

Ordinance No. 123512

Council Bill No. 116980 [116980]

AN ORDINANCE vacating the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, on the petition of 500 Mercer Partners, LLC, a Washington limited liability company; and accepting a Property Use and Development Agreement (Clerk File 305398).

CF No. _____

Date Introduced:	<u>Sept. 20, 2010</u>	
Date 1st Referred:	<u>Sept. 20, 2010</u>	
Date Re - Referred:	To: (committee) <u>Transportation</u>	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>1-6-11</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *Tom Rasmussen*
Councilmember

Committee Action:

12-14-10 Approve T.R JG TB
3-0

Jan. 3, 2011 Full Council PASSED 9-0

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

Law Department

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

ORDINANCE 123512

AN ORDINANCE vacating the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, on the petition of 500 Mercer Partners, LLC, a Washington limited liability company; and accepting a Property Use and Development Agreement (Clerk File 305398).

WHEREAS, 500 Mercer Partners, LLC (Mercer Partners) has filed a petition to vacate the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, being the alley in the block bounded by Mercer Street, 5th Avenue North, Roy Street, and Taylor Avenue North, as described below; and

WHEREAS, the City of Seattle was a party to the vacation petition but subsequently sold its property to Mercer Partners subject to the conditions in Ordinance 120648; and

WHEREAS, following a May 20, 2003 public hearing, the petition was conditionally granted; and

WHEREAS, the City Council approved the petition subject to conditions that have subsequently been met; and

WHEREAS, a Property Use and Development Agreement that commits Mercer Partners and their successors to fulfill ongoing public benefit obligations as a result of the alley vacation has been recorded with the King County Recorder's Office; and

WHEREAS, as required by RCW 35.79.030 and Seattle Municipal Code 15.62, Mercer Partners has paid the City a vacation fee of \$498,400, which according to an appraisal obtained by the Director of Transportation, is the full appraised value of the property approved for vacation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That

The alley bisecting Block 48, Replat of Blocks 44-53, inclusive, Mercer 2nd Addition to North Seattle, according to the plat thereof recorded in Volume 9 of Plats, page 54 in King County, Washington; EXCEPT that portion of Lots 7 through 9, said block, now included in 5th Avenue North as widened as provided by the City of Seattle Ordinance # 100337.



1 Be and the same is hereby vacated;

2 OR in the alternative, to vacate any portion of said right-of-way so particularly described;

3 RESERVING to the City of Seattle the right to make all necessary slopes for cuts or fills
4 upon the above-described property in the reasonable original grading of any right-of-way abutting
5 upon said property after said vacation; and further,

6 RESERVING to the City of Seattle the right to reconstruct, maintain, and operate any
7 existing overhead or underground utilities in said rights-of-way until the beneficiaries of said
8 vacation arrange with the owner or owners thereof for their removal.
9

10 Section 2. The Property Use and Development Agreement, Recording Number
11 20100317000121, attached hereto as Attachment A, is hereby accepted.
12

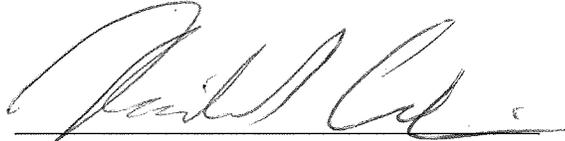
13 Section 3. This ordinance shall take effect and be in force 30 days from and after its
14 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
15 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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1 Passed by the City Council the 3rd day of January, ~~2010~~²⁰¹¹, and

2 signed by me in open session in authentication of its passage this

3 3rd day of January, ~~2010~~²⁰¹¹.

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5 
6 President _____ of the City Council

7
8 Approved by me this 6th day of January, ~~2010~~²⁰¹¹.

9
10 
11 Michael McGinn, Mayor

12
13 Filed by me this 1st day of January, 2010: ~~2010~~²⁰¹¹ ms

14
15 
16 City Clerk

17 (Seal)

18
19 Attachment A: Property Use and Development Agreement



When Recorded, Return to:
500 Mercer Partners, LLC
PO Box 9883
Seattle, WA 98109



20100317000121

PACIFIC NW TIT AG 67.00
PAGE-001 OF 008
03/17/2010 11:00
KING COUNTY, WA

20091124001396

PACIFIC NW TIT AG 68.00
PAGE-001 OF 005
11/24/2009 14:29
KING COUNTY, WA

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor	1) 500 Mercer Partners LLC
:	
<input type="checkbox"/>	Additional on page _____
Grantee	1) City of Seattle
:	
<input type="checkbox"/>	Additional on page _____
Legal (abbreviated):	Description Lots 1 - 12, Block 48, Replat of Blocks 44-53, Mercer's 2 nd Addition to North Seattle <i>9/54</i>
<input checked="" type="checkbox"/>	Additional on : _____
Assessor's Tax Parcel ID #:	545830-0345, 545830-0390
Reference Nos. of Documents Released or Assigned:	_____

(6)67
(5)66 PACIFIC NORTHWEST TITLE
WW3375.2

re-record to add legal description

THIS Property Use and Development Agreement (Agreement) is executed this date in favor of the City of Seattle, a municipal corporation (the City); by 500 Mercer Partners, LLC (the Owner), a Washington limited liability company, its successors and assigns. The Agreement shall be a covenant running with the land.

WITNESSETH

WHEREAS, the Owner is vested in fee simple title in the real property located in King County, Washington, described in Exhibit 1 (the Property); and



WHEREAS, the Owner obtained Master Use Permit No. 740059 for development of a mixed-use residential and commercial project (the Project) on the Property.

WHEREAS, the Owner, filed a petition C.F. 305398 with the City for the vacation of the alley in Block 48, Replat of Blocks 44-53, Mercer's 2nd Addition to North Seattle, pursuant to Chapter 35.79 of the Revised Code of Washington and Seattle Municipal Code Chapter 15.62; and

WHEREAS, the Transportation Committee of the City Council held a public hearing on the alley vacation petition on May 20, 2003; and

WHEREAS, the City Council granted approval of the alley vacation petition, subject to conditions on June 9, 2003; and

WHEREAS, the Property is subject to a trail easement area as described in Agreement for Multi-purpose Trail Easement and Restrictive Covenant, King County Recording Number 20031002002553, (the Trail Easement), which is a 10-foot-wide area on the east side of 5th Avenue N between Mercer Street and Roy Street and on the south side of Roy Street between 5th Avenue N and Taylor Avenue N; and

WHEREAS, execution of this Agreement is desired to ensure compliance with any on-going conditions of the vacation approval subsequent to passage of the vacation ordinance;

NOW, THEREFORE, the Owner, hereby covenants, bargains, and agrees on behalf of itself, its successors, and assigns to the following.

Section 1. Addressed below are those conditions of the vacation approval that require on-going responsibility of the Owner, and therefore, were not met prior to passage of the vacation ordinance.

A. The Trail Easement area shall remain open and accessible to the public at all times and improved with the public amenities described in Section B. The Owner may from time to time use portions of the Trail Easement area for sidewalk café use, subject to approval by the Seattle Department of Transportation, issuance of all other necessary permits, and the Owner's compliance with the terms and conditions of the permits.

B. Public amenities provided within the Trail Easement area (the Amenities) shall include:

1. A visible rain garden water feature;
2. Chairs made of punched metal that provide public seating on 5th Avenue;
3. Bicycle racks and upstanding planters along Roy Street and 5th Avenue;

4. Sidewalk bulbs at the corners of 5th Avenue North and Mercer Street, 5th Avenue N and Roy Street, Roy Street and Taylor Avenue N; and

5. Educational signage along the perimeter storefronts.

C. The plaza entry at 5th and Roy shall remain open and accessible to the public and shall not be gated or enclosed.

D. The interior painting graphic signage and metal-graphic design loading bay doors at 5th and Taylor shall remain elements of the project and shall not be altered or removed, except with the prior approval by the Seattle Department of Transportation.

E. The retail windows along the 5th Avenue façade of the Project shall remain as transparent as practicable and at a minimum, shall meet codified transparency requirements.

F. The Public Amenities shall be maintained to the highest standard. The Public Amenities shall not be removed or modified unless they are being replaced in-kind. The in-kind replacement of any Public Amenity shall be similar to the original in size, placement, and in quality of design and material. Any change to the streetscape or Public Amenities, other than routine maintenance or in-kind replacement, shall require prior approval by the Seattle Department of Transportation.

Section 2. The legal description of the Property where the Project is located is included in Exhibit 1, which is incorporated into this Agreement. An executed copy of this Agreement shall be recorded in the records of King County and the terms and covenants of this Agreement shall attach to and run with the Property.

Section 3. This Agreement is made for the benefit of the City and the public. The City may institute and prosecute any action in law or equity to enforce this Agreement.

Section 4. In the event any covenant, condition, or restriction in this Agreement, or any portion thereof, is determined to be invalid or void, the invalidity or voidness shall not affect any other covenant, condition, or restriction.

Section 5: The Owner shall indemnify and hold the City harmless for any and all claims, losses, liabilities, liens, costs or expenses resulting from or arising out of public use of the Public Amenities, except to the extent such claims, losses, liabilities, liens, costs or expenses resulting from the sole negligence of the City. If any claim covered by the paragraph is asserted against the City, the Owner upon notice from the City, shall defend the same at its sole cost and expense, and shall pay any final judgment rendered upon such claim.

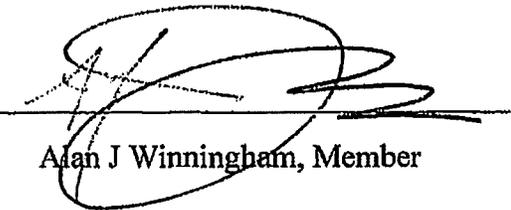


DATED this 16 day of November 2009.

500 Mercer Partners, LLC

By: Mercer Street Management, LLC, member

By: _____


Alan J Winningham, Member

STATE OF WASHINGTON)

ss.)

COUNTY OF KING)

On this day, personally appeared before me Alan J Winningham, to me known to be a member of Mercer Street Management LLC, a Washington limited liability company which in turn is the managing partner of 500 Mercer partners, LLC, a Washington limited liability company, the limited liability company that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute said instrument on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18 day of November, 2009.

Claudia M. Ihrig
Claudia M. Ihrig
(print or type name)
NOTARY PUBLIC in and for the State of
Washington, residing at Seattle, WA
My Commission expires: Dec 9-2011

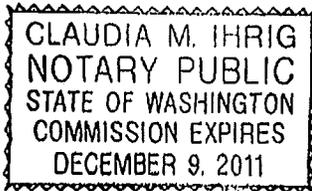


EXHIBIT 1

PROPERTY DESCRIPTION

PARCEL A:

Lots 1 through 12, inclusive, Block 48, Replat of Blocks 44 to 53, inclusive, Mercer's Second Addition to North Seattle, according to the plat thereof recorded in Volume 9 of Plats, page 54, in King County, Washington;

TOGETHER WITH the west half of vacated alley adjacent to said Lots 10 through 12, as vacated under City of Seattle Ordinance Number 46050;

EXCEPT that portion of Lots 7 through 9, said Block, now included in 5th Avenue North as widened and as provided in City of Seattle Ordinance Number 100337;

AND EXCEPT the west 21 feet of Lots 10 through 12, inclusive, as condemned by the City of Seattle under King County Superior Court Case Number 746324.

PARCEL B:

TOGETHER WITH all after-acquired rights and title in and to any portion of the following described property:

A sixteen foot strip lying southerly of the margin of Roy Street and northerly of the margin of Mercer Street within Block 48, Replat of Blocks 44 to 53, inclusive, Mercer's Second Addition to North Seattle, according to the plat thereof recorded in Volume 9 of Plats, page 54, in King County, Washington;

EXCEPT the west half of said strip adjacent to Lots 10 through 12, inclusive, of said Plat.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Beverly Barnett/684-7564	Stephen Barham/733-9084

Legislation Title:

AN ORDINANCE vacating the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, on the petition of 500 Mercer Partners, LLC, a Washington limited liability company; and accepting a Property Use and Development Agreement (Clerk File 305398).

Summary of the Legislation:

This Council Bill completes the vacation process for the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, on the petition of 500 Mercer Partners, LLC, a Washington limited liability company (Mercer Partners), and accepts a Property Use and Development Agreement in connection with the alley vacation.

Background: (Include a brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable.)

Mercer Partners, the development partner for MTS, Inc., and the City of Seattle that owned a portion of the site, sought a vacation of the alley to allow a full-block mixed-use development project to be built in the Uptown neighborhood of Queen Anne. At the time the vacation petition was filed, the City owned three-fourths of one block of the development site and MTS owned the southwest one-quarter of the block, together with a portion of the alley previously vacated in Ordinance 46050. The City subsequently sold its property to allow the project to proceed.

On June 9, 2003, the City Council voted to conditionally grant the petition to vacate the alley. Mercer Partners subsequently constructed the development that consists of two floors of retail, three floors of residential use containing approximately 92 units, two levels of below-grade parking providing a total of 306 retail and residential parking spaces, along with public amenities and art elements as the required public benefit.

In addition, this legislation accepts a Property Use and Development Agreement that permanently requires public amenities including a rain garden water feature, public seating, landscaping, and bicycle racks.

Please check one of the following:

- This legislation does not have any financial implications.**
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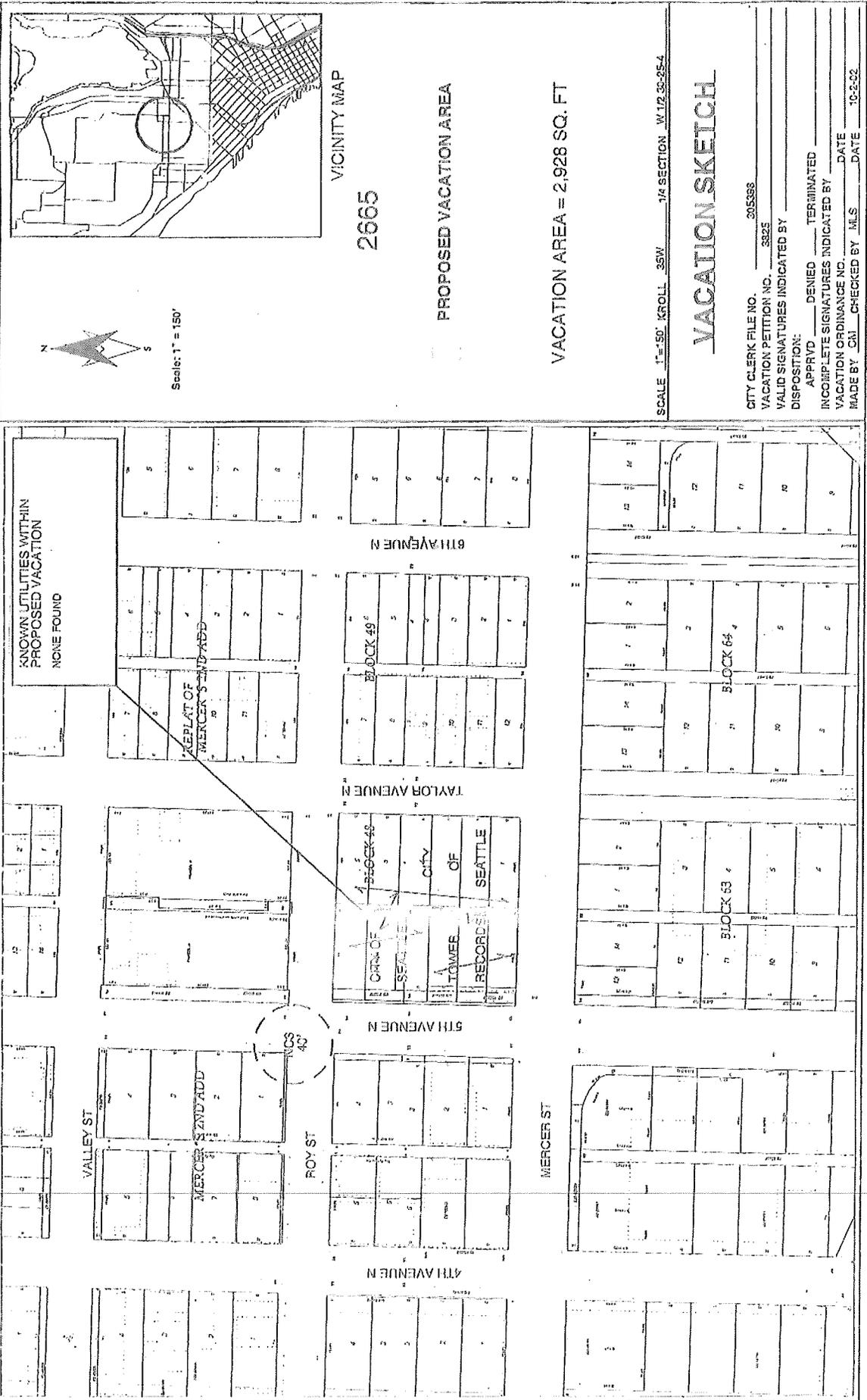


Gretchen M. Haydel
SDOT 500 Mercer Partners, LLC Vacation FISC
August 17, 2010
Version #2

Although this legislation does not accept or appropriate funds, the Seattle Department of Transportation received a vacation fee of \$498,400 in 2009 of which 50 percent was deposited in the CRS Unrestricted Subaccount and 50 percent in the CRS Street Vacation Subaccount.

Attachment A: Vacation Area Map.





SCALE 1"=150' KROLL 35W 1/4 SECTION W12 35-25-4

VACATION SKETCH

CITY CLERK FILE NO. 305385
 VACATION PETITION NO. 3825
 VALID SIGNATURES INDICATED BY _____
 DISPOSITION: APPROVED _____ DENIED _____ TERMINATED _____
 INCOMPLETE SIGNATURES INDICATED BY _____
 VACATION ORDINANCE NO. _____ DATE _____
 MADE BY CAJ CHECKED BY MJS DATE 10-2-02





City of Seattle
Office of the Mayor

September 7, 2010

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

Dear Council President Conlin:

I am transmitting the attached proposed Council Bill that completes an alley vacation for 500 Mercer Partners, LLC (Mercer Partners) and allows for a full-block mixed-use project. In addition, this legislation accepts a Property Use and Development Agreement which provides for public amenities including a rain garden water feature, public seating, landscaping, and bicycle racks.

Mercer Partners sought to vacate the alley to consolidate property and allow a full-block project. On June 9, 2003, the Council voted to conditionally grant Mercer Partners' petition to vacate the alley. The City previously sold its other non-alley property on the block to the developer and acquired a permanent easement as a condition of the property sale to provide space for a future multi-purpose trail. This project provides approximately 71,500 square feet of retail space, 92 residential units, and 306 below-grade parking spaces.

Thank you for your support of this legislation. If you have any questions please feel free to contact Beverly Barnett at (206) 684-7564.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

265991
CITY OF SEATTLE, CLERKS OFFICE

No. 12310-123519

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CT:TITLE ONLY ORDINANCE

was published on

01/19/11

The amount of the fee charged for the foregoing publication is the sum of \$ 191.10, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

01/19/11

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on January 3, 2011, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123510

AN ORDINANCE, relating to a vehicular and pedestrian tunnel under the alley between 6th Avenue and 7th Avenue, north of Stewart Street, amending Ordinance 119508, as amended by Ordinance 121855, updating the insurance and bond requirements, and amending the annual fee; renewing the term of the permit to Plaza 600 Building L.L.C.; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123511

AN ORDINANCE, relating to a utility tunnel under the alley between 5th Avenue and 6th Avenue, north of Virginia Street; amending Ordinance 119437, as amended by Ordinance 121855, transferring the permission from Clise Properties, Inc. to 2001 Sixth L.L.C., updating the insurance and bond requirements, and amending the annual fee; renewing the term of the permit; providing for acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123512

AN ORDINANCE vacating the alley in Block 48, Replat of Blocks 44-53, Mercer 2nd Addition to North Seattle, on the petition of 500 Mercer Partners, LLC, a Washington limited liability company, and accepting a Property Use and Development Agreement (Clerk File 305398).

ORDINANCE NO. 123513

AN ORDINANCE granting Yesler Investment Company, L.L.C. (AKA Martin Selig Real Estate) permission to construct, maintain, and operate a triangular public Plaza with hill climb staircase and art installation at 300 Fifth Avenue, north of Yesler Way, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123514

AN ORDINANCE accepting for general street purposes 16 deeds conveyed to the City of Seattle by the Central Puget Sound Regional Transit Authority or Sound Transit in connection with the Central Link Light Rail Transit Project as agreed to in a Property Acquisition and Transfer Procedures Agreement between the City of Seattle and Sound Transit; laying off, opening, widening, extending, and establishing portions of the rights-of-way located on Martin Luther King Jr. Way South between South Charleston Street and South Andover Street, South Columbian Way and South Alaska Street, South Angeline Street and South Ferdinand Street; at South Alaska Street and 31st Avenue South; and portions of Rainier Vista Subdivision both East and West of Martin Luther King Jr. Way South; placing the real property conveyed by the 16 deeds under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123515

AN ORDINANCE authorizing the Seattle Center Director to execute an agreement with The Vera Project for presentation of an all-ages music and art program during 2011 and 2012.

ORDINANCE NO. 123516

AN ORDINANCE vacating the following portions of streets, alleys, and blocks: SW Morgan Street between 15th Avenue SW and Burien Way SW; 12th Avenue SW, 13th Avenue SW, and 14th Avenue SW between SW Morgan Street and SW Holly Street; 11th Place SW between SW Morgan Street and SW Warsaw Street; 11th Avenue SW between SW Morgan Street and 10th Avenue SW; 10th Avenue SW between SW Morgan Street and SW Warsaw Street; SW Warsaw Street between 11th Place SW and 10th Avenue SW; SW Holly Street between 12th Avenue SW and W Marginal Way SW; the alley between 12th Avenue SW and Burien Way SW, north of SW Holly Street; Burien Way SW between the projected north margin of SW Morgan Street from the west to the northern margin of SW Holly Street, as vacated by Ordinance 93969, excepting the northern approximately 50' of Burien Way SW east of its centerline; approximately 350 feet of 9th Avenue SW from the north margin of SW Holly Street; approximately 340 feet of 8th Avenue SW from the north margin of SW Holly Street; approximately 350 feet of 7th Avenue SW from the north margin of SW Holly Street; Sound Way SW between SW Holly Street and Highland Park Way SW; all of Blocks 1, 2, and 3 in Ewald's 1st Addition to the City of Seattle; and all of Blocks 6, 7, 8, and 9 and a portion of Block 5 in Melville-Barth Addition to the City of Seattle, together known as the Sound Way properties in the Riverview neighborhood of West Seattle (the "Sound Way Property"), on the petition of the Seattle Department of Parks and Recreation ("Parks"); ratifying and confirming an easement; and approving a memorandum of understanding for utility purposes related herein (Clerk File 309972).

ORDINANCE NO. 123517

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

ORDINANCE NO. 123518

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

ORDINANCE NO. 123519

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

Date of publication in the Seattle Daily Journal of Commerce, January 19, 2011.

1/19(265991)