

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (“Agreement”) is dated _____ (“Effective Date”), and is entered into by and between THE CITY OF SEATTLE, a Washington municipal corporation (the “City”), by and through its Department of Parks and Recreation (“DPR”), and the Seattle Chinatown International District Preservation and Development Authority, a Public Development Authority organized and authorized pursuant to RCW 35.21.730.755 and Seattle Council Ordinance Number 103387 (“SCIDpda”), for the purpose of resolving disagreements and confirming new terms and conditions for the disposition and use of real property rights and restrictions.

RECITALS

- A. Subject Properties.** The City owns the real property known as Hing Hay Park, King County Parcel No. 5247801945, located in Seattle’s Historic International District. SCIDpda owns the real property known as the Bush Hotel, a landmarked building, King County Parcel No. 1275150000, which is located directly north of and adjacent to Hing Hay Park. The properties are more fully described and depicted in Exhibit A, “Hing Hay Park – Bush Hotel Easement Extinguishment – Comfort Station Project”.
- B. Shared Interests.** In 1977, the City was authorized to enter into an agreement with SCIDpda (under Ordinance 106367) to enable SCIDpda to purchase the Bush Hotel building for the purpose of developing a community center and affordable housing and for providing public restroom facilities and pedestrian access serving users of Hing Hay Park.
- C. Existing Real Estate Agreements.** In relation to certain agreements listed below, the Bush Hotel was redeveloped as a community center and the building was renovated with additional space, including a sunroom extension, terraced stairs and access to the building. The main entrance abuts and faces park property and the sunroom/overhang addition occupies the north section of Hing Hay Park. To facilitate this development, in exchange for providing funding and permission for the Bush Hotel expansion onto DPR property, certain public benefits were to be established on the hotel property via mutually-beneficial easements and covenants. Specifically, this included: (1) public access to internal restrooms (comfort stations) to be maintained by SCIDpda; (2) approximately 20,000 square feet of community center space inside the Bush Hotel; and (3) a pedestrian access easement from South Jackson Street through a vacated alley to Hing Hay Park. These rights and obligations were set forth in the following executed and recorded real estate agreements (the “Recorded Agreements”):

Instrument	Impact
Restrictive Covenant (Ordinance No. 106367) King County Rec. No. 8201270574	Authorizes the agreement with SCIDpda for funding assistance and development of the Bush Hotel into a community center. Requiring SCIDpda to provide 20,000 SF community center space within the Bush Hotel.

Instrument	Impact
Supplemental Easement Agreement (Ordinance No. 110048) King County Rec. No. 8202010397	Reciprocal easements providing DPR with ingress/egress access across Bush Hotel property; requiring SCIDpda to establish, operate and maintain a public comfort station; and allowing SCIDpda to place structures on park property.

While the Recorded Agreements were executed and recorded, they were not implemented as intended. The City and SCIDpda have a shared goal of amending the collection of agreements for the purpose of implementing the intended programs and services and complying with existing state law and City policy regarding use of DPR property.

D. New Agreements. The City and SCIDpda desire to resolve disagreements regarding how the rights and obligations in the Recorded Agreements should be implemented and enforced. On April 27, 2017, authorized representatives of the City and SCIDpda met and agreed to the key terms to resolve these disagreements, which they memorialized in a short-form written agreement, executed on that same date. The parties wish to more completely document these terms in this Settlement Agreement. The parties view this Settlement Agreement as an alternative to adverse enforcement action intended to achieve mutual benefits without resort to litigation.

NOW, THEREFORE, in consideration of mutual benefits set forth herein, the City and SCIDpda hereby agree as follows:

1. SETTLEMENT.

- A. Resolution of Disagreements. The City and SCIDpda, subject to any necessary approvals by the Seattle City Council and the SCIDpda Board, hereby resolve all disagreements and disputes relating to enforcement and implementation of the Recorded Agreements pursuant to the terms and conditions set forth herein. The parties intend to construct two demised condominium units within the Bush Hotel; convey fee simple ownership of those units to the City upon completion; terminate the Supplemental Easement Agreement; grant SCIDpda permission under the terms of the Restrictive Covenant to substantially decrease the square footage of community center space required within the Bush Hotel; and grant SCIDpda a long-term permit for use of a portion of Hing Hay park.
- B. Term. The Commencement Date of this Settlement Agreement will be the date on which both parties have executed the agreement after their respective legislative approval. The Termination Date of this Agreement is the date on which the City and SCIDpda execute the conveyance agreement for the City Facilities described in Section 9. The Term of the Settlement Agreement will begin on the Commencement Date and end on the Termination Date.

2. OWNERSHIP OF BUSH HOTEL. Title for Unit 1 (commercial) of the Bush Hotel is vested in SCIDPDA Bush Hotel QALICB, LLC, a Washington limited liability company, and title for Unit 2 (housing) of the Bush Hotel is vested in SCIDPDA Bush Residential LLC, a

Washington limited liability company. As the managing member of both limited liability companies, SCIDpda represents and warrants to the City it has full power and authority to enter into this Agreement, convey to the City the portion(s) of the Bush Hotel described in Section 3, and amend the Condominium Declaration pursuant to the terms and conditions of this Settlement Agreement. To the extent the approval or consent of a Mortgagee, as defined in the Condominium Declaration, or other third-party holding a financial interest in the Bush Hotel is required for amendments to the Condominium Declaration to take effect, SCIDpda represents that it has informed such entities of the terms of this Agreement and received approval to make all amendments and take all action set out in this Agreement.

3. CITY FACILITIES. The following spaces shall be constructed within the Bush Hotel building as described below and depicted on Exhibit B for DPR staff and public use: a concierge office, a public comfort station, an outdoor secured storage area, and an indoor storage area (collectively “City Facilities”). After Phase I completion the City Facilities shall be conveyed as two condominium units to the City as provided in Section 9.

Condominium Unit 1

- The concierge office shall be located inside on the ground floor at the southwest corner of the Bush Hotel building and have an exterior window and exterior door opening directly to the outside on the south wall of the building facing Hing Hay Park.
- The comfort station shall be located inside on the ground floor adjoining the concierge office and shall have a public access door opening directly to the outside on the south wall of the building. The concierge office and comfort station combined shall consist of approximately four hundred eighty-one (481) total gross square feet, or approximately four hundred and ten (410) total net square feet. For purposes of this Agreement, gross square footage is based on the BOMA standard to include the whole exterior wall and one-half (1/2) of the interior demising wall.

Condominium Unit 2

- The interior storage space shall be located inside on the ground floor of the Bush Hotel building, within the vacated alley and shall consist of approximately one hundred and twenty-six (126) total gross square feet or approximately one hundred eleven (111) total net square feet (“Interior Storage Space”). Interior Storage Space is depicted in Exhibit B.
- The exterior storage area shall be a rectangular area within the fenced southern portion of the vacated alley courtyard, from the ground level up, located within and along the western property line from the gated entry into Hing Hay Park on the south, and east to the wall of interior park storage space east of the gate including the exterior staircases on the western side of the Bush Hotel building within the vacated alley (“Courtyard Storage Space”). The Courtyard Storage Space shall comprise approximately 767 square feet, plus or minus. An emergency egress path from the Bush Hotel offices and upstairs residential units, through the Courtyard Storage Space, no less than 44” wide will be maintained and kept clear of obstacles. The City

shall have the right to remove the non-functioning staircase currently in the courtyard, at the City’s discretion. The Courtyard Storage Space is depicted in Exhibit B.

The City Facilities’ design, features, standards and components are described below and may also be set forth in greater detail in a future consultant agreement developed by the City and/or the conveyance agreement referenced in Section 9.

4. **DESIGN PHASE.** The City and SCIDpda shall mutually select a professional consultant (“Consultant”) to complete the design services. The City shall contract with the Consultant for design services, bidding and construction administration based on a consultant agreement to be developed by the City. Under direction from the City and guidance from SCIDpda, the Consultant shall design the City Facilities described in Section 3 of this Agreement and implement City-approved schematic plans, said plan may be modified or changed by the Consultant as directed by the City, in compliance with current applicable building codes and ADA accessibility. Consultant shall include in the design team the necessary sub-consultants representing all disciplines required to fulfill the scope of the consultant agreement. SCIDpda shall support the consultant and secure any approvals necessary for the design and construction work proposed, including but not limited to obtaining approvals pertaining to the Bush Hotel’s historical landmark status, if any. The City and SCIDpda shall review the design progress at phases of 30%, 60%, and 90% and accept at City’s sole discretion the final design documents before soliciting bids for construction.

5. **BID PHASE.** The City shall bid the project through the typical contractor selection process for the City in compliance with law.

6. **CONSTRUCTION MANAGEMENT.** The City’s contract with its contractor(s) shall be developed by the City and require the contractor(s) to construct the City Facilities to conform with the City’s design and construction standards, specifications and other requirements provided by the City. SCIDpda agrees to grant contractor(s) access to those areas of the Bush Hotel building necessary to construct and complete the City Facilities as provided in this Agreement. Construction shall be managed by either the City or SCIDpda in the respective phases as provided below; however, both parties shall attend and in partnership participate in regularly scheduled construction meetings with the contractor(s). All construction work performed by the contractor(s) shall be (i) in accordance with all applicable professional principles and practices generally accepted as standards of industry in the state, (ii) in a good and workmanlike manner, free from defects, omissions, and/or mistakes, and (iii) completed such that City Facilities can be used for the intended purpose. The City retains the right in both phases of construction to have the final decision on reviews, approvals, or rejections of proposed value engineering, alternative designs or constructions, or change orders.

A. Construction Phases. Construction of the City Facilities shall be undertaken in two phases, as follows:

- i. Phase I. Phase I shall be managed by SCIDpda as the lead and performed by the contractor(s). The City will take part in all Phase I construction work performed by contractor(s) to ensure work conforms to City expectations,

including but not limited to participation in all meetings, review and approval of budgets and plans, and oversight of work managed by SCIDpda.

Contractor's work in Phase I shall consist of construction of the core and/or shell of the City Facilities to include at a minimum:

- a) Complete a survey of the future City Facilities spaces of the areas depicted in Exhibit B, the "City Facilities" that meets the standard for condominium units per RCW 64.34.232.
 - b) Complete separately connected and metered utility connections including but not limited to plumbing, power, gas, data, fire sprinklers per design;
 - c) Disconnection of non-shared utilities including plumbing, power, gas, data, fire sprinklers and removal of miscellaneous conduit and duct lines per design;
 - d) Contract a qualified professional to assess the City Facilities for hazardous materials. A licensed contractor shall abate any identified materials that exceed permissible levels, in compliance with applicable laws, before start of demolition work.
 - e) Rough finish of concrete floor slab with required power conduits, floor and plumbing drain connections to the main per design, with floor elevation and slopes compliant with ADA per design, ready to receive design flooring materials;
 - f) Fire rated construction of tenant's demising walls per design, to extend from floor slab to structure above sealed with a fire rated sealant; sound insulation in tenant's demising walls, per design, to STC 45 or higher; wall stud spacing of 16" max; in-wall solid blocking where required for all wall mounted fixtures; in-wall plumbing lines with supply lines and drains at required locations; separate meter for in-wall electrical and data conduit lines with electrical boxes for junction boxes, outlets, switches; gypsum wall board, Type X, or moisture resistant (green board), 5/8" thick, unless otherwise noted in design, with smooth surface, mud and taped joints, ready to receive final texture and paint;
 - g) Rough connections at ceiling, or structure above for internal plumbing, HVAC ducting, electrical and data connections and outlets.
 - h) Secure Landmarks approval as applicable for exterior modifications per design and modify exterior to include lighting, door and window assemblies with hardware, finish and paint to match existing;
- ii. Phase II. Phase II shall be managed by the City as the lead and performed by the contractor(s) and shall consist of finishing out the construction of the City Facilities, per design and in accordance with the City's sole approval. SCIDpda shall take part in all Phase II construction work performed by contractor(s) as requested by the City, and shall be kept informed by the City of all construction progress. Phase II shall consist of construction of the interiors of the City Facilities to include at a minimum:

- a) Contractor to accept Phase I construction (applicable if new contractor(s) will perform Phase II work).
- b) Install interior finishes, fixtures, built-in millwork, lighting, controls, etc.; connect and test electrical, data, fire and HVAC systems and balance as necessary.
- c) Enclose storage space beneath the exterior stair case with chain link fence with integral slats supported on metal posts anchored with epoxy to floor slab and stair case.
- d) Coordinate access and security features with DPR, Access Control Office.

B. Construction Budget and Timing. The parties anticipate that the same contractor will perform both Phase I and Phase II work. It is estimated that Phase I will cost approximately \$80,000 and Phase II will cost approximately \$75,000. The parties shall collaborate to ensure that construction of the project, including design approvals, are completed in a timely and efficient manner.

7. **FUNDING; COST CONTROLS.** Payment of up to \$300,000 for costs associated with design, bidding, and construction of the City Facilities shall come from SPR's Building Component Renovations Budget Control Level as provided by a Budget Proviso dated 2015. The following cost control measures will be implemented to ensure that each phase of the Project can be completed within the overall project budget:

- SCIDpda shall fund its own project management, time and expenses, separate from the \$300,000 project budget.
- Total Phase I project costs shall not exceed \$130,000, unless the parties agree in writing to a different limit.

8. **ACCOUNTING; INSPECTION; AUDITS.** SCIDpda shall maintain books, records, documents and other evidence of accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit in King County by personnel duly authorized by SPR, City, the Office of the State Auditor, and other officials so authorized by law, rule, regulation, or contract. The Parties understand and agree that public entities are subject to various laws including, but not limited to, Washington public records disclosure laws, and that members of the public as well as representatives of governmental agencies have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or other records of each Party relating to this Agreement. SCIDpda shall retain for a period of not less than seven (7) years after their creation date, all pertinent cost, accounting, and financial records. SCIDpda hereby grants the City the right to conduct at any reasonable time an audit and re-audit of the books, records and business conducted related to this Agreement and observe the operation of the related business so that the accuracy of the above records and any of the invoices for services provided can be confirmed.

9. **CONVEYANCE OF CONDOMINIUM UNITS.** A conveyance agreement, the terms of which shall be mutually agreed upon by both parties unless specific terms are already

determined in this Agreement, shall convey lien-free by Special Warranty Deed form along with any warranties and guarantees acceptable to the City, the City Facilities in commercial condominium fee ownership as two condominium units, as described in Section 3, to the City once Phase I development of the City Facilities is completed to the City's satisfaction. All transaction costs associated with the conveyance of the condominium units to the City will be borne by SCIDpda. In particular, SCIDpda shall at its sole cost prepare the documents necessary to effectuate conveyance, including but not limited to the preparation of any maps, surveys, or legal descriptions as well as making any necessary changes to the Bush Hotel Condominium Declaration, as amended, to create two additional condominium units and to implement changes to the Condominium Declaration required by the City in its sole discretion pertaining to the City's condominium ownership interests, membership rights or obligations in the owners association. SCIDpda shall be responsible for payment of any closing costs.

After conveyance, the City shall not be required to pay any form of association dues, common area maintenance fees, or assessments on the City Facilities condominium units whether general, special, or otherwise. Nor shall the City be required to pay any portion of costs associated with claims, damages or judgments relating to the Bush Hotel or asserted against owners of any condominium unit in the Bush Hotel except to the extent such claims, damages or judgment directly concern or arise out of the City's control of the City Facilities condominium units conveyed to it pursuant to this Section. The City shall not therefore be jointly and severally liable to other condominium owners for claims arising out of or relating to common areas, as defined in the Condominium Declaration, or to units owned by any party other than the City. To the extent the provisions of the Condominium Declaration are inconsistent with this section, this Section shall control and the Condominium Declaration will be amended to be consistent with this Agreement. Full valuable consideration for these conveyances is provided in the promises and benefits set forth in this Agreement; the conveyance agreement shall not require any further compensation, cash or otherwise, by the City to SCIDpda.

10. VOTING RIGHTS.

- A. **Association**. In amending the Condominium Declaration consistent with this Agreement, SCIDpda shall ensure that the qualifications for membership in the Association set out in Section 13.3 are not amended and will ensure that the City is an Owner entitled to membership in that Association, with an allocated Voting Interest consistent with the formula set forth in Article 6 and Schedule B of the Condominium Declaration.
- B. **Board**. In amending the Condominium Declaration consistent with this Agreement, SCIDpda shall ensure that the City receives the right to appoint one Director to the Board, increasing the total number of Board members from three to four. To grant this right to the City, Section 15.1 of the Condominium Declaration shall be amended to add the sentence "The Owner of the City Facilities shall have the right to appoint one Director." This new sentence shall be added after the sentence, "The Owner of the Housing Unit shall have the right to appoint two Directors." "City Facilities" shall be defined in the Condominium Declaration to have the same meaning set out in this Agreement.

- C. **Amendments.** In amending the Condominium Declaration consistent with this agreement, (i) SCIDpda shall ensure that Section 24.2.1 is amended to delete “or agreement” between the words “vote” and “of Unit Owners”; and (ii) SCIDpda shall ensure that Section 24.2.2 is amended to replace the current text with the following:

24.2.2 An amendment that creates or increases Special Declarant Rights, increases the number of Units, changes the boundaries of any Unit, any Allocated Interest of a Unit, or the uses to which any Unit is restricted, shall require (1) the agreement of the Owner of each Unit particularly affected and the Eligible Mortgagee(s) of such Unit; (ii) the agreement of the Declarant, if the Declarant owns a Unit or has the right to exercise any Special Declarant Right; and (iii) the vote of the Owners other than the Declarant to which at least 90% of the Voting Interest in the Association are allocated.

- D. **Definitions.** For purposes of this section, all terms not defined in this Agreement shall have the same definition set out in the Condominium Declaration.

11. **COMFORT STATION OPERATION AND MAINTENANCE.** The City shall, at its sole discretion and cost, operate and maintain the interior of the comfort station. The City shall provide all necessary housekeeping and janitorial services to maintain the interior of the City Facilities to a level consistent with other similar DPR-managed facilities and operations and to the DPR Superintendent's reasonable satisfaction. The City shall be responsible for proper storage and removal of trash, litter pickup, and recycling within the comfort station consistent with City standards.

12. **RECORDED AGREEMENTS; PERMIT ISSUANCE.** Upon satisfactory Phase I construction of the City Facilities and conveyance to the City of the condominium units, the City and SCIDpda shall jointly terminate and relinquish their respective rights under the recorded Supplemental Easement Agreement, Rec. No. 8202010397. The City shall grant SCIDpda written permission to substantially decrease the community and cultural center square footage required under the Restrictive Covenant, Rec. No. 8201270574 to an amount in the sole discretion of the City. After SCIDpda conveys the City Facilities to the City as condominium units and the agreed upon actions pertaining to the Recorded Agreements are completed, the City shall issue SCIDpda a Continuing Revocable Use Permit (“Permit”), granting SCIDpda permission to continue to operate and use the existing building expansion space generally containing the sun room that overhangs the park and its structural support columns, along with the plaza-level stairs, as these improvements currently exist. The initial Permit term shall be thirty (30) years, with subsequent ten (10) year term extensions subject to the City’s sole approval. The Permit governs SCIDpda’s use of the park property and sets forth requirements regarding insurance, liability, indemnity and other applicable limitations and conditions. The general form of Permit is attached as Exhibit C. The Superintendent of DPR has agreed to waive the Permit fees so long as SCIDpda complies with the terms and conditions of the Permit. The undertakings set out in this Section 12 shall be included in the conveyance agreement described in Section 9 and, along with the funding and construction management described in Sections 4

through 7, constitute consideration from the City to SCIDpda in exchange for the conveyance of the City Facilities.

13. **COMMUNITY ENGAGEMENT.** The City will enter into a community engagement process that complies with City public engagement principles and policies to seek community input regarding proposed operation of the comfort station.

14. **REQUIRED APPROVALS.** This Agreement is conditioned on approval by the Seattle City Council and the SCIDpda Board of Directors.

15. **INSURANCE.** In addition to the insurance requirements set out in Article 20 of the Condominium Declaration, SCIDpda and the City shall each provide and maintain at its own expense throughout the term of this Agreement liability insurance covering its respective operations in its respective Units. SCIDpda's insurance shall be provided by insurers satisfactory to City's Risk Manager, and shall name the City as an additional insured. The City shall not be required to provide or pay for either the liability insurance required by this Section or the insurance set out in Article 20 of the Condominium Declaration, except that the City will be responsible for providing self-insurance or other financial risk control measures it deems appropriate for the City Facilities condominium units after they are conveyed to the City pursuant to Section 9 of this agreement.

16. **INDEMNITIES.** Each party's duty to indemnify the other as set out in this Agreement shall to the extent permitted by law protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from (i) the performance of work for which such party is responsible pursuant to this Agreement, and (ii) such party's intentional or grossly negligent acts or omissions or that of its officers, officials, employees, contractors, or agents.

To the extent permitted by law, SCIDpda will protect, defend, indemnify, and save harmless the City, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from acts or omissions occurring in or relating to the units owned or controlled by SCIDpda, directly or indirectly, or the common areas of the Bush Hotel, as defined in the Condominium Declaration.

To the extent permitted by law, the City will protect, defend, indemnify, and save harmless SCIDpda, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from acts or omissions occurring in or relating to the City Facilities condominium units in the Bush Hotel after they are conveyed to the City pursuant to Section 9 of this Agreement.

No party will be required to indemnify, defend, or save harmless another party or parties if the claim, suit, or action for injuries, death, or damages are caused by the sole negligence or grossly negligent acts or omissions of the other party. Where such claims, suits, or actions for

injuries, death, or damages results from concurrent negligence of the parties, the indemnity obligation shall be valid and enforceable only to the extent of each party's own grossly negligent acts or omissions or those of its officers, officials, employees, contractors, or agents while acting within the scope of their employment or capacity as such. Each party's duty to indemnify the other shall survive the expiration or termination of this Agreement. To the extent the terms of the Condominium Declaration are inconsistent with this Agreement, this Agreement shall control.

Each party agrees that its defense, indemnification and save harmless obligations under this section extend to any claim, suit or action for injuries, death, or damages brought by or on behalf of any of its employees. For this purpose, each party by mutual negotiation hereby waives with respect to the other party only any immunity that would otherwise be available to a party under the Industrial Insurance Provision of Title 51 RCW. **THE PARTIES ACKNOWLEDGE THAT THIS SECTION 16 AND THE INDEMNIFICATION PROVISIONS CONTAINED WITHIN WERE MUTUALLY NEGOTIATED.**

17. **DEFAULT; DISPUTE RESOLUTION.** The City and SCIDpda shall work in good faith to settle any defaults or disputes arising under, or in connection with, this Agreement. The complaining party shall provide the other party with written notice of the complaint and provide that party a reasonable opportunity to cure the problem. Should the parties be unable to resolve such matters between themselves, then the parties shall be entitled to seek damages, specific performance, or any other remedy available at law or in equity.

18. **GENERAL PROVISIONS.**

- A. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington, and venue of any legal action brought to enforce or interpret this Agreement shall lie exclusively in King County Superior Court. The parties waive the right to file suit elsewhere.
- B. Anti-discrimination. In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of race, color, ancestry, religion, national origin, age, sex, sexual orientation, marital status or the presence of any sensory, mental or physical handicap in an otherwise qualified handicapped person unless based upon a bona fide occupational qualification, and this requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.
- C. Other Applicable Laws. The parties shall comply with all applicable Federal, State, County and local laws and ordinances. This Agreement does not in any way relieve parties from complying with any other applicable laws in performing the work subject to this Agreement.

- D. Notices. All notices required under this Agreement shall be deemed sufficient if sent in writing by U.S. Mail or by electronic mail. All notices shall be delivered to the following addresses or to any other or additional addresses as may be specified from time to time by notice to either party. Notices shall be deemed received on the day sent electronically or three (3) business days after placed into the U.S. Mail:

To the City:

The City of Seattle
Superintendent of Parks and Recreation
100 Dexter Avenue N.
Seattle, WA 98109

To SCIDpda:

SCIDpda
Executive Director
409 Maynard Ave. S. #P2
Seattle, WA 98104

- E. Counterparts. This Agreement may be executed in counterparts, which together shall constitute one document. To facilitate execution, this Agreement may be executed and transmitted electronically by facsimile or .pdf format to the other party and that executed electronically transmitted counterpart shall be binding and enforceable as an original.
- F. Amendment. This Agreement shall not be modified, amended, or terminated except by written instrument signed by the undersigned.
- G. Severability. If any provision of this Agreement, or the application of such provision to any party or circumstance, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to such party or circumstance other than those to which it is held to be invalid or unenforceable, shall not be affected thereby.
- H. Waiver. Failure of either party to complain of any action, non-action or default of the other party shall not constitute a waiver of such party's rights hereunder with respect to such action, non-action or default. Waiver by SCIDpda or City of any right or any default hereunder shall not constitute a waiver of any subsequent default of the same obligation or for any other default, past, present or future.
- I. Parties in interest. Nothing in this Agreement shall confer any rights or remedies under or because of this Agreement on any party other than SCIDpda and the City, nor shall anything in this Agreement relieve or discharge the obligation or

liability of any third party to any party to this Agreement nor shall any provision give any third party any right of subrogation or action over or against any party to this Agreement.

J. Construction. This Agreement has been negotiated by the parties and their respective legal counsel and will be fairly interpreted in accordance with its terms and without strict construction in favor of or against any party.

K. Captions. The captions in this Agreement have been inserted solely for convenience of reference and are not a part of this Agreement and shall have no effect upon construction or interpretation.

L. Entire Agreement

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

M. Exhibits

The Exhibits referenced and attached to this Agreement are hereby incorporated as terms and conditions to this Agreement and limited access license set forth herein.

- Exhibit A – Legal Description and Maps of Bush Hotel and Hing Hay Park
- Exhibit B – City Facilities
- Exhibit C – Form of Continuing Revocable Use Permit

The Parties sign this Agreement as of the date stated above.

SCIDpda

By _____
Printed Name: _____
Title: _____

CITY OF SEATTLE

By _____
Printed Name: _____
Title: _____

STATE OF WASHINGTON
COUNTY OF _____

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

DATED this _____ day of _____, 20____.

(SEAL)

Notary Public
Residing at _____
My appointment expires _____

STATE OF WASHINGTON
COUNTY OF KING

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

DATED this _____ day of _____, 20____.

(SEAL)

Notary Public
Residing at _____
My appointment expires _____

Exhibit A – Legal Description and Maps of Bush Hotel and Hing Hay Park

Bush Hotel

Lots 7 and 8, Block 41, Town of Seattle, as laid out by D.S. Maynard’s Plat of Seattle, according to plat recorded in Volume 1 of Plats, page 23, Records of King County, situate in Seattle, King County, Washington

Hing Hay Park

Lots 5 and 6, Block 41, Town of Seattle, as laid out by D.S. Maynard’s Plat of Seattle as per plat recorded in Volume 1 of Plats, page 23, records of King County, situate in the City of Seattle, County of King, State of Washington

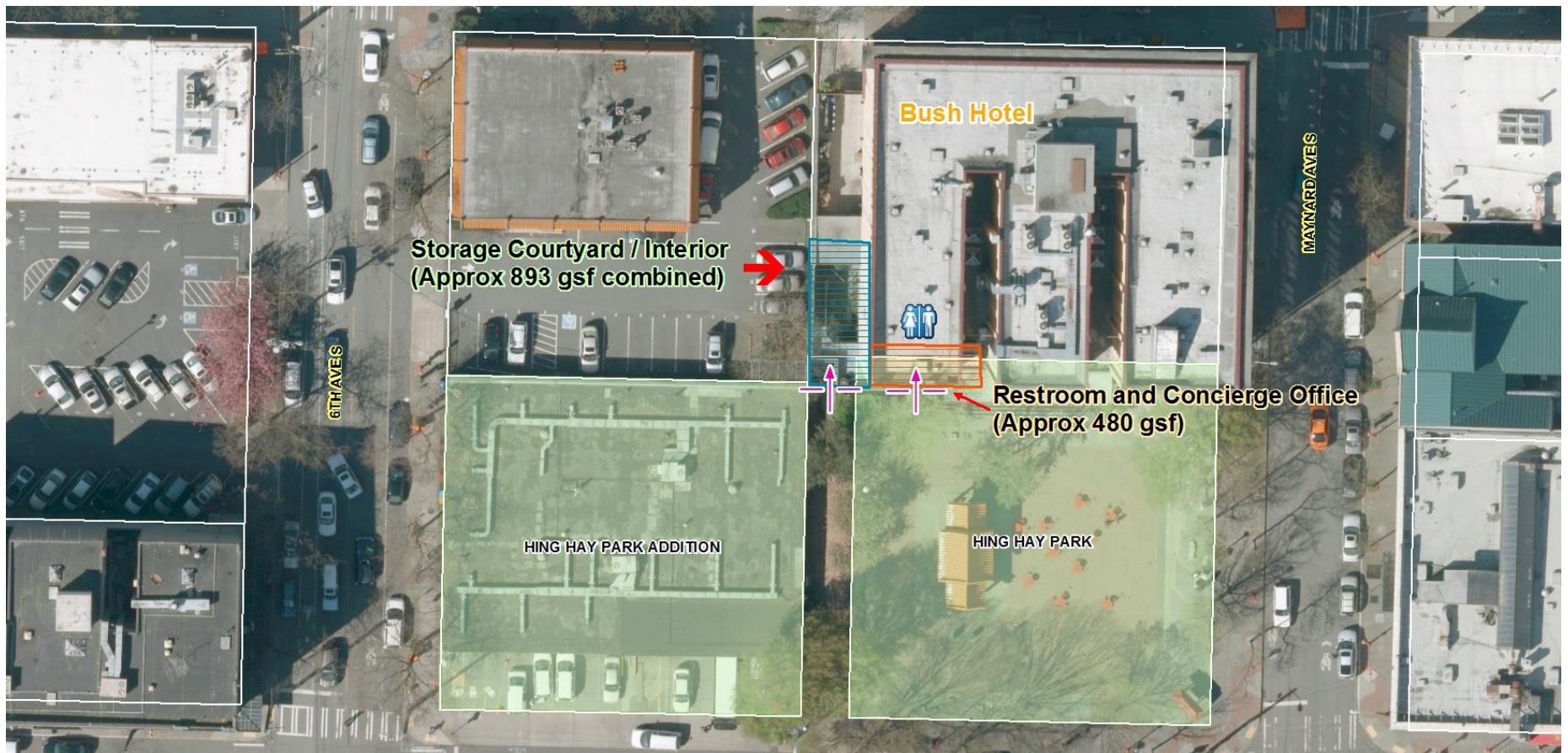


Exhibit B – City Facilities

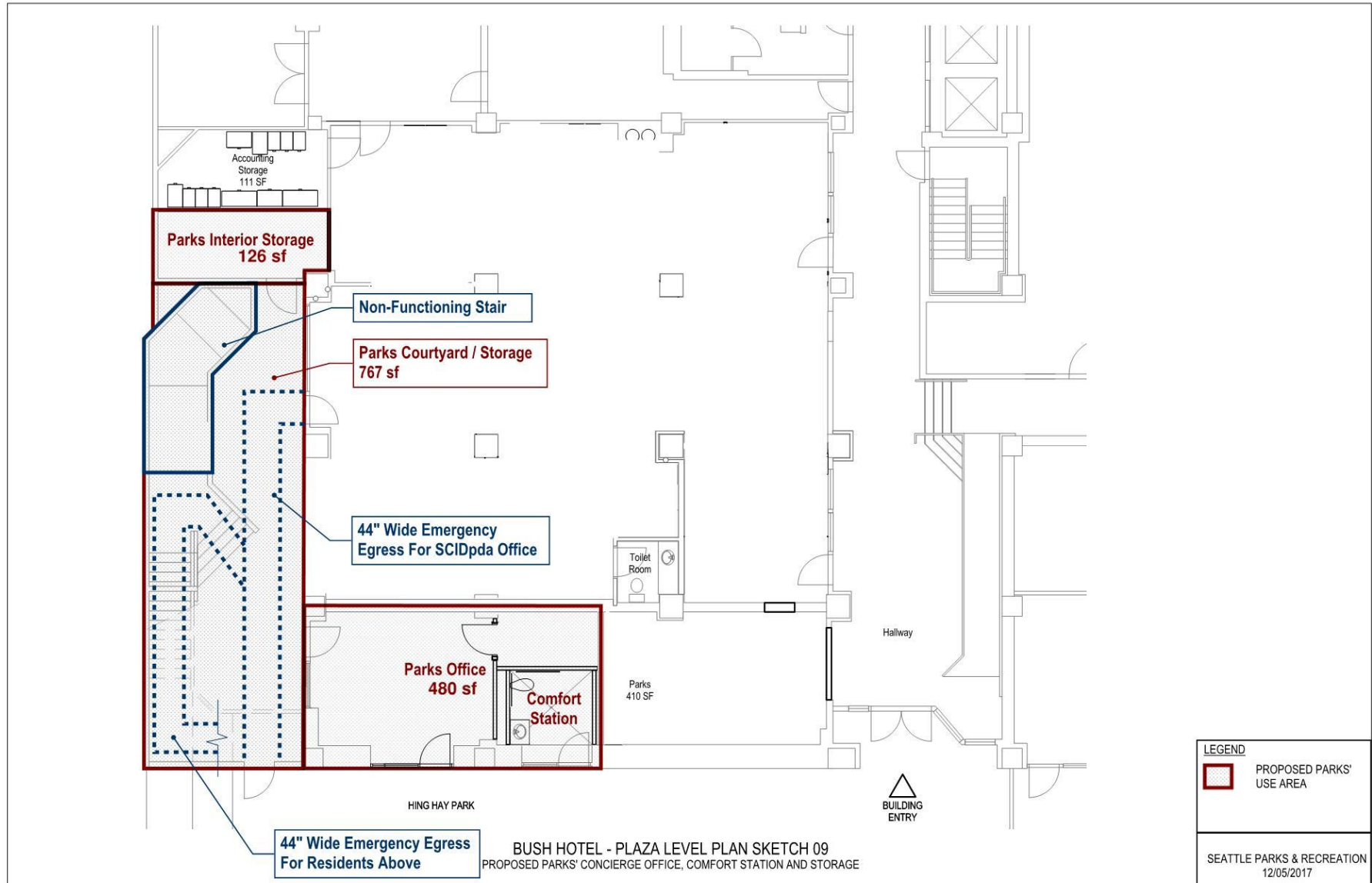


Exhibit C – Form of Continuing Revocable Use Permit

WHEN RECORDED RETURN TO:
Seattle Department of Parks and Recreation
800 Maynard Avenue South, 3rd Floor
Seattle, Washington 98134-1336
ATTN: Property and Acquisition Services

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
800 Maynard Avenue South, 3rd Floor
Seattle, Washington 98134

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY Permit No. **2018-**____
As authorized by Ordinance Number_____

NAME OF PERMITTEE: Seattle Chinatown International District Preservation and Development Authority (SCIDpda)
SCIDPDA Bush Hotel QALICB LLC
SCIDPDA Bush Residential LLC
Email:
MAILING ADDRESS: 409 Maynard Ave S
Seattle, WA. 98104
CONTACT(S) Maiko Winkler-Chin
Email: maikowc@scidpda.org

LOCATION OF PERMIT ACTIVITY: A portion of the northeast section of Hing Hay Park; King Co. Tax Parcel No. 5247801945; legally described as a 120’ x 10’ area of Lots 5 and 6, Block 41, Town of Seattle, as laid out by D.S. Maynard’s Plat of Seattle as per plat recorded in Volume 1 of Plats, page 23, records of King County, situate in the City of Seattle, County of King, State of Washington.

PERMISSION IS HEREBY GRANTED TO THE ABOVE-NAMED PERMITTEE TO: Occupy a portion of Hing Hay Park with Bush Hotel building improvements, notably a balcony structure and support columns, stairs and planters, terraced concrete stairs, and commemorative plaques. An inventory of Bush Hotel improvements on Hing Hay Park property that benefit the Bush Hotel is depicted on Attachment D.

Attachments

CONDITIONS / REQUIREMENTS Attachment A – (5 Pages)	PERMIT AREA LEGAL DESCRIPTION / MAP Attachment C – (1 Pages)
PERMIT APPLICATION Attachment B – (1 Page)	PERMITTED STRUCTURES / ITEMS Attachment D – (1 Page)
INDEMNITY AGREEMENT Attachment E – (3 Pages)	

This Permit is of a temporary nature and vests no permanent rights to the Permit holder whatsoever and cannot be transferred. This Permit is subject to revocation by the Department of Parks and Recreation under terms and conditions outlined hereunder upon thirty (30) days written notice mailed to Permittee at the address shown above.

APPLICATION FEE: \$200.00 Received _____ 2018. PERMIT FEE: SEE SECTION 4

Conditions above accepted by:

Permittee Signature Date

Print Name and Title _____

<i>For staff use only</i>
Date Issued:
By:

Exhibit C – Form of Continuing Revocable Use Permit

Approved by Seattle Department of Parks and Recreation:

Superintendent or Designee

Date

End of signatures

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY

ATTACHMENT A – Conditions / Requirements – Page 1 of 5

1. PERMIT PURPOSE

To allow the Permittee to occupy park property with existing improvements, both above ground, surface and underground structures associated with the building commonly known as the Bush Hotel; In addition, this Permit will allow use of a portion of park property for pedestrian ingress and egress into the Bush Hotel by its patrons and occupants, including casual and emergency passage. This Permit can be amended with the written permission from the Department of Parks and Recreation 30 days in advance of change. Uses allowed under this Permit are:

- I. Ingress/egress in and out of the Bush Hotel
- II. Non-structural maintenance outside the Permit Area by the Permittee of Permittee installed items. (see Maintenance Agreement).
- III. Maintenance of Bush Hotel structures within the Permit Area require the written permission of SPR in the form of a Revocable Use Permit which application is subject to the prevailing fee schedule.

2. PROHIBITED ACTS / ITEMS

- I. The Permittee is prohibited from making any modifications, including additional improvements, installation, removal, or maintenance to its structures that occupy park property without:
 - a. An approved Revocable Use Permit issued by Seattle Department of Parks and Recreation or written prior agreement;
 - b. EXCEPT THAT, In the event of an emergency, either an act of nature, system failure, local disaster or civil unrest, Permittee may take immediate measures necessary to protect public health and safety until such reasonable time allow for application and approval for a Revocable Use Permit.
- II. Advertising or commercial signage within the permit area is not allowed under this Permit.
- III. Staging or storing personal property in the Permit Area, including placement of commercial deliveries for more than a 24-hour period, is not allowed under this Permit.

3. PERMIT AREA

Permit Area is an area within and a portion of park property as depicted on Attachment C (Permit Area and Legal Description) and Attachment D (Permitted Structures / Items), made a part of this permit by reference.

4. MAINTENANCE WITHIN THE PERMIT AREA

- I. The Permit Area is depicted and described on Attachments C and D. Improvements within the Permit Area benefit the Bush Hotel. This Permit authorizes the Bush Hotel to maintain the Permit area.
- II. Permittee, at Permittee's sole expense and initiative shall keep the Permit Area free of barriers, debris, garbage, waste, graffiti and all items that endanger public health. Clean-up and repair of the Permit Area are the responsibility of the Permittee.
- III. Permittee is responsible for monitoring the Permit Area when the Concierge or other park personnel are not available.
- IV. Unless emergent, major structural maintenance within the Permit Area by the Permittee will require the application, approval and issuance of a Revocable Use Permit specifically for the maintenance need.

Proceeding conditions accepted by:

Permittee: Initial and Date

Exhibit C – Form of Continuing Revocable Use Permit

**CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY
ATTACHMENT A – Conditions / Requirements – Page 2 of 5**

4. PERMIT PERIOD

This is a Continuing Revocable Use Permit and is effective the date fully executed and is valid for 30 years or until terminated, whichever occurs first. This Permit will allow the temporary use of park property if permit terms and conditions outlining the allowed use(s) of the Permit Area are met and/or maintained. Subject to Section 17 this Permit may be terminated if any conditions in this Permit are breached.

5. PERMIT FEE / OTHER FEES

The application fee is \$200.00 in accordance with the prevailing fee schedule, as established by ordinance. Based on the Fee Schedule formula, The Annual Use Fee or per year use fee has been calculated based on the value of City occupied space per square foot. The formula used is:

Calculation for Continuing Revocable Use Permit - SCIDpda - Bush Hotel						
Current Year Land Value (per square foot) based on King County Assessor's Office	Area Used by SCIDpda (Square Feet)	Barrier Factor	Rate of Return	Annual Fee Amount (value of Permit) - payable in advance	Year	
\$120.00	1200	1	10%	\$14,400.00	2016	

Under this Permit the Superintendent of Parks has waived the annual permit fee. This will remain in effect for as long as:

1. The Bush Hotel structures remain in good repair, do not pose a public safety risk, maintain and provide proof of the required insurance coverage as outlined in Section 10.
2. All terms and conditions contained within this Permit are met.
3. That the use of the Bush Hotel building continues to provide Community Space/Center for public use.

The area of City property occupied by the Permittee is 1,200 square feet as documented on Attachment D.

6. RESTORATION / STANDARDS

In the event this Permit is terminated pursuant to Section 18, Permittee must completely remove its improvements, including all structures, material, debris, overhangs and equipment from park property, in their entirety, from the Permitted Area down to the terraced stairs and ramps. The Department of Parks and Recreation will address the terraced stairs and ramps separately. Permittee shall restore the site and area of park property impacted by Permittee's activity and improvements, to a condition that is acceptable to Seattle Parks and Recreation and which is the same or better condition, design and usefulness and compatible with the adjacent park property. This includes landscaping, contouring and irrigation and hardscape. Further restoration, if necessary as determined by Parks, must be completed to a condition acceptable to Parks.

Proceeding conditions accepted by:

Permittee: Initial and Date

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT A - Conditions / Requirements (continued) – Page 3 of 5

7. INSPECTIONS

Permit issuance includes one (1) on-site inspection, if necessary. In accordance with the prevailing fee schedule, as established by ordinance, additional on-site inspection charges at the prevailing Parks Department inspection fee per hour may be assessed, if necessary in the Department’s judgment, due to Permittee’s action(s) or failure to comply with the terms and conditions of this Permit.

8. OTHER PERMITS / APPROVALS / REGULATIONS

Permittee, its (sub)contractors or agents, must obtain all necessary permits including additional Revocable Use Permits and approvals required by applicable Department of Park and Recreation permitting requirements, State and City laws, ordinances, rules and regulations to perform any work on park property. In addition to this permit the Permittee will need to advise the Department of Neighborhoods Historic Preservation Officer of any planned structural changes. Permittee is responsible for locating of any air, surface or sub-surface installations prior to the commencement of any activity within the permitted area. Permittee is fully responsible for any and all damage to park property as a result of Permittee’s use of the permit area.

9. INDEMNIFICATION

Permittee hereby agrees to indemnify, defend, and hold the City 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, breach of contract, errors or omissions of Permittee, its agents, contractors or employees in connection with any activities and uses authorized by this permit, but only to the extent such losses, claims, actions, costs, damages or expenses are caused by use, negligence or intentional acts of Permittee, its guests, tenants, authorized agents, contractors or employees. See Attachment E, “Indemnity Agreement “pages 1 to 3.

10. INSURANCE / LIABILITY

Permittee shall, at no cost to the City, maintain at all times during the Permit Period, sufficient Commercial General Liability (CGL) and Automobile Liability insurance with minimum limits of \$1,000,000 each occurrence combined single limit bodily injury and property damage. CGL and Automobile liability insurance shall include “The City of Seattle” as an additional insured for primary and non-contributory limits of liability with the CGL insurance policy including an ISO CG 20 12 additional insured endorsement or its equivalent designated or blanket additional insured policy provision.

Proof of Insurance, including an attached actual copy of the CGL additional insured policy provision, shall be issued to “The City of Seattle, c/o Department of Parks and Recreation, 800 Maynard Ave S, 3rd Floor, Seattle, WA 98134” and approved by the City prior to the issuance of the Permit. Valid proof of active insurance, in the form of the entire policy and riders must be provided to SPR annually, upon or before the insurance renewal date.

Proceeding conditions accepted by:

Permittee: Initial and Date

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT A - Conditions / Requirements (continued) – Page 4 of 5

11. PUBLIC SAFETY

Permittee shall provide, when necessary, such safety and security measures as deemed appropriate to protect public safety, including, but not limited to, vehicle, bicycle or pedestrian barricades, fencing, flaggers, or other traffic controls including sufficient warning signs for same for Park users, as necessary, and to prevent access to the site by the public at times when the job site is not occupied by responsible staff. Permittee assumes full responsibility for the sufficiency of such measures. If an emergency should occur, Permittee shall notify Parks Property Management at (206) 615-0932 or, if after 5:00 pm. or on weekends, the Parks Duty Officer at (206) 915-6249 (cell phone) or (206) 982-4583. If the emergency involves pipe or water infrastructure the Permittee shall contact Seattle Public Utilities at (206) 386-1800.

12. LIENS AND ENCUMBRANCES

Permittee shall keep the portion of its premises that occupy park property free and clear of any liens and encumbrances arising out of the use or occupancy of the premises by Permittee. At the City's request, Permittee shall furnish City with written proof of payment of any item(s) which, if not paid, would or might constitute the basis for a lien on the premises. Encumbrances on the Permittee's improvements on park property shall constitute a breach of agreement.

13. PERSONAL PROPERTY

Placement and/or storage of personal property, equipment, vehicles, or materials of any kind on park property are at Permittee's sole risk.

14. HAZARDOUS SUBSTANCES

The Permittee shall be responsible for complying with all federal, state and local laws and regulations regarding the handling and disposing of hazardous substances that the Permittee brings onto or uses on park property. In no instance, shall the Permittee allow the release or disposal of hazardous substances on park property.

15. BEST MANAGEMENT PRACTICES

Permittee and Permittee's (sub)contractor(s) shall adhere to all best management practices and take such action as is necessary to protect public safety, park property, vegetation, minimize erosion, water run-off, and slide hazard within or adjacent to Permit Area. The Permittee will consult with Park's Forrester regarding the protection of trees if necessary.

16. STANDARDS

Permittee shall perform the requirements of this permit to the satisfaction of the Department of Parks and Recreation per reasonable and objective standards and City of Seattle permitting requirements. Permittee, its (sub) contractor(s) or agents shall call Parks Property Management at (206)615-0932 for approval upon completion. All damage or injury done to the City facilities caused by Permittee's activity must be repaired to the City's satisfaction / standards, within 30 days of the completion of the work, at the sole expense of the Permittee.

Proceeding conditions accepted by:

Permittee: Initial and Date

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT A – Conditions / Requirements (continued) – Page 5 of 5

17. BREACH; NOTICE; OPPORTUNITY TO CURE

In the event that the City becomes aware that Permittee has failed to perform any contractual duties and obligations, or breaches any condition, contract, covenant, agreement or City Code, Federal, State, County or City Law associated with the use of park property covered under this Permit the City will provide written notice. Within 30 days of receipt of notice Permittee will cure the violation. If the violation is not cured within that time period, the breach will be deemed an Event of Default.

18. TERMINATION

This Permit may be terminated by the Department of Parks and Recreation immediately under the following circumstances:

- The improvements on park property are condemned, totally or partially uninhabitable, destroyed, irreparably damaged or removed for any reason.
- The Permittee has committed an Event of Default.
- Change of ownership or use.
- The improvements on park property are used as collateral, encumbered by lien, contract, or use as collateral.
- Non-performance of.
- If improvements fall into disrepair, become or pose a public safety hazard or if structural demise is imminent due to any reason, natural or not.
- The Permit Area is needed for vital City or municipal purposes as determined by the City.

19. CAPTIONS

The captions in this permit are inserted for convenience of reference and in no way, define, describe, or limit the scope or intent of this permit or any of its provisions.

Proceeding conditions accepted by: _____

Permittee: Initial and Date

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT B – Permit Application – Page 1 of 1

CITY OF SEATTLE - DEPARTMENT OF PARKS AND RECREATION APPLICATION FOR REVOCABLE PERMIT TO USE OR OCCUPY PARK PROPERTY

Applicant Name: Seattle Chinatown International District Preservation and Development Authority

Mailing Address: 619 S. Jackson Street, Seattle, WA 98104

Contact Person: Maiko Winkler-Chin

Telephone: _____ Cell Phone: _____

Email: _____ Fax: _____

Name of Park Facility: Hing Hay Park

Location of proposed permit activity (address or legal description or location within park):
The north 10' of Hing Hay Park, Lots 7 and 8, block 41, D.S. Maynard's Plat of Seattle

Permission Is Requested to: Explain fully how you wish to use park property and for what period of time; attach map/site drawing/diagram, labeled appropriately; include recently dated photo(s) which clearly identify the area for which the request is made; attach additional sheets as necessary. **[See information on back of this sheet.]**

Occupy a portion of Hing Hay Park with Bush Hotel building improvements, notably a balcony structure and support columns, stairs and planters, terraced concrete stairs, and commemorative plaques

APPLICATION FEE: \$200

PERMIT ISSUANCE FEE: To be determined; consult fee schedule <http://www.seattle.gov/parks/reservations/ParkPropertyUse.htm>

MAKE CHECKS PAYABLE TO: Seattle Department of Parks and Recreation

In addition to the application fee and the permit fee (if a permit is issued), there will be other requirements, such as, restoration of park property, evidence of insurance, waiver of liability, mitigation, a performance bond. If you have questions, you may contact Parks Property and Acquisition Services at (206)233-7935 or fax (206)233-7038.

Applicant Signature: _____ Date: _____



Seattle Department of Parks and Recreation
Property and Acquisition Services
800 Maynard Avenue South - 3rd Floor
Seattle, WA 98134

Mail application form and application fee to:

Exhibit C – Form of Continuing Revocable Use Permit

ATTACHMENT C Permit Area Legal Description / Map – Page 1 of 1

The Permit Area is a portion of Hing Hay Park, within the northeast section of tax parcel 5247801945, legally described as a 120' x 10' area of Lots 5 and 6, Block 41, Town of Seattle, as laid out by D.S. Maynard's Plat of Seattle as per plat recorded in Volume 1 of Plats, page 23, records of King County, situate in the City of Seattle, County of King, State of Washington.

City of Seattle

Hing Hay Park and Bush Hotel Permit Area



Legend

- Parcels
- Parks



Map date: June, 2018
No warranties of any sort, including accuracy, fitness or merchantability accompany this product.

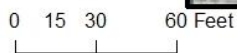
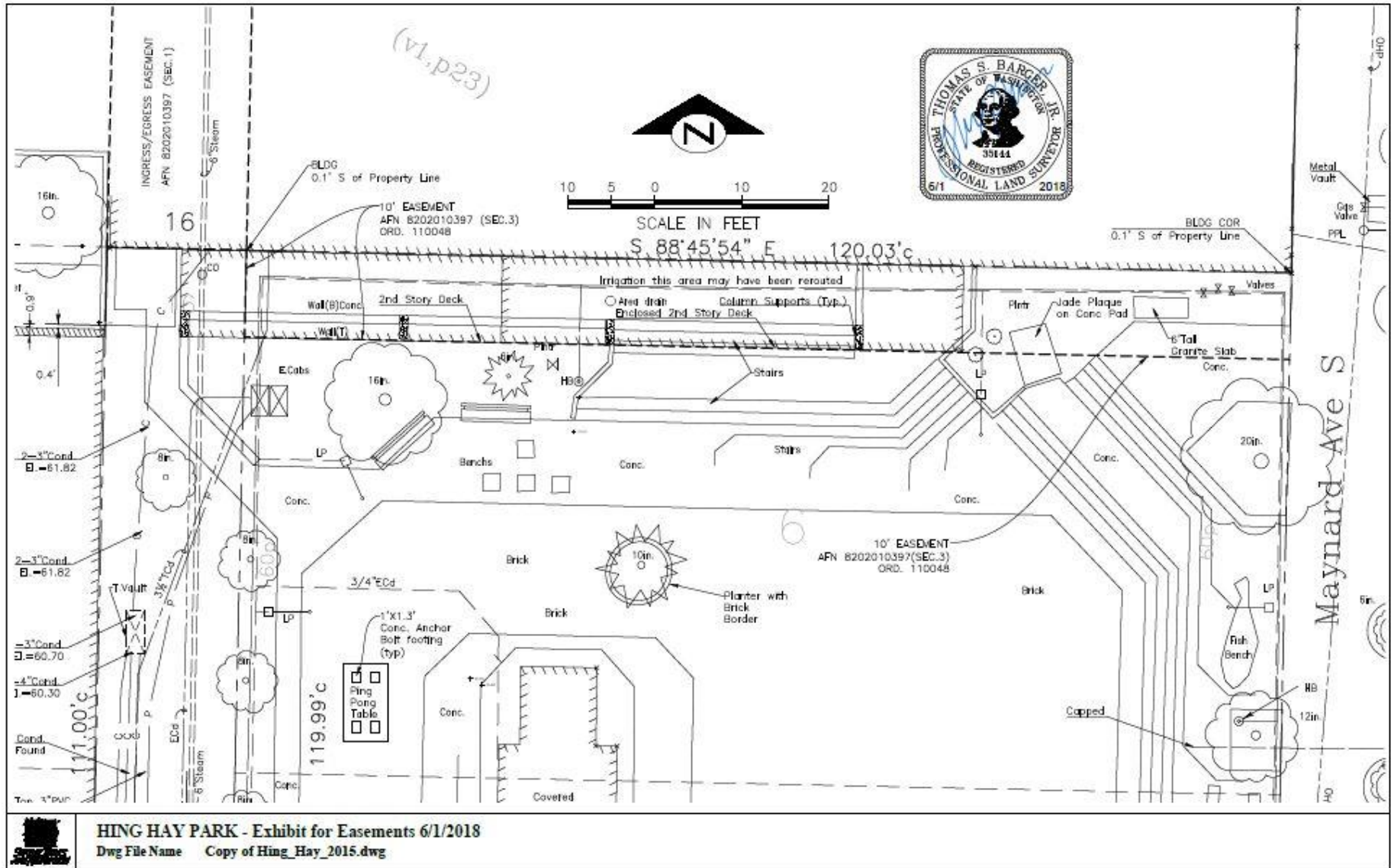


Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT D – Permitted Structures / Items – Page 1 of 1



HING HAY PARK - Exhibit for Easements 6/1/2018
Dwg File Name Copy of Hing_Hay_2015.dwg

**CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY
ATTACHMENT E – Indemnity Agreement - Page 1 of 3**

WHEN RECORDED RETURN TO:
Seattle Department of Parks and Recreation
800 Maynard Avenue South, 3rd Floor
Seattle, Washington 98134-1336
ATTN: Property and Acquisition Services

Document Title: INDEMNIFICATION and WAIVER of LIABILITY for USE and/or OCCUPANCY
of CITY OF SEATTLE PARK PROPERTY

Grantor: Seattle Chinatown International District Public Development Association (SCIDpda)

Grantee: The City of Seattle

Abbreviated Legal Description: Lots 7 and 8, Block 41, D.S. Maynard’s Plat of Seattle
Assessor’s Tax Parcel Number: 1275150000

**INDEMNIFICATION and WAIVER of LIABILITY for USE and/or OCCUPANCY
of CITY OF SEATTLE PARK PROPERTY**

SCIDpda, an organization within the State of Washington and owner of real property commonly known as the Bush Hotel, 409 Maynard Ave S, Seattle, WA 98104 (Grantor or Owner), execute this agreement in conjunction with the limited use and occupancy of City of Seattle park property as described in Exhibit I, (the Revocable Use Permit _____) including Indemnification and Waiver of Liability for Use and/or Occupancy of Park Property (Agreement), in favor of THE CITY of SEATTLE (City), entered into the _____ day of _____ 2018.

WITNESSETH:

WHEREAS, the Grantor owns the real property legally described as follows:

The Bush Hotel, King County Parcel No. 1275150000, Lots 7 and 8, Block 41, Town of Seattle, as laid out by D.S. Maynard’s Plat of Seattle, according to plat recorded in Volume 1 of Plats, page 23, Records of King County, situate in Seattle, King County, Washington

WHEREAS, the said property is adjacent to a portion of park property known as Hing Hay Park;

Lots 5 and 6, Block 41, Town of Seattle, as laid out by D.S. Maynard’s Plat of Seattle as per plat recorded in Volume 1 of Plats, page 23, records of King County, situate in the City of Seattle, County of King, State of Washington and

WHEREAS, improvements benefiting the Owner’s property have been constructed and/or are installed on the park property and the right of ingress and egress to the Owner’s property has been granted over park property which is adjacent to the Owner’s property located at 409 Maynard Ave S, Seattle, Washington, 98104 and further identified on Exhibit II (hereafter “the park property map”); and

Exhibit C – Form of Continuing Revocable Use Permit

CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY ATTACHMENT E – Indemnity Agreement - Page 2 of 3

WHEREAS, the private improvements include, but may not be limited to private storm water drainage apparatus, overhead balcony paving and support system, retaining wall with planters, terraced stairs, landscaping, commemorative plaques; and

WHEREAS, the private improvements may or may not have been constructed or installed with the knowledge and/or permission of the City; and

WHEREAS, even if permission was or is given by the City, it is understood and acknowledged that the permission is temporary and accommodates improvements intended for a public benefit and complies with the right of ingress and egress, both casual and emergent, to a private property and does not establish a permanent right or an easement;

NOW, THEREFORE, in consideration of the benefits derived by the existence of the Owner's private improvements on park property that benefit the Owner's property, the Owner agrees as follows:

1. Owner, their agents, contractors, assigns, tenants, guests, and invitees waive any right to assert any claim whatsoever, including attorney's fees, against the City and/or its officers, representatives, agents, employees for any injury to, or death of, persons; or loss of, or damage to, property caused by or resulting from the Owner or Owner's agents', contractors', assigns', tenants', guests', or invitees' use or occupancy of the park property, except such claims, costs, damages or expense which may be caused by the sole negligence of the City.
2. Owner shall protect, defend, indemnify and save the City harmless from and against any and all claims, suits or actions brought against the City and/or its officers, representatives, agents, employees on the basis of any injury to, or death of, persons; or loss of, or damage to, personal property on the park property caused by or attributable to the Owner's or Owner's agents', contractors', assigns', tenants', guests', invitees' use or occupancy upon the park property. Where claims arise from the concurrent negligence of the Owner and the City, Owner's indemnification obligations shall apply only to the extent of Owner's negligence.
3. Owner agrees to maintain private improvements on the park property in a safe condition, sufficient for safe public use. If private improvements are determined by the City to be in an unacceptable condition, Owner must repair, remove, or replace said private improvements and restore the park property to a condition acceptable to the City within a reasonable period and subject to issuance of a park permit. Removal of the private improvements and restoration of the park property shall be at Owner's sole expense.
4. Owner agrees on behalf of Owner and Owner's heirs, successors and assigns that this agreement shall be a covenant running with the land and shall be binding upon Owner and Owner's heirs, executors, administrators, successors, assigns, lessees, sub-lessees, tenants and sub-tenants for so long as private improvements benefiting said private property remain on the park property.

Exhibit C – Form of Continuing Revocable Use Permit

**CONTINUING REVOCABLE USE PERMIT TO USE OR OCCUPY PARK PROPERTY
ATTACHMENT E – Indemnity Agreement - Page 3 of 3**

- 5. Owner shall record this Indemnification and Waiver of Liability for Use and/or Occupancy of City of Seattle Park Property at owner’s expense within 15 days from full execution at the King County Recorder’s Office and provide a copy of the recorded document to the City. Owner agrees to provide actual notice of this agreement to his heirs, successors, and/or assigns.

Exhibit I – Park Property Map

SCIDpda (Grantor) **Date**

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I hereby certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act and deed for the uses and purposes mentioned in the instrument.

Dated: _____

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington,
residing at _____.

My appointment expires _____

Exhibit C – Form of Continuing Revocable Use Permit

City of Seattle



**Exhibit I to the Indemnity Agreement
Bush Hotel Permit Area on Hing Hay Park**

Legend

- Parcels
- Parks



Map date: June, 2018

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

