approved by me this ____ day of _____, 2012.

9 _____
10 _____
11 Michael McGinn, Mayor

12
13 Filed by me this ____ day of _____, 2012.

14 _____
15 _____
16 Monica Martinez Simmons, City Clerk

17 (Seal)

18
19 Attachment A: Maintenance Easement and Agreement
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27



When Recorded Return to:

City of Seattle Department of Transportation
700 Fifth Avenue, Suite 3900
P. O. Box 34996
Seattle, WA 98124-4996
Attn: Larry Huggins



20110829000852

CITY OF SEATTLE EAS 131.00
PAGE-001 OF 008
08/29/2011 13:26
KING COUNTY, WA

MAINTENANCE EASEMENT AND AGREEMENT

Grantor:	<u>Board of Regents of the University of Washington</u>
Grantee:	<u>City of Seattle Department of Transportation</u>
Legal Description (abbreviated):	<u>Ptn of NE ¼ of the NW ¼ of S16, T25N, R4E, WM, King County, Washington</u>
	<input checked="" type="checkbox"/> Complete legal on <u>EXHIBIT A</u>
Assessor's Tax Parcel Identification No:	<u>162504-9001</u>
Reference No. of Related Documents:	<u>N/A</u>

This MAINTENANCE EASEMENT AND AGREEMENT is dated this 18th day of July, 2011, and is entered into by and between the **BOARD OF REGENTS OF THE UNIVERSITY OF WASHINGTON**, a state institution of higher education and an Agency of the State of Washington ("University" or "Grantor"), and the **CITY OF SEATTLE (Seattle Department of Transportation)**, a municipal corporation of the State of Washington ("City" or "Grantee").

RECITALS

A. Grantor owns that certain real property located in Seattle, Washington, and commonly known as the University of Washington campus ("Grantor's Property").

EXCISE TAX NOT REQUIRED

King Co. Records Division

By Lisa Johnson Deputy



B. The City owns that certain real property located in Seattle, Washington and consisting of the right-of-way commonly known as the NE 45th Street Viaduct ("City's Property" or the "45th St. Viaduct"). The 45th St. Viaduct runs adjacent to Grantor's Property.

C. Grantor desires to grant to the City, its successors and assigns, on the terms and conditions contained herein, a non-exclusive easement over, under, and across portions of Grantor's Property for the purposes set forth herein, and the City desires to accept the grant of such easement.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants, conveys and warrants to the City, its successors and assigns, a non-exclusive easement over, under, and across that certain portion of Grantor's Property legally described in Exhibit A and depicted in Exhibit B, which exhibits are attached hereto and incorporated herein by this reference (the "Easement Area").

2. Purpose of Easement. The City, its successors and assigns, shall have the right to use the Easement Area for the purpose of accessing (ingress and egress), maintaining, cleaning, repairing, reconstructing and replacing a retaining wall structure located on the City's Property that adjoins the Grantor's Property. The City shall be solely responsible for all costs and expenses related to the 45th Street Viaduct, including the retaining wall.

3. City is Responsible for Damage to Grantor's Property. The City is responsible, as provided by law, for any damages to the Grantor's Property, through its negligence in the maintenance of the City's Property. In the event Grantor's Property is destroyed, damaged or disturbed, the City shall as soon as possible thereafter restore it to a condition at least reasonably equivalent to their prior condition.

4. Term. This Agreement, and the easement rights granted herein, shall be effective upon the date signed below. Thereafter, the easement shall remain in effect for so long as it is used by the City for the purposes described herein. In the event the retaining wall is destroyed or abandoned, all covenants and rights shall be relinquished.

5. Grantor's Reservation of Rights. Grantor, its successors, assigns, lessees, sub-lessees, tenants, and sub-tenants shall have the right to use the Easement



Area in any way and for any other legal purpose that is not inconsistent with the rights granted herein. Grantor hereby agrees that no other structures will be installed in the Easement Area without prior notice to Grantee.

6. Indemnity. To the extent allowed by law, the City agrees to indemnify, defend and hold harmless Grantor from any and all claims, demands, suits, damages, loss or liability, including reasonable attorneys' fees, arising from the City's exercise of the rights granted herein; provided, however, that the City shall not be responsible for claims, demands, suits, damages, loss or liability arising out of the negligence of Grantor.

7. Inspection and Reports. The City shall routinely inspect the 45th St. Viaduct and its retaining wall. The City shall provide copies to Grantor, at Grantor's request, of any inspection or maintenance reports relating to the portion of the 45th St. Viaduct, and the retaining wall, adjacent to Grantor's Property. Grantor reserves the right to request that an inspection be conducted by the City, and that the results of the inspection be provided to Grantor, in the event Grantor has concerns regarding the condition of that portion of the 45th St. Viaduct or the retaining wall that is adjacent to Grantor's Property.

8. Entire Agreement; Amendment. This Agreement contains the entire understanding of the parties and supersedes all prior agreements and understandings among the parties relating to the subject matter of this Agreement. This Agreement may be amended only by a written instrument executed by both parties and recorded in the real property records of King County.

9. Binding Effect. As long as this Agreement is in effect pursuant to Section 4, the agreements contained herein shall be deemed covenants running with the land and shall inure to the benefit of, and shall be binding upon, the respective successors, grantees, heirs and assigns of the parties.

10. Notices. Wherever in this Agreement written notices are to be given or made, they will be personally delivered or sent by certified or overnight mail addressed to the parties at the address listed below, unless a different address has been designated in writing and delivered to the other party.

To Grantor: Attn: Director
 Real Estate Office
 University of Washington
 4333 Brooklyn Avenue NE
 Seattle, WA 98105



To Grantee: Attn: SDOT Real Property Manager
 Seattle Department of Transportation
 P.O. Box 34996
 Seattle, WA 98124-4996

EXECUTED as of the date written below.

GRANTOR:

**Board of Regents of the
University of Washington, a state institution of
higher education and an agency of the State of
Washington:**

By: 
 Jeanette L. Henderson
 Director of Real Estate

Date: 7-18-11



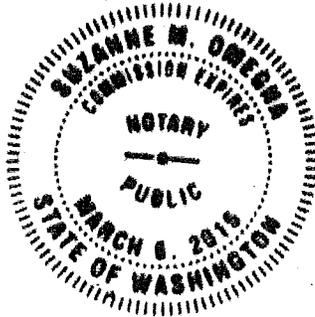
STATE OF WASHINGTON

COUNTY OF KING

} SS.

I certify that I know or have satisfactory evidence that JEANETTE L. HENDERSON is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the DIRECTOR OF REAL ESTATE of THE BOARD OF REGENTS OF THE UNIVERSITY OF WASHINGTON, a state institution of higher education and an agency of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 18th day of July, 2011.




Printed Name Suzanne M. Omega
NOTARY PUBLIC in and for the State of Washington,
residing at King County, WA, Pierce County
My Commission Expires March 6, 2015



EXHIBIT A

That portion of the Northeast Quarter of the Northwest quarter of Section 16, Township 25 North, Range 4 East, W.M. lying south of the south margin of NE 45th Street as established by Washington State Legislature, Chapter 81, Laws of 1957, being a strip of land 15.00 feet in width described as follows;

Commencing at a survey monument in case marking the intersection of the monument lines of said NE 45th Street and 22nd Avenue NE from which the North Quarter Corner of said Section 16 bears South 88°51'04" East a distance of 936.42 feet;

Thence South 10°35'50" West a distance of 56.93 feet to the south margin of said NE 45th Street and the POINT OF BEGINNING;

Thence North 86°28'57" East along said south margin a distance of 237.33 feet to the beginning of a non-tangent curve concave to the south from which the radius point for said curve bears South 03°51'02" East a distance of 485.00 feet;

Thence east along the arc of said curve and said south margin through a central angle of 4°59'59" a distance of 42.32 feet;

Thence continuing along said south margin South 88°51'04" East a distance of 385.71 feet;

Thence South 01°08'56" West a distance of 15.00 feet;

Thence North 88°51'04" West parallel with said south margin a distance of 385.71 feet to the beginning of a tangent curve concave to the south having a radius of 470.00 feet;

Thence west along the arc of said curve and said parallel line through a central angle of 4°59'59" a distance of 41.01 feet;

Thence continuing along said parallel line South 86°28'57" West a distance of 237.42 feet;

Thence North 03°31'03" West a distance of 15.00 feet to the POINT OF BEGINNING.

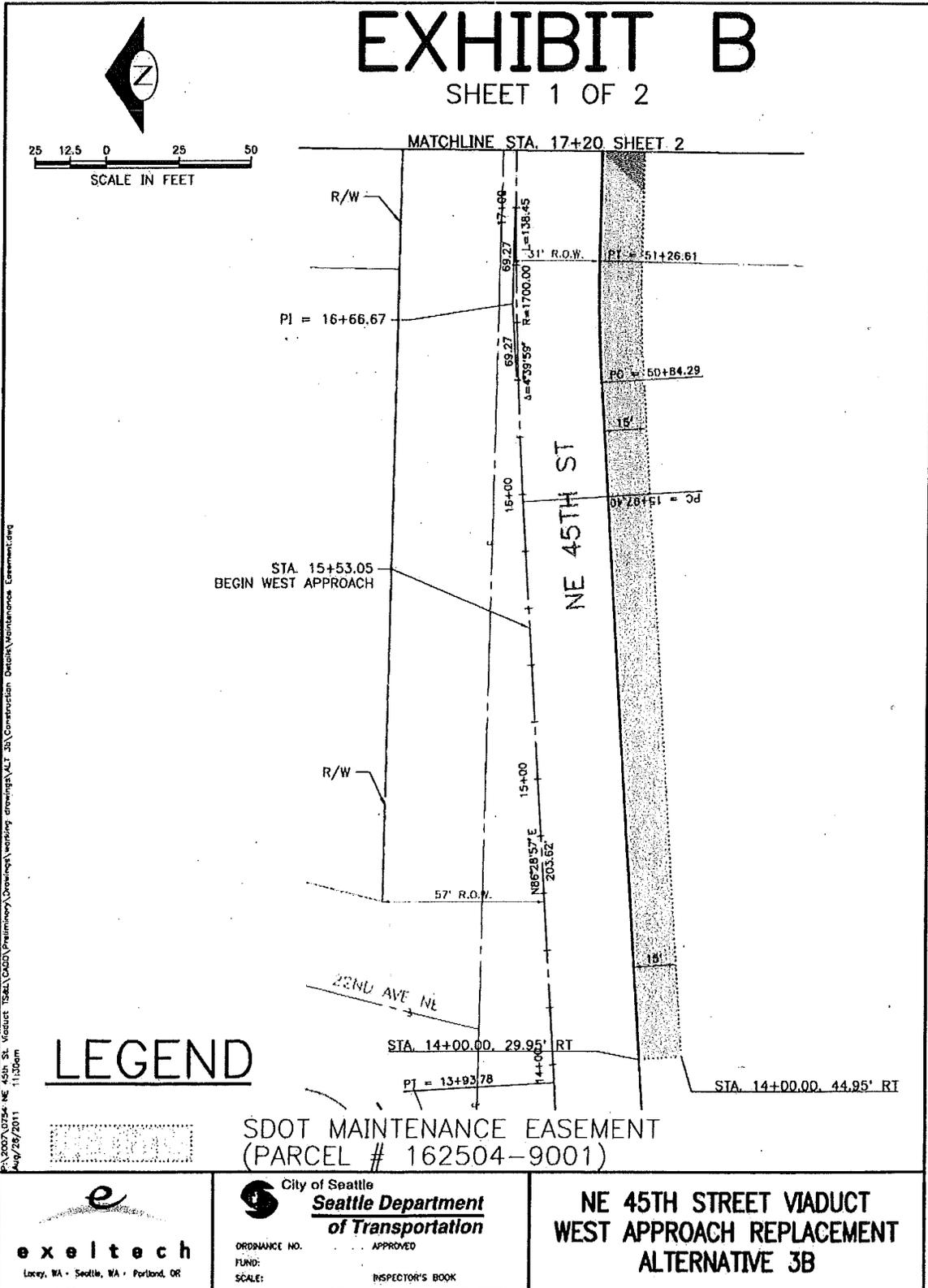
Situate in the City of Seattle, County of King, State of Washington.

Easement area contains 9,971 square feet, more or less.



EXHIBIT B

SHEET 1 OF 2



P:\2007\0754-NE 45th St Viaduct\TS&I\000\Preliminary\Drawings\Working Drawings\ALT 3B\Construction Details\Maintenance Easement.dwg
 09/28/2011 11:36am

LEGEND



SDOT MAINTENANCE EASEMENT
 (PARCEL # 162504-9001)

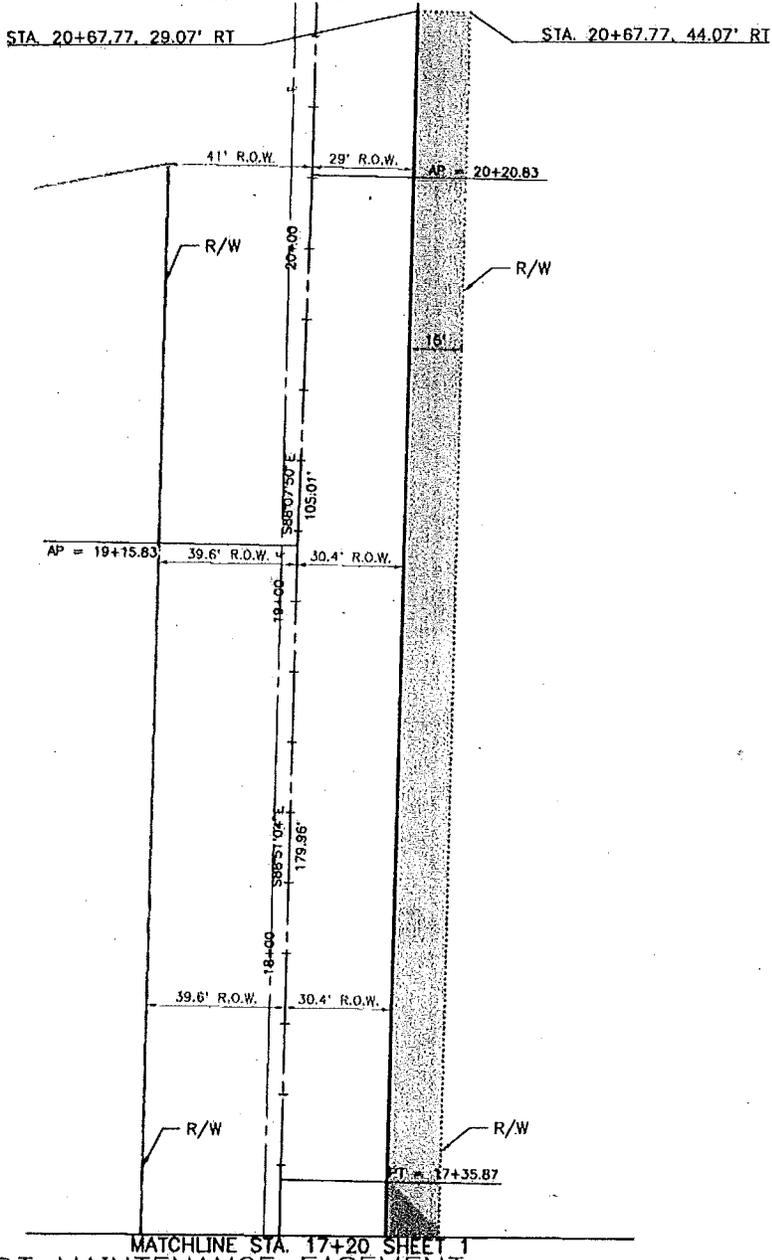
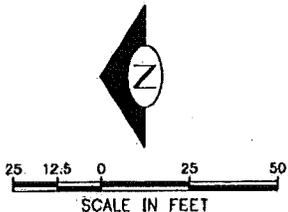
exeltech
 Lacey, WA • Seattle, WA • Portland, OR

City of Seattle
Seattle Department of Transportation
 ORDINANCE NO. _____ APPROVED
 FUND: _____
 SCALE: _____ INSPECTOR'S BOOK

**NE 45TH STREET VIADUCT
 WEST APPROACH REPLACEMENT
 ALTERNATIVE 3B**

EXHIBIT B

SHEET 2 OF 2



LEGEND

P:\2007\0724 NE 45th St Viaduct\5162\Pre\Drawings\working drawings\ALT Job Construction Details\Maintenance Easement.dwg
 4/9/20/2011 11:12am

MATCHLINE STA. 17+20 SHEET 1
 SDOT MAINTENANCE EASEMENT
 (PARCEL # 162504-9001)

City of Seattle
**Seattle Department
 of Transportation**

ORDINANCE NO. APPROVED
 FUND:
 SCALE: INSPECTOR'S BOOK.

**NE 45TH STREET VIADUCT
 WEST APPROACH REPLACEMENT
 ALTERNATIVE 3B**

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Department of Transportation	Larry Huggins/4-5001	Rebecca Guerra/4-5339

Legislation Title:

AN ORDINANCE relating to the NE 45th Street Viaduct project; authorizing the Director of the Seattle Department of Transportation to accept, on behalf of the City of Seattle, a Maintenance Easement and Agreement from the University of Washington for the purposes of accessing, maintaining, cleaning, repairing, reconstructing, and replacing a retaining wall supporting the west approach of the NE 45th Street Viaduct; placing the easement under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming prior acts.

Summary and background of the Legislation:

This proposed legislation authorizes the acceptance of a Maintenance Easement and Agreement from the University of Washington by the Director of the Seattle Department of Transportation (SDOT), on behalf of the City, places the easement under SDOT's jurisdiction, and ratifies and confirms prior acts. This easement is necessary to replace the 468-foot west approach and to evaluate the east approach of the main span for seismic retrofit needs of the NE 45th Street Viaduct (the "Viaduct").

The NE 45th Street Viaduct project is part of the City's Bridge Rehabilitation and Replacement project which is funded primarily from the Bridging the Gap funding package and provided for in the 2012 Adopted Budget.

The Viaduct was built in 1938. Since then it has been retrofitted and sections of it have been replaced. However, many sections of the Viaduct no longer comply with current City of Seattle structural and seismic design standards. The Viaduct is nearing the end of its useful life and it is necessary to replace the 468-foot west approach and evaluate the east approach and main span for seismic retrofit to avoid long term maintenance and short term fixes. This easement is necessary to access the retaining wall that supports the west approach of the Viaduct.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:
Bridge Rehabilitation and Replacement project	TC 366850	Citywide	Ongoing	Ongoing

X This legislation does not have any financial implications.



Other Implications:

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

While the City is not paying anything for the maintenance easement, by accepting this easement, the City is agreeing that it will indemnify UW for any claims arising from the City's use of the property.

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

If the legislation is not passed and we are unable to accept the easement, the project will be delayed or possibly cancelled if SDOT is unable to come up with an alternative to the easement for reconstructing and maintaining the west approach of the Viaduct.

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?

None.

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?

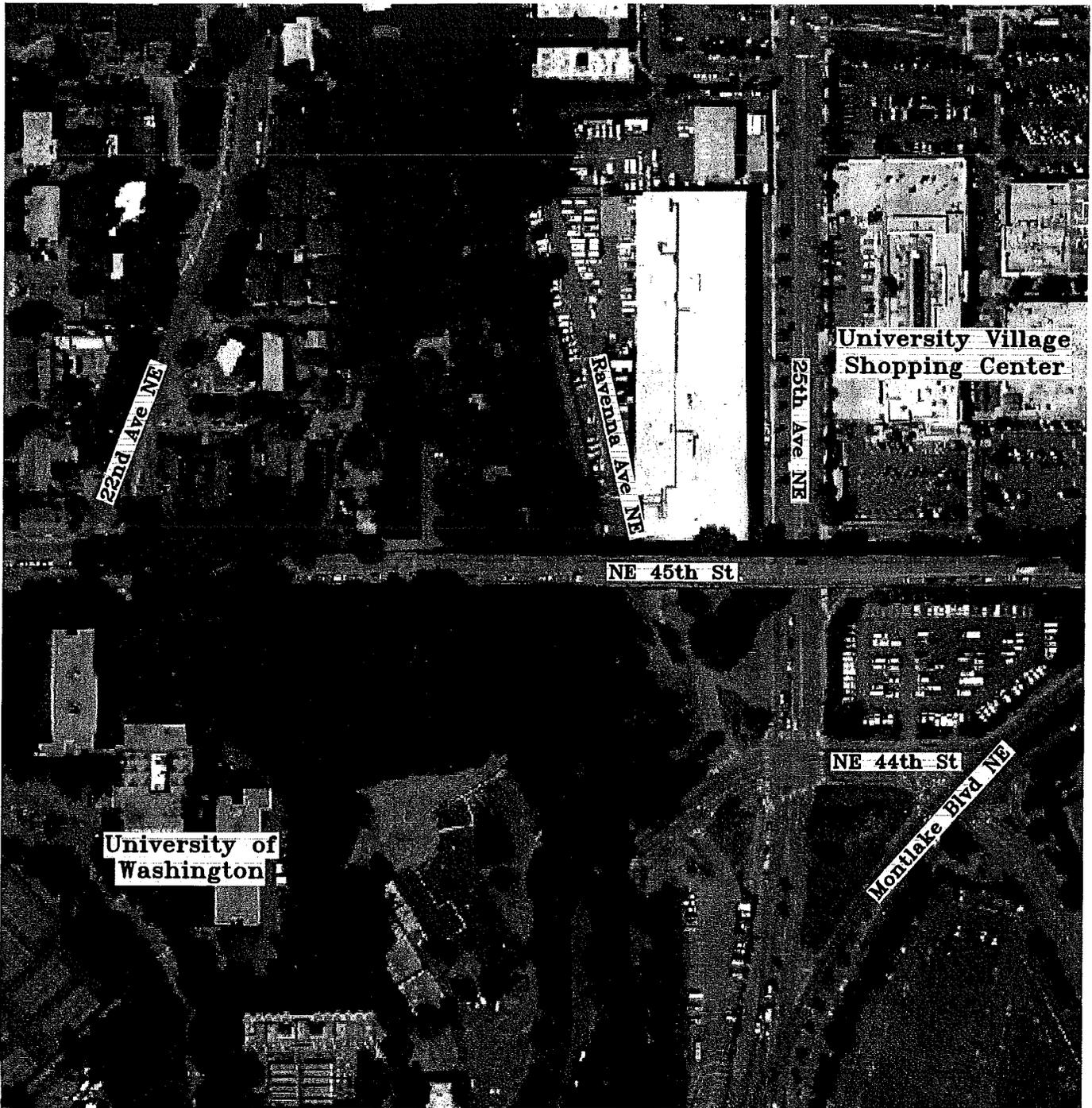
Yes. The University of Washington is granting easement property rights to the City for maintenance purposes.

h) Other Issues:

List attachments to the fiscal note below:

Attachment A: Vicinity map.





SCALE: 1"=200'

LEGEND:



Maintenance Easement Area



City of Seattle
**Seattle Department
of Transportation**





City of Seattle
Office of the Mayor

November 15, 2011

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

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill for consideration which authorizes the Seattle Department of Transportation (SDOT) to acquire a retaining wall easement from the University of Washington. The University of Washington is granting the City this easement, at no cost to the City, so that the City can access the NE 45th Street Viaduct and maintain it as part of the Bridge Rehabilitation and Replacement project.

This proposed Council Bill allows SDOT to accept the property interests necessary to replace the 468-foot west approach of the NE 45th Street Viaduct, and to evaluate the east approach and main span for seismic retrofit needs. This will minimize the need for long-term maintenance and short-term fixes. Rehabilitating the Viaduct has been a longstanding goal for the City and once completed, will provide a more stable corridor for freight movement and daily traffic.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael McGinn".

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

