



# CITY OF SEATTLE

## City Council

### Agenda

**Monday, December 7, 2020**

**2:00 PM**

**Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or  
Seattle Channel online.**

**M. Lorena González, President**

**Lisa Herbold, Member**

**Debora Juarez, Member**

**Andrew J. Lewis, Member**

**Tammy J. Morales, Member**

**Teresa Mosqueda, Member**

**Alex Pedersen, Member**

**Kshama Sawant, Member**

**Dan Strauss, Member**

**Chair Info: 206-684-8809; [Lorena.González@seattle.gov](mailto:Lorena.González@seattle.gov)**

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206-684-8888 (TTY Relay 7-1-1), email [CouncilAgenda@Seattle.gov](mailto:CouncilAgenda@Seattle.gov), or visit  
<http://seattle.gov/cityclerk/accommodations>.**



# CITY OF SEATTLE

## City Council Agenda

**December 7, 2020 - 2:00 PM**

### **Meeting Location:**

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or Seattle Channel online.

### **Committee Website:**

<http://www.seattle.gov/council>

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*In-person attendance is currently prohibited per Washington State Governor's Proclamation No. 20-28.12, through December 7, 2020. Meeting participation is limited to access by telephone conference line and Seattle Channel online.*

Register online to speak during the Public Comment period at the 2:00 p.m. City Council meeting at

<http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the City Council meeting will begin two hours before the 2:00 p.m. meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to all Councilmembers at

[Council@seattle.gov](mailto:Council@seattle.gov)

Sign-up to provide Public Comment at the meeting at

<http://www.seattle.gov/council/committees/public-comment>

Watch live streaming video of the meeting at

<http://www.seattle.gov/council/watch-council-live>

Listen to the meeting by calling the Council Chamber Listen Line at 253-215-8782 Meeting ID: 586 416 9164

One Tap Mobile No. US: +12532158782,,5864169164#

**A. CALL TO ORDER**

**B. ROLL CALL**



**C. PRESENTATIONS****D. APPROVAL OF THE JOURNAL**

[Min 311](#) November 30, 2020

**Attachments:** [Minutes](#)

**E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR**

*Introduction and referral to Council committees of Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF) for committee recommendation.*

[IRC 282](#) December 7, 2020

**Attachments:** [Introduction and Referral Calendar](#)

**F. APPROVAL OF THE AGENDA****G. PUBLIC COMMENT**

*Members of the public may sign up to address the Council for up to 2 minutes on matters on this agenda; total time allotted to public comment at this meeting is 20 minutes.*

Register online to speak during the Public Comment period at the 2:00 p.m. City Council meeting at  
<http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the City Council meeting will begin two hours before the 2:00 p.m. meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

**H. PAYMENT OF BILLS**

*These are the only Bills which the City Charter allows to be introduced and passed at the same meeting.*

[CB 119965](#) AN ORDINANCE appropriating money to pay certain audited claims for the week of November 23, 2020 through November 27, 2020 and ordering the payment thereof.

**I. COMMITTEE REPORTS**

*Discussion and vote on Council Bills (CB), Resolutions (Res),  
Appointments (Appt), and Clerk Files (CF).*

**PUBLIC ASSETS AND NATIVE COMMUNITIES COMMITTEE:**

1.     [CB 119964](#)     AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute the Third Amendment to the Facility Use and Occupancy Agreement between The City of Seattle and the Seattle Repertory Theater.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:**   [Att 1 - Seattle Repertory Theater Facility Use Agreement](#)  
                          [Att 2 - 3rd Amendment to Seattle Repertory Theater](#)  
                          [Facility Use Agreement](#)

**Supporting**  
**Documents:**   [Summary and Fiscal Note](#)

2.     [CB 119746](#)     AN ORDINANCE relating to Seattle Parks and Recreation; authorizing the Superintendent of Parks and Recreation to execute an amendment to the amended and restated Concession Agreement with Tennis Center at Sand Point, LLC at Warren G. Magnuson Park.

**The Committee recommends that City Council pass as amended the Council Bill (CB).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:**   [Att 1 - Tennis Center at Sand Point Concession](#)  
                          [Agreement v2](#)  
                          [Att 2 - Seattle Court Sports Unlimited Concession](#)  
                          [Agreement](#)  
                          [Att 3 - Ordinance 118477](#)

**Supporting**  
**Documents:**   [Summary and Fiscal Note](#)  
                          [Summary Ex A – Building 41 Site Map](#)

3. [Appt 01574](#) Reappointment of Michael L. Reichert as member, Seattle Indian Services Commission Governing Council, for a term to November 30, 2022.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

4. [Appt 01700](#) Reappointment of Gloria Connors as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

5. [Appt 01701](#) Reappointment of Todd Leber as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

6. [Appt 01702](#) Reappointment of Will Ludlam as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

7. [Appt 01703](#) Appointment of Michael George as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

8. [Appt 01704](#) Appointment of Koichi Kobayashi as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

9. [Appt 01705](#) Reappointment of Mark F. Dederer as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

10. [Appt 01706](#) Reappointment of Donna Moodie as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

11. [Appt 01707](#) Appointment of John Olensky as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

12. [Appt 01708](#) Appointment of Brian E. Robinson as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

13. [Appt 01709](#) Reappointment of Holly D. Golden as member Seattle Center Advisory Commission, for a term to September 28, 2023.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

14. [Appt 01710](#) Reappointment of Sarah C. Rich as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

**The Committee recommends that City Council confirm the Appointment (Appt).**

**In Favor: 4 - Juarez, Pedersen, Herbold, Mosqueda**

**Opposed: None**

**Attachments:** [Appointment Packet](#)

#### **TRANSPORTATION AND UTILITIES COMMITTEE:**

15. [CB 119953](#) AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Supporting Documents:** [Summary and Fiscal Note](#)

16. [CB 119954](#) AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Supporting**

**Documents:**

[Summary and Fiscal Note](#)

17. [CB 119956](#) AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute an agreement with King County Fire Protection District 40 for fire protection and emergency medical services for certain City of Seattle water system properties in King County, Washington.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Attachments:**

[Att 1 - ILA for Fire Protection Services](#)

**Supporting**

**Documents:**

[Summary and Fiscal Note](#)

18.    [CB 119961](#)    AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to acquire, accept, and record on behalf of The City of Seattle both temporary and permanent property rights from owners of property located along the alignment of the planned combined sewage conveyance and storage tunnel between 24th Avenue NW and Shilshole Avenue NW in Ballard and Interlake Avenue N and N 35th Street in Wallingford, and from owners of property located along the alignment of the planned Ballard Conveyance pipeline between 28th Avenue NW and NW 56th Street and 24th Avenue NW and Shilshole Avenue NW, and for related infrastructure in 28th Avenue NW, that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and 3rd Avenue W Water Main Replacement Project, through negotiation or eminent domain (condemnation); placing an underground electrical easement under the jurisdiction of the City Light Department; placing other real property rights acquired under the jurisdiction of Seattle Public Utilities; designating the property rights acquired for utility and general municipal purposes; authorizing termination of an easement held by the former Milwaukee Terminal Railway Company or its successors; authorizing payment of all other costs associated with acquisition; and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Attachments:**    [Att 1 – Legal Descriptions of Acquired Property Rights](#)

[Att 2 - List of Affected Properties](#)

[Att 3 - Map of Affected Properties](#)

**Supporting**

**Documents:**    [Summary and Fiscal Note](#)  
                          [Certificate of Mailing](#)

19. [CB 119962](#) AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to enter into a stormwater facility construction and maintenance agreement with the State of Washington and grant a non-exclusive easement to the State of Washington for the stormwater facility, upon, under, and across a portion of the south half of the northwest quarter of Section 3, Township 23 North, Range 4 East, W.M., King County, Washington.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Attachments:** [Att 1 - Stormwater Maintenance and Operation Agreement](#)

**Supporting Documents:** [Summary and Fiscal Note](#)

20. [CB 119959](#) AN ORDINANCE imposing a revenue measure of 0.15 percent sales and use tax for transportation purposes as authorized by Seattle voters at the November 3, 2020 election; and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Supporting Documents:** [Summary and Fiscal Note](#)



21. [CB 119960](#) AN ORDINANCE regarding the Transit Service Funding Agreement with King County; authorizing the Director of the Seattle Department of Transportation to execute an amendment to the agreement extending the term to June 30, 2021; and ratifying and confirming certain prior acts.

**The Committee recommends that City Council pass as amended the Council Bill (CB).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Attachments:** [Att A - Transit Service Funding Agreement Amendment 5 v2](#)

**Supporting Documents:** [Summary and Fiscal Note](#)

22. [Res 31981](#) A RESOLUTION relating to the Seattle Department of Transportation; authorizing the Director to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant funding assistance managed through the Recreation and Conservation Office.

**The Committee recommends that City Council adopt the Resolution (Res).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Attachments:** [Att 1 - Sample RCO Project Agreement](#)

**Supporting Documents:** [Summary and Fiscal Note](#)  
[Summary Att A - Project Map](#)

23. [Res 31980](#) A RESOLUTION granting conceptual approval to construct, install, maintain, and operate below-grade private utility lines under and across Roy Street, west of 8th Avenue N; Dexter Avenue N, north of Mercer Street; Roy Street, west of Dexter Avenue N; and the alley north of Mercer Street, west of Dexter Avenue N, south of Roy Street, and east of Aurora Avenue N, as proposed by McKinstry Company LLC.

**The Committee recommends that City Council adopt the Resolution (Res).**

**In Favor: 5 - Pedersen, Strauss, González , Herbold, Morales**

**Opposed: None**

**Supporting  
Documents:**

[Summary and Fiscal Note](#)

[Summary Att A - ARE District Energy Area Map](#)

**J. ADOPTION OF OTHER RESOLUTIONS**

24. [Res 31982](#) A RESOLUTION setting forth The City of Seattle's 2021 State Legislative Agenda.

**Attachments:** [Exhibit 1 - City of Seattle State Legislative Agenda](#)

**Supporting  
Documents:**

[Summary and Fiscal Note](#)

**K. OTHER BUSINESS**

**L. ADJOURNMENT**



## Legislation Text

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**File #:** Min 311, **Version:** 1

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November 30, 2020

# SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor  
Seattle, WA 98104



## Journal of the Proceedings of the Seattle City Council

Monday, November 30, 2020

2:00 PM

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or  
Seattle Channel online.

### City Council

*M. Lorena González, President*

*Lisa Herbold, Member*

*Debora Juarez, Member*

*Andrew J. Lewis, Member*

*Tammy J. Morales, Member*

*Teresa Mosqueda, Member*

*Alex Pedersen, Member*

*Kshama Sawant, Member*

*Dan Strauss, Member*

Chair Info: 206-684-8809; [Lorena.González@seattle.gov](mailto:Lorena.González@seattle.gov)

*In-person attendance is currently prohibited per Washington State Governor's Proclamation No. 20-28.12, through December 7, 2020. Meeting participation is limited to access by telephone conference line and Seattle Channel online.*

#### **A. CALL TO ORDER**

The City Council of The City of Seattle met remotely pursuant to Washington State Governor's Proclamation 20-28.12 and guidance provided by the Attorney General's Office, on November 30, 2020, pursuant to the provisions of the City Charter. The meeting was called to order at 2:00 p.m., with Council President González presiding.

#### **B. ROLL CALL**

**The following Councilmembers were present and participating electronically:**

**Present:** 8 - González , Herbold, Juarez, Morales, Mosqueda, Pedersen, Sawant, Strauss

**Late Arrival:** 1 - Lewis

*Councilmember Lewis joined the meeting at 2:01 p.m.*

#### **C. PRESENTATIONS**

There were none.

#### **D. APPROVAL OF THE JOURNAL**

[Min 310](#)

**November 23, 2020**

**Motion was made, duly seconded and carried, to adopt the proposed Minutes by the following vote, and the President signed the Minutes:**

**In Favor:** 9 - González , Herbold, Juarez, Lewis, Morales, Mosqueda, Pedersen, Sawant, Strauss

**Opposed:** None

#### **E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR**

**[IRC 281](#) November 30, 2020**

**Motion was made, duly seconded and carried, to adopt the proposed Introduction and Referral Calendar (IRC) by the following vote:**

**In Favor:** 9 - González , Herbold, Juarez, Lewis, Morales, Mosqueda, Pedersen, Sawant, Strauss

**Opposed:** None

**F. APPROVAL OF THE AGENDA**

Motion was made, duly seconded and carried, to adopt the proposed Agenda.

**G. PUBLIC COMMENT**

The following individuals addressed the Council:

Castill Hightower  
Howard Gale  
Dan Roach

**H. PAYMENT OF BILLS**

**[CB 119957](#) AN ORDINANCE appropriating money to pay certain audited claims for the week of November 16, 2020 through November 20, 2020 and ordering the payment thereof.**

Motion was made and duly seconded to pass Council Bill 119957.

**The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):**

**In Favor:** 9 - González , Herbold, Juarez, Lewis, Morales, Mosqueda, Pedersen, Sawant, Strauss

**Opposed:** None

**I. COMMITTEE REPORTS****CITY COUNCIL:**

1. [CB 119907](#) **AN ORDINANCE relating to land use and zoning; extending for six months a moratorium established by Ordinance 125764, and extended by Ordinances 126006 and 126090, on the filing, acceptance, processing, and/or approval of any application to establish a new principal or accessory use, or change a principal or accessory use, for any site currently used as a mobile home park, as defined in Section 23.84A.032 of the Seattle Municipal Code.**

Motion was made and duly seconded to pass Council Bill 119907.

**The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):**

**In Favor:** 9 - González , Herbold, Juarez, Lewis, Morales, Mosqueda, Pedersen, Sawant, Strauss

**Opposed:** None

#### **J. ADOPTION OF OTHER RESOLUTIONS**

There were none.

#### **K. OTHER BUSINESS**

There was none.

#### **L. ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 2:25 p.m.

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**Jodee Schwinn, Deputy City Clerk**

**Signed by me in Open Session, upon approval of the Council, on December 7, 2020.**

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**M. Lorena González, Council President of the City Council**

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**Monica Martinez Simmons, City Clerk**





## Legislation Text

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**File #:** IRC 282, **Version:** 1

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December 7, 2020



## Introduction and Referral Calendar

List of proposed Council Bills (CB), Resolutions (Res), Appointments (Appt) and Clerk Files (CF) to be introduced and referred to a City Council committee

Record No.	Title	Committee Referral
<b><u>By: Mosqueda</u></b>		
1. <a href="#">CB 119965</a>	AN ORDINANCE appropriating money to pay certain audited claims for the week of November 23, 2020 through November 27, 2020 and ordering the payment thereof.	City Council
<b><u>By: No Sponsor Required</u></b>		
2. <a href="#">CB 119966</a>	AN ORDINANCE relating to the legal representation of Mayor Jenny Durkan in judicial proceedings concerning a recall charge; paying expenses necessary to defend Mayor Jenny Durkan in those proceedings; and ratifying and confirming certain prior acts.	City Council
<b><u>By: Pedersen</u></b>		
3. <a href="#">CB 119969</a>	AN ORDINANCE relating to the City Light and Seattle Public Utilities Departments; temporarily removing the charge of interest on delinquent utility consumption and utilization accounts; superseding several sections under Title 21 that authorize and require the collection of interest on delinquent utility consumption and utilization accounts; and ratifying and confirming certain prior acts.	City Council
<b><u>By: González</u></b>		
4. <a href="#">Res 31982</a>	A RESOLUTION setting forth The City of Seattle's 2021 State Legislative Agenda.	City Council for Introduction and Adoption
<b><u>By: No Sponsor</u></b>		
5. <a href="#">CB 119970</a>	AN ORDINANCE amending Ordinance 126000, which adopted the 2020 Budget, including the 2020-2025 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new CIP projects and revising project allocations for certain projects in the 2020-2025 CIP; creating positions; modifying positions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.	Finance and Housing Committee

**By: Mosqueda**

6. [CB 119971](#) AN ORDINANCE authorizing, in 2020, acceptance of funding from non-City sources; authorizing the Mayor or Mayor's designee to accept specified grants, private funding, and subsidized loans and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts. Finance and Housing Committee

**By: No Sponsor**

7. [CB 119972](#) AN ORDINANCE relating to appropriations for the Seattle Police Department; amending Ordinance 126000, which adopted the 2020 Budget; and lifting provisos. Finance and Housing Committee

**By: Mosqueda**

8. [CB 119973](#) AN ORDINANCE relating to affordable housing; authorizing a loan of up to \$1,000,000 in General Fund funds to Community Roots Housing, a Washington public corporation, to mitigate the financial impacts of COVID-19; and authorizing certain new agreements to be developed relating to the lending of General Fund funds to Community Roots Housing. Finance and Housing Committee

**By: González , Mosqueda,Morales**

9. [CB 119977](#) AN ORDINANCE amending Ordinance 126000, which adopted the 2020 Budget; making appropriations from the General Fund for public assistance during the COVID-19 civil emergency; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council. Finance and Housing Committee

**By: González**

10. [CB 119967](#) AN ORDINANCE relating to the 2018 Families, Education, Preschool, and Promise Levy; amending the levy implementation and evaluation plan adopted by Ordinance 125807 to grant the Department of Education and Early Learning temporary authority to modify the implementation and evaluation plan in response to the COVID-19 pandemic; and ratifying and confirming certain prior acts. Governance and Education Committee

**By: González**

11. [CB 119968](#) AN ORDINANCE relating to lobbying regulations; expanding lobbying regulations to cover grassroots lobbying campaigns; correcting typographical errors, correcting section references, clarifying regulations, and making minor amendments; and amending Chapter 2.06 of the Seattle Municipal Code. Governance and Education Committee

**By: Herbold**

12. [CB 119974](#) AN ORDINANCE relating to civilian and community oversight of the police; creating a subpoena process for the Office of Police Accountability and Office of Inspector General for Public Safety while ensuring due process for Public Safety and Human Services Committee

individuals who are the subject of the subpoena; and adding new Sections 3.29.126 and 3.29.245 to the Seattle Municipal Code.

**By: Lewis**

**13. [CB 119975](#)**

AN ORDINANCE relating to land use and zoning; establishing regulations for development of permanent supportive housing; adding a new Section 23.42.057 to, and amending Sections 23.41.004, 23.45.510, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.605, 23.54.015, and 23.84A.032 of, the Seattle Municipal Code.

Select Committee  
on Homelessness  
Strategies and  
Investments

**By: Pedersen**

**14. [CB 119976](#)**

AN ORDINANCE relating to the East Marginal Way Grade Separation Project; authorizing the Director of the Seattle Department of Transportation ("SDOT") to acquire, accept, and record, on behalf of The City of Seattle, three quit claim deeds and an assignment and assumption of easement agreement for the East Marginal Way Overpass from the Port of Seattle, a municipal corporation of the State of Washington (the "Port"); laying off the deeds as right-of-way; placing the real property conveyed by such deeds and easement under the jurisdiction of SDOT and designating for street purposes; authorizing the Chief Executive Officer and General Manager of Seattle Public Utilities ("SPU") to acquire, accept, and record, on behalf of The City of Seattle, a stormwater easement from the Port; placing the stormwater easement under the jurisdiction of SPU and designating for utility purposes; authorizing the Chief Executive Officer and General Manager of Seattle City Light ("SCL") to acquire, accept, and record, on behalf of The City of Seattle, an overhead and surface easement from the Port; placing the overhead and surface easement under the jurisdiction of SCL and designating for utility purposes; and ratifying and confirming certain prior acts. (This ordinance concerns the following rights of way: a portion of Parcel B, City of Seattle Lot Boundary Adjustment Number 3022491, recorded under King County Recording Number 20181024900004, previously known as Lots 2, 3, 44, and 45, Block 385, Seattle Tide Lands; a portion of Parcel Z, City of Seattle Lot Boundary Adjustment Number 3020104, recorded under King County Recording Number 20181128900006, previously known as Lots 1 through 7 and Lots 26 through 30, Block 378, Lot 44, Block 385, and vacated 6th Avenue Southwest, all in Seattle Tide Lands; a portion of Lots 2, 3, 4, 10, 11, 12, and 13, Block 377, Seattle Tide Lands, together with a portion of Duwamish Avenue, and a portion of Government Lot 1, Section 18, Township 24 North, Range 4 East, Willamette Meridian; a portion of Lots 4 and 10, Block 377, Lots 3 and 44, Block 385, and Lot 4, Block 387, all in Seattle Tide Lands, and a portion of Government Lot 1, Section 18, Township 24 North, Range 4 East, Willamette Meridian; a portion of Parcel Y, City of Seattle Lot Boundary Adjustment Number 3020104, recorded under King County Recording Number 20181128900006, previously known as Lots 42, 43, and 44,

Transportation and  
Utilities  
Committee

Block 385, and vacated 6th Avenue Southwest, all in Seattle Tide Lands; and a portion of Parcels A and B, City of Seattle Lot Boundary Adjustment Number 3022491, recorded under King County Recording Number 20181024900004, previously known as Lots 2 and 3, Block 385, Lot 3, Block 387, and vacated 8th Avenue Southwest, all in Seattle Tide Lands, and a portion of Parcels Y and Z, City of Seattle Lot Boundary Adjustment Number 3020104, recorded under King County Recording Number 20181128900006, previously known as Lots 3, 4, 5, 6, 7, 29, and 30, Block 378 and Lots 3, 4, 40, 41, 42, 43, and 44, Block 385, and vacated 6th Avenue Southwest, all in Seattle Tide Lands.)



## Legislation Text

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**File #:** CB 119965, **Version:** 1

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### CITY OF SEATTLE

### ORDINANCE \_\_\_\_\_

### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE appropriating money to pay certain audited claims for the week of November 23, 2020 through November 27, 2020 and ordering the payment thereof.

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

Section 1. Payment of the sum of \$23,825,497.35 on PeopleSoft 9.2 mechanical warrants numbered 4100395851- 4100400787 plus manual or cancellation issues for claims, E-Payables of \$49,679.70 on PeopleSoft 9.2 9100007853 - 9100007889 and Electronic Financial Transactions (EFT) in the amount of \$77,145,542.76 are presented for ratification by the City Council per RCW 42.24.180.

Section 2. Payment of the sum of \$49,733,764.50 on City General Salary Fund mechanical warrants numbered 51340782- 51340943 plus manual warrants, agencies warrants, and direct deposits numbered 480001 - 482688 representing Gross Payrolls for payroll ending date November 24, 2020 as detailed in the Payroll Summary Report for claims against the City which were audited by the Auditing Committee and reported by said committee to the City Council December 3, 2020 consistent with appropriations heretofore made for such purpose from the appropriate Funds, is hereby approved.

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

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

Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 7th day of December 2020, and signed by me in open session in authentication of its passage this 7th day of December 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)



## Legislation Text

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**File #:** CB 119964, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute the Third Amendment to the Facility Use and Occupancy Agreement between The City of Seattle and the Seattle Repertory Theater.

WHEREAS, the Seattle Repertory Theater (SRT) was founded in 1963 and began operations in the Seattle Center Playhouse before moving to the Bagley Wright Theatre (BWT), making it one of the longest-standing resident organizations at Seattle Center; and

WHEREAS, Ordinance 118109, passed by the City Council in May 1996, authorized a 30-year Facility Use and Occupancy Agreement (“1996 Agreement”) between The City of Seattle (“City”) and SRT, which incorporated a new, second stage addition to the BWT, now known as the Leo Kreielsheimer Theatre, and provided a term for use of the BWT through May 31, 2026; and

WHEREAS, under the 1996 Agreement, as of June 1, 2009, SRT assumed full responsibility for operating and maintenance costs and building systems of the BWT, except for the roof and exterior shell, consistent with the structure of more recent agreements between Seattle Center and resident arts organizations; and

WHEREAS, the 1996 Agreement requires SRT to establish and maintain the Seattle Repertory Theatre Replacement Trust Fund (“Fund”) to be used solely for the replacement, maintenance, and repair of the BWT; and

WHEREAS, the impacts of COVID-19 have created an unprecedented challenge to SRT’s finances; and

WHEREAS, SRT desires to temporarily cease contributions to the Fund for two years and obtain the ability to utilize a portion of the Fund for operating expenses to mitigate the economic impacts of COVID-19; and



WHEREAS, in order to ensure SRT's continued responsibility for the maintenance and operation of the BWT during and following the pandemic, the City and SRT wish to amend the 1996 Agreement to provide SRT with temporary financial relief and sustainability; NOW, THEREFORE,

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

Section 1. As requested by the Seattle Center Director and recommended by the Mayor, the Seattle Center Director or the Director's designee is authorized to execute for and on behalf of The City of Seattle an amendment to the Facility Use and Occupancy Agreement, as amended, between Seattle Repertory Theater and The City of Seattle authorized by Ordinance 118109, which Agreement is attached hereto as Attachment 1. The amendment shall be substantially in the form of the Third Amendment to Facility Use and Occupancy Agreement between Seattle Repertory Theater and The City of Seattle, attached hereto as Attachment 2.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Facility Use and Occupancy Agreement between Seattle Repertory Theatre and The City of Seattle, as amended

Attachment 2 - Third Amendment to Facility Use and Occupancy Agreement between Seattle Repertory Theater and The City of Seattle

**Attachment 1**

**FACILITY USE AND OCCUPANCY AGREEMENT**

**BETWEEN**

**SEATTLE REPERTORY THEATRE**

**&**

**THE CITY OF SEATTLE**

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**FACILITY USE AND OCCUPANCY AGREEMENT  
BETWEEN  
SEATTLE REPERTORY THEATRE  
&  
THE CITY OF SEATTLE**

This FACILITY USE AND OCCUPANCY AGREEMENT is entered into by THE CITY OF SEATTLE (hereinafter called "City"), acting by and through its Seattle Center Director, and the SEATTLE REPERTORY THEATRE (hereinafter called "SRT"), a not-for-profit corporation organized under the laws of the State of Washington.

IN CONSIDERATION of the mutual promises, covenants, conditions and performances described in this Agreement, the parties hereto agree as follows:

**1. DEFINITIONS.**

A. "Director" means the Director of the Seattle Center Department of The City of Seattle or such official's designee.

B. "Move-in day" shall mean the twenty-four hour period beginning at noon on the day immediately prior to the first day of a use of a portion of the Premises pursuant to Section 5 hereof.

C. "Move-out day" shall mean the period until 9:00 a.m. on the day after the last day of a use of a portion of the Premises pursuant to Section 5 hereof.

D. "New Premises" means the approximately 25,000 square foot, two (2) story addition to the south side of the Bagley Wright Theatre at Seattle Center containing a live theatrical performance hall seating approximately 284 people on the main floor and in a balcony, and connecting with circulation corridors for the Bagley Wright Theatre at the lobby and back of house that SRT is constructing pursuant to the parties' separate Construction Agreement (incorporated herein as Appendix 1).

E. "Old Premises" means the Bagley Wright Theatre at Seattle Center, the street address for which is 155 Mercer Street, Seattle, WA 98109, together with the loading dock and parking area adjoining such facility at its Northern side.

F. "Premises" means the Old Premises and the New Premises combined.

G. "SRT Managing Director" means the SRT's chief executive officer or such official's designee.



## 2. TERM OF AGREEMENT.

The term of this Agreement shall commence on the date this Agreement is fully executed (the "Commencement Date"), notwithstanding the fact that the New Premises are not "substantially complete" (as determined by the Architect pursuant to the Construction Agreement or the agreement between SRT and its general contractor) and an occupancy certificate has not been issued for the same. The Term of this Agreement shall expire at 11:59 p.m., May 31, 2026, unless terminated earlier pursuant to the provisions hereof.

## 3. LEASE AND DESCRIPTION OF PREMISES; NON-EXCLUSIVE LICENSE TO USE OF COMMON AREAS.

A. Premises Description. City hereby leases to SRT, and SRT hereby leases from City, subject to all the terms and conditions hereof, the Old Premises, together with all City-owned improvements and fixtures contained therein; the land upon which the New Premises is being constructed pursuant to the Construction Agreement; and all easements, and other land-related rights and privileges appurtenant to the Old Premises and New Premises as granted by this Agreement. Legal descriptions are set forth in Exhibit 1 for both the Old Premises and the land occupied by the New Premises, as completed pursuant to the Construction Agreement.

B. Non-exclusive License for Use of Common Areas. City hereby grants to SRT, and its directors, officers, employees, customers, agents, invitees and contractors the nonexclusive right during the term and any extended term of this Agreement to use Seattle Center common areas, as from time to time constituted, for access to and egress from the Premises, which use shall be in common with all other visitors and users of the Seattle Center and subject to the rules and regulations with respect thereto that are promulgated by the Director. For purposes of this Agreement, the term "common areas" means and includes any Seattle Center area designated by the Director as being for the general use of tenants, concessionaires, licensees, patrons, employees, and invitees of the Seattle Center and not within the exclusive control of any particular user, and shall include but not be limited to the immediate periphery of the Premises, parking areas, landscaped areas, roads, walks, corridors, malls, public stairs, ramps, elevators, and escalators as the same now or hereafter exist.

## 4. AUTHORIZED USE OF PREMISES UNDER THIS AGREEMENT.

The Premises and any of its various component parts may be used only for the presentation of live theatre, music, and dance rehearsals, productions and performances; film screenings; meetings; classes and other educational programs; fund-raising activities; SRT offices; and such other activities as are incidental to the foregoing; as well as the preparation, service and consumption of food and beverages in connection with such authorized activities. Notwithstanding any other provision in this Agreement, all activities undertaken in the Premises must be consistent with the Seattle Center Mission Statement as set forth in Resolution 27323 of the Seattle City Council or the latest revision of such statement. SRT may use the Premises for additional purposes with the prior, written approval of the Director, whose approval shall not be unreasonably withheld.

5. CITY AND CITY-AUTHORIZED THIRD PARTY USE OF PORTIONS OF PREMISES.

A. Space Reserved in Old Premises for City-Authorized Use. Notwithstanding any other provision hereof (except as provided in Subsection 5.F), City reserves and retains the right to use and to authorize third parties to use, as described more fully below, without any reduction in the rent payable by SRT and without any charge imposed by SRT for such use, the following portions of the Old Premises (hereinafter referred to as the "Old Premises Production Areas") during the time periods specified in Subsections 5.C and 5.D:

- Foyer
- Public lobby
- Southernmost box office
- Small office behind Southernmost box office
- Main floor of House
- Balcony of House
- Public rest rooms
- Stage
- Back of stage
- Trap room
- Dressing rooms
- Crew room
- Green Room
- Staff rest rooms
- Catwalks
- Lighting booth
- Follow spot booth
- Loading/unloading area in Parking Lot on North side of facility
- Dimmer room

B. Space Provided in New Premises for City-Authorized Use. SRT hereby authorizes City to use and to authorize third parties to use, as described more fully below, without any reduction in rent payable by SRT and without any charge imposed by SRT for such use, the following portions of the New Premises (hereinafter referred to as the "New Premises Production Areas") during the time periods specified in Subsections 5.C and 5.D:

- Foyer
- Public lobby
- Box office
- Main floor of House
- Balcony of House
- Public rest rooms
- Stage
- Back of stage
- Trap room
- Green room
- Dressing rooms



Crew room  
Staff rest rooms  
Catwalks  
Lighting booth  
Follow spot booth  
Loading dock  
Dimmer room

C. Dates When City and City-Authorized Third Parties' Use of Old Premises Production Areas is Guaranteed. SRT guarantees that City may annually use or authorize one (1) or more third parties to use the Old Premises Production Areas during each year of the term hereof, and without any reduction in rent payable by SRT or any charge imposed by SRT for such use, but subject to the conditions set forth in Subsection 5.E hereof, as follows:

(1) On Bumbershoot Festival Dates. For the Bumbershoot Festival or its successor by any other name (the producer of which shall be deemed to be a City-authorized third party), commencing on the Monday preceding Labor Day and continuing through Labor Day, and on one (1) move-out day after Labor Day;

(2) On Seven (7) Consecutive Dates. On the seven (7) consecutive days immediately preceding the first Saturday after July 4th plus one (1) move-in day and one (1) move-out day for such period (hereinafter called the "regular City use period"); Provided, that upon agreement of the Director and the SRT Managing Director, (a) the regular City use period may be rescheduled and provided at a different time than that specified herein, or (b) the New Premises Production Areas may be provided in lieu of the Old Premises Production Areas, or both of the changes described in (a) and (b) immediately above may be made.

(3) On Other Dates. On three (3) other days (which may or may not be consecutive) plus one (1) move-in and one (1) move-out day for each such use period. The particular dates to be provided for City use under this subsection shall be requested by the Director, in advance, and shall be subject to the consent of the SRT Managing Director, whose consent shall be granted unless the requested City use date has been previously scheduled for an activity of SRT or any of its subtenants; Provided, that in the event any of the three (3) other days is a day when there is no performance scheduled in the Old Premises (*i.e.*, such facility is "dark") but a performance is scheduled to occur on the immediately preceding or succeeding day, then (a) if a performance occurs on the immediately preceding day, the commencement of the move-in day for such City use shall be delayed to whenever the immediately preceding use of the Old Premises stage, back of stage, and loading/unloading areas ends; and (b) if a performance occurs on the immediately succeeding day, the ending time for the move-out day for such City use shall be made earlier as necessary to accommodate the needs of the immediately succeeding Old Premises user. Within three (3) SRT business days after SRT's receipt of the Director's request for the use of the Old Premises Production Areas as provided in this subsection, the SRT Managing Director shall advise the Director if the requested date can or cannot be used by City.



D. Memorial Day Weekend & Other Dates When Theatrical Facilities Are To Be Made Available for City or City-Authorized Third Party Use.

(1) For Memorial Day Weekend Use. SRT shall make a good faith effort to make the Old Premises Production Areas available for use, subject to the conditions set forth in Subsection 5.E hereof, on the Friday through the Monday of Memorial Day weekend plus one (1) move-in day and one (1) move-out day by City or for the Northwest Folklife Festival or its successor by any other name (the producer of which shall be deemed to be a City-authorized third party).

(2) For Seattle International Children's Festival Use. SRT shall either make the Old Premises Production Areas available or ensure that one (1) or more alternative performance space(s) at the Seattle Center are made available to City or for the Seattle International Children's Festival ("SICF") or its successor by any other name (the producer of which shall be deemed to be a City-authorized third party), for use subject to the conditions of Subsection 5.E hereof, for a period of seven (7) consecutive days including one (1) move-in day starting no later than 12:01 a.m. on the Monday of the week of performances scheduled as provided below (or such earlier time as may be allowed by the SRT Managing Director) and one (1) move-out day lasting until 9:00 a.m. on the day immediately following the last performance in the space made available to SICF hereunder. Such seven (7) consecutive days shall include all of the performance dates specified below: May 12-17, 1997; May 11-16, 1998; May 10-15, 1999; and thereafter, on the six [6] consecutive performance days during the month of May that are scheduled for such event and are identified in a Director's notice to be delivered to SRT Managing Director as soon as such dates are known to the Director but no later than one (1) year prior to the first day of each such year's intended use. For purposes of this provision, the term "alternative performance space(s) at Seattle Center" shall mean and include the New Premises Production Areas, the Poncho Forum in the Premises, any other established theatrical facility at the Seattle Center, or a circus tent or comparable facility equipped with (a) bleachers or seats and risers that are safe for children to use and (b) theatrical lighting and other equipment to reasonably serve the needs of the performers and audience in such space

(3) No Restriction on Other Arrangements. Nothing herein shall restrict SRT from making separate arrangements with City or any City-authorized third party referenced in Subsection 5.D.(1) or 5.D.(2) for the use of other portions of the Premises by City or such City-authorized third party so long as use of the Premises is consistent with Section 4 hereof.

E. Detail of Use; SRT's Lighting Obligations.

(1) Use Pursuant to Subsection 5.C. Use of the Production Areas pursuant to Subsection 5.C shall be exclusive of SRT use, and to facilitate such activities, SRT shall do the following:

(a) Equipment Removal. Remove from the applicable Production Areas prior to the move-in date for such activities, all sets and other theatrical equipment and materials except items that the Director, after consultation with the SRT Managing Director, determines, on behalf of each person or entity authorized to use the Premises pursuant to Subsection 5.C hereof, may remain in place;



(b) Interference with Access. Not impede or delay reasonable access to and from the loading/unloading area for the Old Premises through the SRT scene shop in the Old Premises; Provided, that SRT personnel shall have reasonable access to the Production Areas to monitor the activities and usage of such facilities by the City, the people and entities authorized to use the Premises pursuant to Subsection 5.C and their invitees.

(2) Use Pursuant to Subsection 5.D. During all use authorized by Subsection 5.D hereof, SRT shall have the right to maintain its sets and other equipment including lighting as it deems appropriate in the applicable Production Areas except in the main floor of house, balcony of house, foyer, public lobby, and public rest rooms, and in that portion of the front of the stage that is reasonably necessary for a performance, which shall be kept clear for festival use under Subsection 5.D hereof.

(3) Stage Lighting. SRT shall further facilitate use of the Production Areas under Subsection 5.C or 5.D hereof by providing stage lighting arranged in a generic plot or as otherwise agreed upon with such user.

F. Equipment Use In Connection With Premises Use Pursuant to Section 5. Use of any portion of the Premises pursuant to this Section 5 by the City or any City-authorized third party shall not give City or such third party the right to use any SRT office equipment or personal property. SRT shall not restrict, or impose any charge for, use of the items listed on Exhibit 2 or 3 hereof by City or any City-authorized third party during any use pursuant to this Section 5 hereof. The use of any such equipment in the Premises by any person or entity other than SRT may be made subject to reasonable policies and restrictions that are generally applied by SRT to all third party users. If any such SRT equipment requires a knowledgeable operator for its operation, the qualifications of such operator shall be subject to approval by SRT's Managing Director, which shall not be unreasonably withheld. If the controls for such theatrical or other technical equipment are located in an area generally not made available for access by the general public or personnel otherwise unqualified to operate such equipment, access to such area may be restricted to personnel whose qualifications for access to such area are subject to approval by SRT's Managing Director, whose approval shall not be unreasonably withheld. In the event any of the items or systems listed on Exhibit 2 or 3 becomes unavailable for use by City or any City-authorized third party because of their damage, destruction, or malfunctioning, the SRT Managing Director shall notify the Director regarding such unavailability as soon as possible after such unavailability becomes known, and in such event, SRT shall not be financially liable to City or the City-authorized third party as a consequence of such equipment or system unavailability.

G. SRT Initial Use of New Premises. Notwithstanding the use rights provided for in this Section 5, no festival use nor City use of the performance space in the New Premises shall take place prior to the full run of performances scheduled in SRT's opening season in the New Premises without the prior, written consent of the SRT Managing Director.

H. Cleaning and Repair Associated with City or City-Authorized Third Party Use of Production Areas. By the end of the final move-out day for any use authorized under this Section 5 or as soon thereafter as is reasonably possible, City shall perform, or shall enforce its contract with the third party authorized by City to use the affected Production Area to perform,



the necessary clean-up of the Premises and repair of any portion of the Premises and all improvements and SRT property on the Premises damaged in connection with or as a result of such City or City-authorized third party's use to the condition they were in at the outset of such City or City-authorized third party's use unless a longer period of time is required for repair work, in which case such work shall be completed as quickly as is reasonably possible.

I. City To Require Insurance from City-Authorized Third Party Users of Production Areas. City shall require every City-authorized third party user of the Old Premises Production Areas or New Premises Production Areas to provide, with respect to the period of such entity's use of any portion of the Premises, public liability (including personal injury and property damage) insurance in the form, and in the coverage amounts specified in such City-authorized third party's use agreement with City, naming SRT as an additional insured. City shall also require such City-authorized third party to provide to SRT's Managing Director not less than seven (7) days prior to such City-authorized third party's first scheduled event in any portion of the Premises, evidence to the reasonable satisfaction of SRT's Managing Director that such insurance has been secured and is being maintained in full force and effect.

J. SRT Charges for Use of Production Areas. SRT may impose, as a condition of use of either the New Premises Production Areas or the Old Premises Production Areas, or any portion of any such area, by any person or entity, any of the following, as applicable, except as otherwise provided in Subsections 5.A, 5.B, and 5.F with respect to City and City-authorized third party use; Provided, that if any such charge is imposed, such charge shall be listed on a rate schedule that is published no more frequently than semi-annually:

- (1) A reasonable charge for the use of equipment in the Premises;
- (2) A reasonable rent;
- (3) A prorata share of utility costs attributable to operation of the New Premises Production Areas or Old Premises Production Areas during such entity's use thereof or a reasonable, flat charge in lieu thereof; Provided, that no utility charge shall be imposed on City or City-authorized third party pursuant to Section 5 hereof;
- (4) A reasonable damage deposit for the use of either the New Premises Production Areas or the Old Premises Production Areas; Provided, that no such deposit shall be required of City.

K. Limitation on Festival Use. If SRT has not been paid any amount due under Section 5 in connection with any City-authorized third party's use of any portion of the Premises, SRT may deny subsequent use of such portion of the Premises to such City-authorized third party until the amount in arrears has been paid. Similarly, if any portion of the Premises or any SRT equipment is damaged or destroyed as a consequence of any act or omission of a City-authorized third party or any of its officers, employees, agents or contractors using the Premises pursuant to Section 5 and such portion of the Premises or SRT equipment is not repaired or replaced to the reasonable satisfaction of the SRT Managing Director in a timely manner after SRT provides notice of such damage or destruction to such City-authorized third



party, SRT may deny further use of the Premises to such City-authorized third party until such repair or replacement occurs.

L. Gilbert & Sullivan Society Use of Old Premises. Unless otherwise agreed by the SRT Managing Director and the Gilbert & Sullivan Society, in writing, SRT shall schedule use of and activities within the Old Premises by SRT, its contractors, and all other users so that the Gilbert & Sullivan Society may use and occupy the Old Premises Production Areas for at least a period that includes the first four (4) Saturdays and Sundays from and after the first Saturday following each July 4th in each year during the term hereof, and all weekdays between such weekend days, under terms and conditions that are substantially the same as those that would apply if such space were made available directly by City to the Gilbert & Sullivan Society under a Seattle Center temporary facility use and occupancy agreement.

## 6. RENT, ADDITIONAL RENT & REIMBURSEMENT OF CITY EXPENSES.

A. Amount of Rent, City Charges and Expense Reimbursement Due. SRT hereby covenants to and shall pay rent for the Premises and shall reimburse City expenses and pay City charges as follows, all without any offset or deduction whatsoever:

(1) Rent for Old Premises Through May 31, 2009. During the period from and after the Commencement Date of this Agreement through May 31, 2009, the monthly rent for the Old Premises specified in the attached Old Premises Schedule for Rent Payments Through May 31, 2009 (Appendix 2).

(2) Rent for Old Premises on and after June 1, 2009. During the period from and after June 1, 2009, the monthly rent for the Old Premises specified in the attached Old Premises Schedule for Rent Payments From & After June 1, 2009 (Appendix 3).

(3) Rent for New Premises. During the period from and after the Commencement Date of the separate Construction Agreement between the parties through May 31, 2026, the annual rent for specified in Section 1 of the attached New Premises Rent Schedule (Appendix 4), except as provided in Subsection 29.C hereof.

(4) Reimbursement of City Expenses. During the period from and after the Commencement Date, reimbursement of the following City expenses:

(a) The cost of any cleaning, repair or maintenance work performed on the Premises on behalf of SRT pursuant to Subsection 12.F or 13.L hereof;

(b) The cost of heating provided by Seattle Center to the Premises as well as for any maintenance and repair work provided by City to the HVAC system located in the Premises that is not a City obligation under Section 13 or Exhibit 4, 5, 6 or 7;

(c) The cost of cooling services provided by Seattle Center to the New Premises from and after the date of issuance by City of a Certificate of Occupancy for the New Premises, and to the Old Premises from and after the third anniversary of the date of issuance



by City of a Certificate of Occupancy for the New Premises, all at the rate of One Hundred Ninety Dollars (\$190.00) per ton of cooling or whatever higher rate is identified, from time to time, by the Building Operators & Managers Association ("BOMA") as the industry standard;

(d) The cost of repairing or replacing damaged City property pursuant to Subsection 19.A hereof;

(e) The cost of insurance coverage secured for SRT by City, if any, pursuant to Subsection 18.F hereof; and

(f) Fifty percent (50%) of the total cost compensation and expense reimbursement paid for the independent evaluator's review and making of a determination with respect to any disputed invoice pursuant to Subsection 13.F hereof.

(5) Payment of City Charges.

(a) The applicable City charges for the removal and disposal of nonrecyclable solid waste from and after SRT's request for such service pursuant to Subsection 13.C.(1) hereof; and

(b) The applicable City charges for personnel services provided, upon SRT's request, pursuant to Subsection 16.B hereof.

(6) Additional Fee Due for Dishonored Check. In the event SRT presents to City a check that is later dishonored for insufficient funds or other reason, SRT shall pay whatever additional fee has been established therefor by ordinance, rule or regulation generally applicable to dishonored checks.

B. Times and Place for Payments.

(1) Rent. One twelfth of the annual rent due and payable to City shall be remitted by SRT to City on or by the first (1st) calendar day of each and every month following the Commencement Date unless such day is a City holiday or weekend, in which case such payment shall be due and payable on the first City business day thereafter. SRT's initial payment of rent hereunder shall include, in addition to payment of rent for the month for which such payment is made, not only an additional, prorated amount for the period from and after the Commencement Date through the last day of the month in which the Commencement Date occurs for the rent due pursuant to Subsection 6.A.(1) hereof, but also all retroactive rent due pursuant to Subsection 6.A.(3) hereof; Provided, that in the event SRT has paid rent for use of the Old Premises under the Bagley Wright Theatre at Seattle Center Licensing Agreement executed on or about February 20, 1981, as amended on or about November 3, 1983, for the full month in which the Commencement Date occurs, the amount so paid shall be prorated, and the portion of such payment that is applicable to the period in such month from and after the Commencement Date of this Agreement through the last day of that month shall be credited against the amount due as rent for that same period under Subsection 6.A.(1) of this Agreement. In the event this Agreement is scheduled to expire or terminate on a day other than the last day of a month, the rent for that last partial month shall be pro-rated by dividing the rent amount



prescribed in the Rent Schedules for the final year of this Agreement by thirty (30) and multiplying the resulting quotient by the number of days between the first day of that final month and the expiration or termination date, inclusive. Until such time as SRT receives the Director's notice of the amount of the latest CPI-adjusted rent to be paid by SRT for the Old Premises in any calendar year, SRT shall remit to City, as a partial payment of the rent payable in that calendar year, the amount of the monthly rent payable for the Old Premises during the immediately preceding calendar year. After SRT's receipt of the Director's latest notice of the CPI-adjusted monthly rent payable to City, SRT shall remit the full amount of rent due to City as specified in the latest such Director's notice, and within forty-five (45) days after the receipt of such notice, SRT shall remit the difference between the aggregate amount of the partial payments of rent by SRT for the year in which such rent adjustment notice was given and the aggregate amount of rent payable to City as specified in the latest such notice.

(2) Reimbursement of City Expenses and Payment of City Charges. All City expense reimbursements and City charge payments due from SRT shall be payable within thirty (30) days after invoicing by City therefor unless SRT disputes the reasonableness of the charge made by City pursuant to Subsection 6.C. In such event, SRT shall pay the undisputed amount within said thirty (30) day period, and notify City of the basis of dispute as to the remaining amount. SRT shall not be deemed to be in breach of this Agreement if SRT contests charges made by City pursuant to Subsection 6.C. as being unreasonable. In the event that any City expense reimbursement invoiced to and disputed by SRT is ultimately found to be due and owing to City, SRT shall also pay interest on such disputed amount and the service charge applied to delinquent sums as provided in Subsection 6.B.(3) hereof.

(3) Remittance address; Interest & Service Charge on Delinquent Sums. All payments shall be made to The City of Seattle and delivered to the Seattle Center Accounting Office, at the street address specified in or pursuant to Section 37 hereof. All sums due and owing to the City shall be delinquent if not paid on or before the fifth (5th) day after the date due. In the event any payment is delinquent, SRT shall also owe to City (a) interest at the rate of one percent (1%) per month on the delinquent amount, plus (b) for each month such delinquency is invoiced, a service charge of Fifty Dollars (\$50.00) for the additional accounting required as a consequence of such delinquency, or such larger accounting service charge as may be established, from time to time, by City ordinance, which interest and service charge shall be added to the amount of the delinquency and become immediately due and payable.

C. Contestability of Alleged Underpayments and Overpayments. In the event either party to this Agreement contends, in good faith, that it has overpaid or has been underpaid any amount of money under this Agreement, such party shall give notice to the other party of its claim explaining, in detail, all facts upon which such claim is based. In the event the other party disputes any part of such claim, and refuses to provide the relief requested by the party giving such notice, the party that gave notice of such claim may file an action for the reimbursement or collection, as appropriate, of such claimed amount; Provided, that if an action is not filed for the collection or reimbursement of such claimed amount within sixty (60) days after the date of the claimant's notice to the other party regarding such claim, such claim shall be deemed to have been waived.

## 7. BOOKS AND RECORDS.

Each party to this Agreement shall keep true, separate, accurate, complete and auditable records and receipts for all cleaning, maintenance and repair work performed on the Premises by or for it, including but not limited to copies of all invoices received and all analogous and collateral supporting data regarding such expenses. All such records shall be retained in King County, Washington, for at least six (6) years after the close of such party's fiscal year.

## 8. AUDIT.

SRT shall permit the Director, City Director of Finance, City Auditor or State Auditor, from time to time, as such official or his/her functional successor or designee deems necessary, to inspect and audit in King County, Washington, at any and all reasonable times, all pertinent books and records of SRT pertaining to maintenance and repair work performed on the Premises. SRT shall supply such auditors with, or shall permit such auditors to make, at no expense to SRT, a copy of all such books and records and any portion thereof, upon the request of such official or such official's functional successor or designee. The Director shall give notice to SRT regarding any audit exception found in the course of any such audit. For any audit performed by City, the SRT Managing Director shall be afforded an opportunity to discuss the audit with the persons who have conducted the same in an exit interview and to review the preliminary audit findings and make a response thereto within such reasonable time period as is specified by the auditor.

## 9. PREMISES IMPROVEMENTS, ALTERATIONS AND ADDITIONS.

A. SRT Responsibility for Premises Modifications Subsequent to the Making of Initial Improvements. SRT shall be responsible for the making of all improvements, additions, and alterations to the Premises deemed by SRT to be desirable or necessary for its use that do not constitute maintenance, repair, janitorial, or sanitation control work to be performed pursuant to Section 13 of this Agreement. No such improvement, addition, or alteration, or any portion thereof, shall be made at City expense unless otherwise specifically and expressly agreed upon, in writing.

B. Prior Approval of Plans & Specifications Required for Alterations, Additions & Improvements to Portions of Premises Owned by Other Party. No alteration, addition or improvement that either party proposes to make or have made to any portion of the Premises that is not then owned by such modification proposer shall be undertaken by the modification proposer without the prior, written approval of the party owning the portion of the Premises that would be affected by such proposed modification; Provided, that in the event of an emergency, any such modification may be made without the securing of such prior approval, but in such event, the party responsible for the making of such modification shall provide notice to the other party detailing the nature and extent of such modification work as soon as possible after the commencement thereof. Where such modification is to be made at the expense of the modification proposer and will have no adverse financial impact on the other party, such approval shall not be unreasonably withheld or delayed. In addition to the foregoing, prior to

the commencement of any improvement, addition or alteration work by or for SRT to (1) the exterior of the Premises or (2) any plumbing, mechanical, structural, or electrical system serving the Premises, SRT shall submit to the Director, for approval, schematic designs, design development drawings, and final working drawings and specifications for the construction of the same. SRT shall not begin or permit the commencement of any such activity until after the Director has approved the same, which approval shall not be unreasonably delayed or withheld but may be conditioned upon, among other things, (a) the insuring of City against liability for personal injury and death and damage to property; (b) the protection of City against laborers' or materialmen's liens; and, (c) if requested by the Director, the restoration, upon the expiration or earlier termination of this Agreement, of (i) the Old Premises or the exterior of the New Premises; or (ii) any plumbing, mechanical, structural, or electrical system serving the Premises, or any combination thereof to its condition immediately prior to such change. Nothing in this Section 9 shall require either party's prior approval with respect to cleaning, repair or maintenance undertaken by the other party pursuant to Section 13 of this Agreement.

C. Specific Alterations, Additions & Improvements.

(1) Wiring & Electrical & Electronic Equipment. All electrical wiring and electric and electronic equipment that SRT desires to have installed in the Premises on or after the full execution date of this Agreement shall be installed at no cost to City (except as provided under Section 13 hereof) by a properly licensed contractor.

(2) Old Premises Stage Floor. City shall provide and expend the funds appropriated through City's Capital Improvement Project S9502 to acquire the materials needed for the replacement of the Old Premises Stage Floor and pay the necessary project management and administrative expenses associated therewith. SRT shall complete the necessary alteration of such materials and the installation work to replace the stage floor, which SRT activity shall be treated as an SRT, rather than City, alteration or improvement project. In addition to the other indemnification obligations assumed by SRT hereunder, SRT shall indemnify, defend, and hold City harmless from any and all damages, losses, actions, suits, and causes of action arising out of the alteration of such materials and the installation of the replacement stage floor in the Old Premises and the use of the same subsequent to the date this Agreement is fully executed.

D. No Representation or Liability Created by Approval. The approval by the Director of any design, drawing, or specification for any improvement, addition or alteration to be made to the Premises by or for SRT shall not constitute an opinion or representation by City as to the compliance of such design, drawing or specification with any law or ordinance or its adequacy for other than the Seattle Center Department's own purposes; and such approval shall not create or form the basis of any liability on the part of City or any of its officers, employees or agents for any injury or damage resulting from any inadequacy or error therein or any SRT failure to comply with applicable laws or ordinances.

E. Work Inconsistent with Approved Plans and Specifications. If the other party's approval is required under this Section 9 with respect to the plans and specifications for any improvement, alteration and addition to be constructed, placed or erected on the Premises, or if such other party is responsible for the maintenance of the portion of the Premises on which any such improvement, alteration or addition would be constructed, placed or erected, the party



for which such construction, placement and erection work or any portion thereof is performed shall ensure that the same is undertaken only in accordance with such approved plans and specifications. The party that owns the portion of the Premises that is affected by such improvement, alteration or addition may, but is not obligated hereunder to, inspect such work to verify that it is or has been undertaken in accordance with the approved plans therefor. In the event any such work is not according to the approved plans, the party that owns the portion of the Premises affected by such improvement, alteration or addition may send a Notice of Noncompliance to the other party. Immediately following its receipt of such notice, the party that has made such noncompliant improvement, alteration or addition shall either remove from the Premises the improvement, addition or alteration at variance from the approved plans and specifications, or make it consistent with such approved plans and specifications within the reasonable time period specified in such notice.

F. Construction Bond. If required by the Director, SRT shall file with the Director prior to the commencement of any improvement, addition, or alteration to the Premises to be made after completion of the work contemplated in the Construction Agreement (Appendix 1) and involving aggregate costs in excess of \$100,000.00, a good and sufficient corporate surety bond subject to approval by the City Attorney as to form and surety, conditioned upon the completion and installation of said improvement, addition, or alteration work as described in plans submitted to and approved by City, and in accordance with the provisions of all licenses, permits, regulations, ordinances and laws governing such activity, and further conditioned upon the payment of all persons supplying labor and material therefor and upon the completion of said improvement, addition or alteration without cost and expense to City.

G. Construction Liability Insurance. If SRT acts as its own general contractor, SRT shall furnish and maintain, and if otherwise, SRT shall require every contractor with which it contracts to furnish and maintain, during the full period of the making of any part of any improvement, alteration or addition to the Premises, at no cost to City, a policy of public liability and property damage insurance issued by an insurance company licensed to do business in the State of Washington, protecting City from any and all claims for damages for personal injury, including death, and for property loss or damage that may arise from any activity related to the making of said improvement, alteration or addition, whether such activity is by SRT, its contractor(s), any subcontractor(s), or by anyone directly or indirectly employed by or under contract to any of them. Said policy shall provide coverage in the following minimum amounts: One Million Dollars (\$1,000,000) for injury or death of any person; Two Million Dollars (\$2,000,000) annual aggregate for bodily injury; and Builder's Risk coverage equal to the replacement value of the Premises as well as the proposed improvement, alteration or addition, Provided, that minimum required insurance coverage amounts shall be subject to increase after each third anniversary of the Commencement Date to such amount(s) as the Director reasonably determines is necessary to protect City interests in the Premises, taking into account inflation, the foreseeable risks attending the proposed construction activity, and coverage limits customary for property of similar character. Under each such policy The City of Seattle shall be named as an Additional Insured except that for the Builder's Risk coverage, SRT, SRT's general architect, contractor, and subcontractors in every tier, in addition to The City of Seattle, shall be identified as Named Insureds. Each such policy shall provide that the terms thereof cannot be modified or terminated without thirty (30) days prior written notice to City, all in the manner and form specified in Subsection 18.C hereof. Evidence of such insurance, as provided in



Subsection 18.C hereof, must be filed with the City Risk Manager prior to the commencement of any demolition or construction work.

H. Delivery of Final Development Record Drawings and Related Materials. SRT shall deliver to the Director, within six (6) months after the substantial completion of the New Premises and all alterations, additions and improvements made to either the Old Premises or the New Premises by or on behalf of SRT, (a) 3.5" 1.44MB disks in Autocad 12 or other format acceptable to the Director reflecting and documenting the final development record drawings for the New Premises and the portion of Old Premises or New Premises in which such alteration, addition or improvement work was undertaken, and (b) two (2) copies of any operations and maintenance manuals that have been received by SRT and are necessary for the repair and maintenance of any structural, mechanical, electrical, or architectural building system installed in Premises by or for SRT.

I. Testing of Premises. SRT may make such tests, borings and other minor disturbances of the Premises as may be necessary to develop designs and plans for all improvements, additions and alterations to the Premises that are required or desired by SRT beyond that undertaken pursuant to the Construction Agreement, including installations and modifications to accommodate changes in trade fixtures and stage equipment intended for use on the Premises. SRT shall submit to the Director a report of the findings and results of each such test or boring within thirty (30) days after the date such findings and results are obtained, except any report regarding testing or boring performed with respect to the New Premises prior to the full execution of this Agreement, which shall be submitted within thirty (30) days after the full execution of this Agreement.

## **10. ACCEPTANCE OF PREMISES.**

By entering into and occupying the Premises, or any portion thereof, SRT accepts the same in their condition as of the date of such occupancy. SRT covenants that no representation, statement or warranty, express or implied, have been made by or on behalf of City with respect thereto or the user occupancy that may be made thereof, except as may be contained herein or as is provided for in the Construction Agreement. Nothing contained in this section shall be construed to be made for the benefit of any party other than the City or waive any SRT rights with respect to such third parties.

## **11. CITY CONTROL OF CENTER BUILDINGS AND GROUNDS.**

A. City Reserved Powers. Except as otherwise specifically provided in this Agreement, City reserves the exclusive right, without liability of any kind, to:

(1) Make Physical Modifications to Seattle Center. Increase, reduce, and change in any manner whatsoever the number, appearance, dimensions, and locations of the Seattle Center walks, buildings, landscaping, parking, and service areas, and make improvements, alterations, and additions to the portions of the Seattle Center facilities that have not been made available to SRT for its exclusive use; and make other above-ground and underground

improvements in and to the Seattle Center regardless of whether or not any such improvement interferes with air, light or views available to or from the Premises; Provided, that the Director shall make a good faith effort to provide reasonable advance notice of each such modification that is proposed to occur in the immediate vicinity of the Premises;

(2) **Regulate Traffic.** Regulate all traffic within and adjacent to the Seattle Center including the operation and parking of vehicles of SRT, and any of its officers, employees, contractors, and invitees;

(3) **Impose or Authorize Imposition of a Charge for Admission to Seattle Center.** Impose a reasonable charge for admission to the Seattle Center other than the Premises and facilities therein; Provided, that no such charge shall be applied to or imposed on any holder of a ticket for admission to any SRT event, or to or on any SRT personnel seeking access solely to the Premises, other than the applicable charge imposed for the parking of a vehicle at a Seattle Center parking garage or lot or for transportation on the Monorail. City or any City-authorized third party using any portion of the Premises pursuant to Section 5 hereof may impose admission charges to events in those portions of the Premises being used by City or City-authorized third parties so long as SRT personnel and invitees are exempted from charges imposed for admission to the Premises for SRT business purposes or to participate in SRT programs occurring during the time of such City or festival use of such portion of the Premises; Provided, that nothing herein shall limit City authority to impose any admission tax;

(4) **Present Exhibits & Special Events.** Erect, display and remove promotional exhibits and materials and permit special events to occur on the Seattle Center grounds, and in the buildings and facilities thereof other than the Premises, and pursuant to Section 5 hereof, in the Premises;

(5) **Promulgate Rules & Regulations.** Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center other than the Premises, except City shall have the right to promulgate such rules and regulations with respect to events occurring in the Premises pursuant to Section 5 hereof;

(6) **Determine Hours of Operation.** Reasonably determine the days and hours the Seattle Center and various business operations conducted thereon shall be open to the public; and

(7) **Determine Extent of Business Operations at Seattle Center.** Determine the size, number, and type and identity of concessions, stores, businesses, and operations being conducted or undertaken at Seattle Center; and to operate and authorize others to engage in any and all forms of concession activity at the Seattle Center and in any facility thereof, as the Director deems appropriate.

B. **Restricted SRT Access to Roof of Premises.** SRT shall not allow any of its officers, employees, agents, contractors or any other person or entity to have access to or use of the roof for any purpose whatsoever except as expressly authorized, in writing, by the Director.

## 12. ENVIRONMENTAL & OPERATING CONDITIONS

A. Definitions. For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(1) "Laws or Regulation" shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction of which SRT has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act as amended by the Solid and Hazardous Waste Amendments of 1984, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act of 1986, and the Solid Waste Disposal Act.

(2) "Hazardous Substance" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to environmental protection, contamination or cleanup.

B. Restrictions on SRT Activities Involving Any Hazardous Substance. SRT shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process any Hazardous Substance except in compliance with all applicable Laws and Regulations. SRT shall provide the Director with the SRT's USEPA Waste Generator Number (if any) and shall make available for inspection at SRT's place of business upon reasonable request, all Material Safety Data Sheets (MSDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals (including revisions or renewals) and any correspondence that SRT or any subordinate Premises user other than City or a City-authorized third party pursuant to Section 5 hereof receives from, or provides to, any governmental unit or agency in connection with the handling of any Hazardous Substance or the presence, or possible presence, of any Hazardous Substance on the Premises.

C. Correction of Violations. If SRT or any subordinate Premises user other than City or a City-authorized third party pursuant to Section 5 hereof violates any applicable Law or Regulation or any of the terms of this section concerning the presence or use of any Hazardous Substance or the handling or storing of any hazardous waste, upon receipt of notice of such violation or the expiration of all challenges and appeals of such notice, whichever occurs later, SRT shall promptly take such action as is necessary to mitigate and correct the violation. If SRT does not act in a prudent and prompt manner, City reserves the right, but not the obligation, upon reasonable prior notice to SRT, to act in place of SRT (for which purpose SRT hereby appoints City as its agent), to come onto the Premises and to take such action as is necessary to ensure compliance or to mitigate the violation. If the Director has a reasonable belief that SRT or a subordinate Premises user (other than City or a City-authorized third party user pursuant to Section 5 hereof) is in violation of any law or regulation regarding the presence or use of any Hazardous Substance, or that the action or inaction of SRT or any subordinate Premises user presents a threat of violation or a threat of damage to the Premises, City reserves

the right, upon reasonable prior notice to SRT, to enter onto the Premises and take such corrective or mitigating action as the Director deems necessary. All reasonable costs and expenses incurred by City directly attributable to any such action shall become immediately due and payable by SRT upon presentation of an invoice therefor.

D. Testing. SRT shall provide City with access to the Premises to conduct an environmental inspection at such reasonable time(s) as may be requested by City. In addition, SRT shall permit City access to the Premises at any time, upon reasonable notice, for the purpose of conducting environmental testing at City expense. SRT shall not conduct or permit any other person or entity to conduct environmental testing on the Premises without first obtaining the Director's written consent, which shall not be unreasonably withheld. SRT shall promptly inform the Director of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to SRT, and SRT shall provide a written copy of the same to the Director within thirty (30) days after the preparation of any such material.

E. Removal of Hazardous Substances Prior to Vacating Premises. Prior to SRT's vacating of the Premises, whether pursuant to Section 30 hereof or otherwise, SRT shall remove every Hazardous Substance placed on the Premises by SRT or any of its subtenants, employees, agents and contractors during the term of this Agreement and shall demonstrate such removal to the Director's reasonable satisfaction.

F. Reimbursement of City Costs. In addition to any remedy provided above, SRT shall reimburse City whenever City incurs any cost directly resulting from a violation by SRT or any subordinate Premises user (other than City or a City-authorized third party pursuant to Section 5 hereof) of any of the terms of this Section 12, including, but not limited to, the costs of any investigation, clean-up and other remedial activity; the fees of consultants, contractors, and attorneys; fines, penalties assessed directly against City, injuries to third persons or other property, and losses of revenue resulting from an inability to lease or re-license or market the Premises or any portion thereof due to its environmental condition as the result of the violation of the terms of this Agreement by SRT or any subordinate Premises user (other than City or a City-authorized third party pursuant to Section 5 hereof) even if such loss of revenue occurs after the expiration or earlier termination of this Agreement; Provided, that City shall notify SRT prior to incurring any such costs, and SRT shall be provided a reasonable opportunity to defend any claim giving rise to such costs.

G. Indemnification. In addition to all other indemnification provided in this Agreement, and notwithstanding the expiration or earlier termination of this Agreement, SRT shall defend, indemnify and hold the City free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including the fees of consultants, contractors and attorneys, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance placed by SRT or any subordinate Premises user other than City or a City-authorized third party pursuant to Section 5 hereof on the Premises and resulting in a violation of any of the terms of this section, or the migration of any such Hazardous Substance from the Premises to other property or into the surrounding environ-

ment that results in a violation of any of the terms of this section, whether made, commenced or incurred (1) during the term of this Agreement, or (2) after the expiration or termination of this Agreement if arising out of an event occurring during the term of this Agreement; Provided, that City shall provide SRT with prior notice of any event giving rise to SRT's indemnification obligation hereunder.

H. Noise. SRT recognizes and accepts City's current use of Seattle Center facilities and grounds areas for events with noise and vibration. When making any addition, alteration or improvement on or to the Premises, SRT shall take and include such preventive measures as it deems appropriate to reduce the impact of Seattle Center noise and vibration and to make the Premises suitable for SRT's intended use. In the event City desires to undertake construction and maintenance that would generate noise likely to interfere with any scheduled SRT activity, City shall provide notice to SRT regarding the need to make such noise and the expected date(s), time(s), and duration of the same as soon as reasonably possible after City learns of such potential noisemaking, and the parties shall consult regarding possible adjustments in their respective planned activities to minimize the impacts on both parties or to otherwise address the issue; Provided, that no such notice or consultation shall be required in the event such noise is generated as a consequence of construction or maintenance work undertaken in response to an emergency situation.

I. Premises Use Schedule to be Provided by SRT to City. SRT shall submit to the Director not later than ten (10) days after the beginning of each month, a written schedule detailing the following information with respect to activities that are scheduled to occur in the Premises during the immediately succeeding month: (a) for performances, (i) the performance's name, (ii) the name of its presenter, (iii) the particular facility(ies) that will be used, (iv) each performance date, and (v) its starting and ending times; and (b) for other uses including but not limited to performances, meetings and other assemblies of people that will occur in any area of the Premises to which people other than SRT officials, employees, and volunteers (i.e., members of the general public) are invited, (i) the type of use, (ii) the name of the user, (iii) the particular facility(ies) that will be used, (iv) each use date, and (v) the starting and ending times for such use. SRT may satisfy this reporting obligation by submitting to the Director an annual schedule of its rehearsal and performance season and by periodically supplementing such annual schedule with such other information as required herein.

### 13. MAINTENANCE, RECYCLING, CLEANING AND REPAIR

A. Maintenance Responsibilities of Parties; Authority to Use Third Parties. The SRT and City, at no expense to the other, shall maintain in good order, condition, and repair (reasonable wear and tear and damage by fire or other casualty excepted) the particular portions of the Premises assigned to it in Subsection 13.B and Exhibits 4 through 7 and in the manner and to the standards specified in such exhibits. Except as otherwise limited by applicable law, collective bargaining contracts, or this Agreement, each party may select, without interference from the other, its own agents, contractors or designees to perform the maintenance and repair activity that is designated as such party's responsibility under this Agreement.

B. Janitorial Activity & Sanitation Control.

(1) City Responsibilities. City shall ensure that whatever janitorial activity and sanitation control is necessary to keep the interior of the building on the Old Premises and the loading/unloading/parking area of the Old Premises clean, attractive, and free from vermin, is secured, undertaken and performed in a timely manner. All such work shall be performed at no additional cost or expense to SRT through May 31, 2009. SRT may commission a consultant to provide a reasonable estimate of the cost of, or issue a public request for proposals or invitation to bid for, the performance of janitorial work to be performed in the Old Premises on and after June 1, 2009, which document shall detail the type and extent of all such work to be performed and the required terms and conditions of any contract to be issued in connection therewith, which conditions shall include compliance with R.C.W. Ch. 39.12, Ch. 49.28, and Ch. 49.46, or the successor enactment(s) thereto requiring the payment of minimum and prevailing wages and regulating the hours of work for janitorial services in publicly owned facilities. City shall be eligible to respond to such request for proposals or invitation to bid. In the event that SRT receives a credible proposal or bid or a reasonable consultant's estimate for the performance of such work that indicates such work could be performed by another entity at a cost that is lower than the proposal or bid received from City for the same work or the consultant's reasonable cost estimate for the same work, and City continues to be obligated to allow City janitorial staff to perform such work, then, from and after June 1, 2009, SRT shall reimburse all direct expenses (such as wages, benefits including but not limited to paid time off, supplies, equipment, and equipment maintenance) incurred by City in having such work performed plus an amount for City-incurred indirect expenses associated therewith equal to the direct expenses multiplied by the Seattle Center's indirect rate (which shall be no more than fifteen percent [(15%)]); Provided, that the aggregate reimbursement shall be no greater than the lowest credible cost for the performance of such work as specified in the proposals or bids received by SRT. If the collective bargaining agreement between City and the labor organization representing City employees performing janitorial work in the Old Premises is modified to permit SRT to make direct arrangements for the performance of janitorial services in and with respect to the Old Premises, the Director shall give notice to SRT of such modification. If SRT desires to have an entity other than City perform janitorial services in the Old Premises after SRT's receipt of such Director's notice, SRT shall give notice to the Director of the date on which City janitorial services are to end and SRT's contractor's services are to commence (which date shall not be less than one (1) year after the date of such SRT notice). City shall have no responsibility to perform janitorial services in the Old Premises after the date specified in such SRT notice.

(2) SRT Responsibilities. SRT shall ensure that whatever janitorial activity and sanitation control is (a) necessary to keep the interior of the Premises, the loading/unloading/parking area of the Old Premises, and the exterior courtyard on the west side of the New Premises clean, attractive, and free from vermin and (b) not a City performance responsibility under Subsection 13.B.(1) hereof, is secured, undertaken and performed in a timely manner and at no cost or expense to City.

C. Removal of Recyclable & Non-Recyclable Solid Waste.

(1) Removal of Solid Waste. SRT shall have all recyclable and non-recyclable solid waste generated on and in the Premises removed from the Premises and appropriately disposed of at a location other than the Seattle Center at no cost to the City. Upon SRT's request, City shall provide such removal and disposal services on a regular, scheduled basis, for which SRT shall pay the City charge established, from time to time, for such service. The Director reserves the right to specify the minimum frequency for the removal from the Premises of solid waste and recyclable materials, as well as the access route across the Seattle Center for any motor vehicle used for such removal activity.

(2) Authorized Storage Location of Recycling Containers, Garbage Cans, Dumpsters and Other Equipment. Any storage containers used for the disposal of recyclable materials, garbage cans and dumpsters serving the Premises shall be located only in the exterior location(s) that have received the prior, written approval of the Director. Unless otherwise authorized by the Director, SRT shall not store any equipment of any kind or nature (whether owned by SRT, City or a third party) on the loading dock for the New Premises at any time, or in other areas outside of the buildings on the Premises between 2:00 a.m. and 7:00 a.m. except in the loading/unloading/parking area of the Old Premises.

D. City Access to Premises for City Maintenance, Cleaning & Repair. City, its consultants and contractors, and their respective officers, employees, agents, representatives, and subconsultants and subcontractors shall have the right to enter the Premises at all reasonable business hours and, in the event of any emergency, at any time, to examine and inspect the same and to make such evaluations, and perform such repairs, maintenance and cleaning as is required of City or permitted by SRT under this Agreement, all without abatement of rent or any other fee or charge that may become due and payable after such action unless SRT is required to materially suspend its use and occupancy of the Premises for the period of such action as a direct consequence of such inspection, evaluation, repair, maintenance or cleaning. To facilitate such activity, scaffolding and other necessary structures may be erected when necessary. The person or entity undertaking any such work shall use its best efforts to minimize interference with egress and ingress to, and with SRT's activities on, the Premises. In the event any such inspection, evaluation, repair, maintenance or cleaning activity requires access to the Premises for a period greater than one (1) day or would interfere with any SRT scheduled activity identified in the notice provided pursuant to Subsection 12.I hereof, the Director shall coordinate such activities with SRT schedule requirements. City shall be liable for any and all damage to the Premises and SRT property resulting from City negligence, or the negligence of its employees or agents in connection with such activities. SRT shall provide the Director with such key(s) as will unlock all of the doors in the Premises (excluding SRT's vaults, safes, and desks and files) to facilitate City access for the performing of inspection, evaluation, repair, maintenance and cleaning activity contemplated in this Agreement; City shall have the right to use any and all reasonable means to obtain entry to the Premises in an emergency. No entry into the Premises in accordance with the foregoing by City or any of its contractors or consultants or any of their officers, employees, subconsultants, subcontractors, or agents shall be construed to be an eviction of SRT or a forcible or unlawful entry into, or a detainer of, the Premises or any portion thereof, or the breach of this Agreement. Due care for the Premises and persons and property on the Premises shall be exercised when City or any of its officers,

employees, consultants, contractors, subconsultants, subcontractors, or agents enter the Premises.

E. Inspection for Maintenance Purposes. The Director shall inspect the Premises at least once per year, at City expense, and shall provide a written report to SRT of City's findings and recommendations regarding necessary or advisable maintenance and repair to be undertaken by SRT as contemplated in Exhibits 4 and 7 hereof. SRT may also inspect the Premises, at its own cost, and may notify the Director of any necessary or advisable repair and maintenance to be undertaken by City as contemplated in Exhibits 5, 6 and 7 hereof. Within a reasonable time after receipt of such report or notice, the party receiving the same shall perform such necessary repair and maintenance work as is its responsibility under this Agreement.

F. Bagley Wright Theatre Maintenance, Repair & Replacement Fund & SRT Replacement Trust Fund.

(1) Creation of City Fund. Within sixty (60) days after the full execution of this Agreement City shall create a "Bagley Wright Theatre Maintenance, Repair & Replacement Fund" (hereinafter "BWTMR Fund") for the holding, in trust, of the City-provided share of money to be accumulated and expended exclusively for replacement and repair purposes with respect to the Old Premises (including but not limited to the administration of replacement and repair projects) as provided herein.

(2) Creation of SRT Replacement Trust Fund. On or by July 1, 1997, SRT shall make arrangements for the creation of a separate Replacement Trust Fund that shall be used for the holding, in trust, of SRT deposits of money to be accumulated and expended exclusively for replacement, maintenance and repair purposes with respect to the Old Premises (including but not limited to the administration of replacement, maintenance and repair projects) as provided herein.

(3) Remittance of Minimum Annual SRT & City Deposits. Within sixty (60) days after the full execution of this Agreement, and on or by February 1st of each year thereafter through 2009, City shall deposit into the BWTMR Fund as its minimum annual deposit thereto, the amount of money specified in Exhibit 8 for that year. (No deposit into the BWTMR Fund shall be required of City for 2010, or for any year thereafter under this Agreement or otherwise.) On or by August 1st of each year from and after 1997 through 2025, SRT shall deposit into the separate Replacement Trust Fund created pursuant to Subsection 13.F.(2) hereof, as its annual minimum remittance thereto, the amount of money specified in Exhibit 8 for that year. Each such deposit shall be an independent obligation of SRT and City hereunder and shall be made without setoff or deduction of any kind or nature and without regard for any claim whatsoever that either party may have against the other.

(4) City & SRT Remittances of Supplemental Deposits.

(a) City Supplemental Deposits. In the event that on or before May 31, 2009, the Director and SRT Managing Director agree that (a) any maintenance, replacement or repair project with respect to the Old Premises costing \$5,000 or more must be undertaken one (1) or more years prior to the year such work was anticipated according to the schedule



attached hereto as Exhibit 8, or a maintenance, replacement or repair project not identified in Exhibit 8 must be undertaken to keep the Old Premises a fully functional and safe, live theatrical facility, and (b) the aggregate balance of the BWTMRR Fund and SRT Replacement Trust Fund is insufficient to pay for such premature or unanticipated project without jeopardizing the funding of future, planned maintenance, repair and replacement projects as projected in Exhibit 8, then, solely based on the financial reality that City assets, as compared to SRT assets, may be more readily available to pay for such premature or unanticipated project, City shall deposit into the BWTMRR Fund whatever additional funds are necessary to pay the cost of such premature or unanticipated project; Provided, that before City is obligated to make any supplemental remittance pursuant to this subsection, the Director and SRT Managing Director shall meet to review Exhibit 8 and determine whether any anticipated expenditure listed therein could be deferred or Exhibit 8 could be otherwise modified to eliminate the need for the providing of any such supplemental remittance. In the event any such supplemental remittance must be made by City to pay a premature expense (i.e., an expense required prior to the year in which it was expected to occur according to Exhibit 8), then, beginning in the year in which such expense was to occur, according to Exhibit 8, City shall invoice and be reimbursed from the BWTMRR Fund and, as necessary, from the SRT Replacement Trust Fund, in the amount of such supplemental remittance (without the addition of any interest); Provided, that if such reimbursement cannot be paid in any single year, then the amount of such reimbursement that is not payable in such year shall be paid in the next succeeding year. The parties acknowledge that they have purposefully not included in Exhibit 8 any costs associated with the installation of rigging, or any expense associated with the repair or replacement of the Old Premises stage floor. It is the parties' expectation and intention that SRT shall pay all labor costs associated with the installation of rigging as well as all costs of any kind or nature associated with the installation of the Old Premises stage floor (including any alteration of City-purchased materials in connection therewith), or the maintenance, repair or replacement of such stage floor other than the costs specified in Subsection 9.C.(2) hereof. If the amount of funds identified in Exhibit 8 for any Old Premises replacement or repair project is sufficient to pay not only the acquisition cost for the necessary materials to be replaced or repaired but also all or a portion of the installation costs associated with any project such installation costs may be paid using such funds. The parties' exclusion from Exhibit 8 of any installation costs or the cost of repairing or replacing the Old Premises stage floor shall not result in any such costs being treated as unanticipated costs under this subsection, however.

(b) SRT Supplemental Deposits. If, in any year during the term hereof through 2009, the SRT Replacement Trust Fund does not generate a return on investment equal to the average rate of return for money in the BWTMRR Fund over the existence of the BWTMRR Fund, SRT shall make a supplemental remittance to the SRT Replacement Trust Fund to equal the difference between the return actually received and the return that would have been received had money in the SRT Replacement Trust Fund been invested like funds in the BWTMRR Fund. If, after SRT has made any such supplemental remittance to the SRT Replacement Trust Fund, the average rate of return of the SRT Replacement Fund over the existence of the SRT Replacement Trust Fund, exceeds the midpoint rate of return between (i) the rate of return contemplated for the SRT Replacement Trust Fund in Exhibit 8 hereof and (ii) the average rate of return for money in the BWTMRR Fund over the existence of the BWTMRR Fund, then SRT may reimburse itself from the SRT Replacement Trust Fund by the amount of its supplemental remittance, or so much thereof as is reimbursable from the earnings of the SRT

Replacement Trust Fund received in excess of the earnings that would have been received had the money in the SRT Replacement Trust Fund always been invested at such midpoint rate of return.

(5) Investment of Money in BWTMRR Fund & SRT Replacement Trust Fund. All money in the BWTMRR Fund and the separate SRT Replacement Trust Fund shall be invested in such interest-bearing instruments as may be determined to be fiscally prudent, given the extent and timing of anticipated expenditures from BWTMRR Fund, which determination shall be made by the City's Finance Director with respect to the BWTMRR Fund, and by the SRT's Director of Finance & Administration or such official's functional successor (hereinafter "Director of F&A") with respect to the SRT Replacement Trust Fund, all in the exercise of each such official's reasonable discretion. All interest earned on money deposited in either such fund shall be deposited into and made a part of such fund as it is received.

(6) Project Management Expenses But Not Administration Charges Allowed Against BWTMRR Fund and SRT Replacement Trust Fund. Both parties hereto acknowledge that either or both may incur legal fees, fund-raising expenses and other costs in connection with administration of the BWTMRR Fund and SRT Replacement Trust Fund. No such administration cost or expense shall constitute or be treated as a charge or offset to or against any money in either such fund. Notwithstanding such limitation, the parties acknowledge that certain replacement and repair activity associated with the Old Premises may require appointment of one or more Project Manager(s) or other staff to supervise and coordinate such work. The reasonable direct costs (such as wages, benefits including but not limited to paid time off, supplies, equipment, and equipment maintenance) incurred by each of the parties hereto in connection with such replacement or repair project management plus an amount for indirect costs incurred by such party in connection therewith, which amount shall equal its direct costs multiplied by no more than fifteen percent (15%), shall be reimbursed from the BWTMRR Fund consistent with normal Seattle Center Project Management payroll processes, and from the SRT Replacement Trust Fund upon presentation and approval of an invoice therefor as provided in Subsection 13.I of this Agreement.

(7) Expenditures from BWTMRR Fund and SRT Replacement Trust Fund; Deferral of Planned Expenditures Requires Joint Approval. All money in the BWTMRR Fund and SRT Replacement Trust Fund shall be expended exclusively for maintenance, replacement and repair purposes associated with the Old Premises as specified in Exhibit 8, including project management and administration expenses incurred in connection therewith. Every invoice requesting payment for a maintenance, replacement or repair project undertaken in or with respect to the Old Premises shall be subject to joint approval by both the Director and SRT Managing Director, as specified in Subsection 13.I, for so long as any portion of a City deposit remains in the BWTMRR Fund after the making of the City's deposit for 2009. Jointly approved invoices shall be paid using money in the BWTMRR Fund before money in the SRT Replacement Trust Fund is expended for such purpose. After the date that the BWTMRR Fund has received the City remittance for 2009 and the balance of such Fund has been exhausted (and after the date on which City has no further obligation hereunder to make any contribution towards the payment of any expense incurred in connection with maintenance, replacement or repair work identified in Exhibit 8), SRT shall assume full responsibility for the completion of all maintenance, replacement and repairs scheduled in Exhibit 8. No maintenance, replacement

or repair work identified in Exhibit 8 shall be deferred beyond the year in which such work is scheduled to occur, according to Exhibit 8, without the express, written consent of the Director, which shall not be unreasonably withheld.

(8) Accounting Reports Regarding Administration of BWTMRR Fund & SRT Replacement Trust Fund. City shall provide to SRT with respect to the BWTMRR Fund, and SRT shall provide to City with respect to the SRT Replacement Trust Fund, a monthly and an annual summary accounting report detailing all financial transactions affecting the balance of the same including but not limited to the amount of each annual deposit thereto and the aggregate amount of all deposits thereto, the amount of each expenditure therefrom and the aggregate amount of all expenditures therefrom, the amount of interest received during the reporting period, and the balance of such fund as of the end of such reporting period. The City annual report to SRT shall cover the period from January 1st through December 31st, except for the initial reporting period, which shall commence as of the date of the initial deposit into the BWTMRR Fund. The SRT annual report to City shall cover the period from July 1st through June 30th, except for the initial reporting period, which shall commence as of the date of the initial deposit into the SRT Replacement Trust Fund.

(9) Annual Review and Possible Revision of Exhibit 8. The SRT Managing Director and Director shall meet as soon as reasonably possible after the full execution of this Agreement, and thereafter, on or before the last day in February of each year, to review and determine whether any of the expenditure time periods or cost estimate for undertaking maintenance, replacement and repair activity or for acquiring certain consumable stage equipment for the Old Premises, as set forth in the most recently agreed-upon Exhibit 8, should be modified. In the event the Director and SRT Managing Director agree that any portion of Exhibit 8 should be modified, a revised, replacement and substitute Exhibit 8 shall be prepared as provided in Section 44 hereof, and substituted for the last previously attached and incorporated Exhibit 8. As part of each such meeting, the Director and SRT Managing Director shall determine whether any of the maintenance, replacement and repair work assigned to one party hereunder might be more efficiently performed by the other; how such other party might be compensated for assuming any of the maintenance, replacement or repair responsibilities that are not assigned to such other party by this Agreement; what the schedule should be for accomplishing the work identified in Exhibit 8 for the next succeeding year; and if any of the work identified in Exhibit 8 for such year has not been specifically assigned to a party, which party is to perform such work.

G. City-Funded Replacement Projects Subject to City & State Administrative Processes for Contracting Purposes; Inventorying of Items Procured Using City Funds. The undertaking of any maintenance, replacement or repair project with respect to the Old Premises that is to be paid for, in whole or in part, using City-provided funds shall be subject to City administrative processes and applicable state law, and as an activity under the control and jurisdiction of City's Department of Administrative Services or its functional successor until such time as the administrative head of such authority determines otherwise. City, in consultation with SRT, shall develop a scope of work for the completion of each such proposed maintenance, replacement or repair project. Subject to the availability of funding for each such proposed project, City shall thereafter proceed to contract for the completion of the maintenance, replacement or repair project(s) desired by SRT in accordance with applicable public work and

procurement contracting laws, ordinances, regulations and procedures, as determined by such authority and other governmental authorities having jurisdiction over such undertakings. All equipment and other material that is paid for, in whole or in part, using any City funds, shall be delivered, initially, to the Seattle Center central receiving depot; inspected consistent with City purchasing procedures; inventoried as a City Fixed Asset; and tagged with a City equipment label, all prior to being delivered to or installed in the Old Premises.

(1) When City Shall Invite Bids for a Replacement Project's Construction. Before City shall invite bids for the construction of any such replacement or repair project, plans and specifications for the project's construction, appropriate bid documents, and the provisions of the contract for such work (including but not limited to terms acknowledging SRT as a third party beneficiary thereunder, unless prohibited by law), must have been prepared. SRT shall be fully consulted in connection with the preparation of the bid and contract documents.

(2) Review of Bids. Upon receipt of bids, SRT's designated representative and City officials shall jointly review the same in accordance with applicable City procedures. As between City and SRT, the City's public works contracting authority shall be the final authority with respect to the criteria to be used for the selection of the lowest and most responsive and responsible bidder and the terms and conditions of any contract to be executed with such person or entity for any such replacement or repair project in or with respect to the Old Premises.

(3) When a Bid for a Project's Construction Shall Be Accepted by City. Before a bid for any replacement or repair project that is to be paid for using any City-provided funds is accepted by City, the following actions must have occurred:

(a) The bidder that appears to be the lowest responsive and responsible bidder must have been identified; and

(b) The Director must have determined that the balance of the BWTMRR Fund is sufficient to pay all unpaid obligations that have been incurred through the date of such determination as well as the additional expense that would be incurred were the subject bid accepted, or that other funds have been appropriated to pay for such project. If the balance of the BWTMRR Fund is insufficient to pay all such obligations plus the additional amount that would become payable were such bid accepted, then the Director shall give notice to the SRT Director of F&A of that fact and the date by when SRT must have remitted to City such sum of money in the SRT Replacement Trust Fund as is required to make up the difference between the balance of the BWTMRR Fund and the amount required to pay all such obligations and the amount of such bid, to enable City to accept such bid.

H. SRT-Funded Replacement Projects & Alterations, Additions & Improvements to Old Premises Not Treated as Public Works for Contracting Purposes. Whenever SRT undertakes with respect to the Old Premises (1) any maintenance, replacement or repair project contemplated in Exhibit 8, or (2) any alteration, addition, or improvement pursuant to Section 9 hereof, using SRT-provided funds only and without use of any City-provided funds, such undertaking shall not be treated as a "public work" except to the extent required by applicable state law, and shall not be treated as an activity under the control and jurisdiction of City's

public works contracting authority. SRT shall give notice, in writing, to every bidder, proposer, and contractor with respect to any such work, and shall require every contractor performing any such work to give written notice to every subcontractor and supplier that provides any labor, material or equipment for such work, that the Old Premises is City-owned real property that is not subject to lien under R.C.W. Ch. 60.04 or 60.28. Prior to the commencement of any work by the contractor or any of its subcontractors or the delivery of any supplies or materials by any supplier providing supplies or materials for such project, SRT shall also require each such contractor to deliver to the Director, one or more documents, in writing, signed by an authorized representative of such contractor and each such subcontractor or supplier, acknowledging that inasmuch as the Old Premises is City-owned property, the same is not subject to any lien, and releasing every claim or interest that such contractor, subcontractor, or supplier has or may have against or in such City-owned real property as a consequence of work performed on or with respect to such City-owned real property by such contractor, subcontractor or supplier in connection with such undertaking. Before SRT makes any final commitment to expend \$5,000 or more in connection with the maintenance, replacement or repair of any significant component of a theatrical system in the Old Premises including but not limited to the sound system, the dimmers, or any other element of the lighting system, the SRT staff person primarily responsible for making such decision shall consult with his/her Seattle Center technical counterpart to seek concurrence with such SRT decision. In the event of any disagreement regarding such proposed expenditure, such SRT staff person and his/her Seattle Center counterpart shall schedule a meeting with the Director and SRT Managing Director for a discussion of the disagreement so that the SRT Managing Director can have a full understanding of the Seattle Center's position with respect to such proposed undertaking before SRT makes such commitment.

I. Process for Payment of Invoices During Existence of BWTMRR Fund. During the period any balance remains in the BWTMRR Fund after the making of the City's deposit for 2009, each invoice requesting payment from the BWTMRR Fund for work under a replacement or repair project contract or any related consultant contract or for reimbursement of a party's expense incurred in carrying out such replacement or repair project shall be submitted to the Director. The Director shall immediately provide a copy of the same to the SRT Managing Director, together with the Director's determination of whether such invoice should be paid, paid under protest or rejected (if such determination has been made) and an architect's certification that payment of the invoice is appropriate (if such certification is available). Unless otherwise agreed by the Director and SRT Managing Director, if an architect has been engaged to monitor the status of such replacement or repair work, no invoice from the contractor or any consultant engaged for work associated therewith shall be approved for payment without the architect having certified that its payment is appropriate. If the SRT Managing Director believes any such invoice should be paid under protest or rejected, notice of such opinion must be delivered to the Director within ten (10) calendar days after SRT's receipt of a copy of such invoice, and in the absence of any such notice, City may presume that the SRT Managing Director has granted approval for the payment of such invoice. In the event the SRT Managing Director and the Director disagree regarding what treatment any particular invoice should receive, such officials shall discuss, either in person or by telephone, their different opinions. All such discussions shall be held within whatever time period will permit, as appropriate, the processing of a warrant by City in a timely fashion.

(1) Agreement Regarding Payment. If the Director and SRT Managing Director agree that an invoice should be paid, the invoice shall be stamped "*APPROVED FOR PAYMENT*" and the Director and the SRT Managing Director shall sign their names within or adjacent to such approval stamp. Such invoice shall then be processed and paid consistent with established City procedures for such action and the provisions of this Agreement.

(2) Agreement Regarding Non-Payment. If the Director and the SRT Managing Director agree that an invoice should not be paid, the Director shall return the invoice to the person or entity that submitted the same with an explanation for why payment was not authorized, and provide a copy of such explanation to the surety (if any) for the person or entity submitting such invoice.

(3) Agreement Regarding Payment Under Protest. If the Director and the SRT Managing Director agree that an invoice should be paid under protest, the invoice shall be stamped "*APPROVED FOR PAYMENT UNDER PROTEST*," and the Director and the SRT Managing Director shall sign their names within or adjacent to such approval stamp. The Director shall provide written notice to the person or entity submitting such invoice as well as to the surety (if any) for such person or entity regarding the alleged bases for payment of such invoice under protest, the absence of any waiver by City or SRT of any deficiency in the invoicing person's or entity's performance or any other basis for payment under protest, and City's intent to withhold from the final payment(s) due to the person or entity requesting payment an amount equal to the aggregate amount of payment(s) made under protest until any alleged deficiency or failure is corrected and all disagreements regarding the appropriateness of making such payment(s) are resolved. Such invoice then shall be processed and paid consistent with established City procedures for such action.

(4) Referral of Dispute About Invoice to Independent Evaluator; Sharing of Costs of Independent Evaluator's Determination. If the Director and the SRT Managing Director disagree regarding the action that should be taken with respect to an invoice, the matter shall be referred to an independent evaluator jointly selected by the Director and SRT Managing Director, for such person's recommendation of whether such invoice should be paid, paid under protest, or not paid. Pending the determination by the independent evaluator, the invoice shall be held for further disposition. The costs of the independent evaluator's service in reviewing and making a determination regarding whether a disputed invoice should be paid, paid under protest or rejected shall be initially borne by City, subject to SRT's partial reimbursement of the same pursuant to Subsection 6.A.(4)(f) hereof.

(a) In the event the independent evaluator determines that a protested invoice should be paid without protest and, within seven (7) days after such determination is made, neither party insists that it be rejected or paid under protest, instead, the invoice shall be stamped, signed, processed, and paid as contemplated in Subsection 13.I.(1) hereof.

(b) In the event the independent evaluator determines that a protested invoice should be rejected and, within seven (7) days after such determination is made, neither party insists that it be paid without protest or paid under protest, the invoice shall be returned to the invoicing person or entity as contemplated in Subsection 13.I.(2) hereof.

(c) In the event the independent evaluator determines that an invoice should be paid under protest and, within seven (7) days after such determination is made, neither party insists that it be rejected or paid without protest, the invoice shall be processed as provided in Subsection 13.I.(3) hereof.

(5) Implementation of Party's Decision to Deal With Invoice in Manner Different from that Recommended by Independent Evaluator. Where the independent evaluator's determination with respect to a disputed invoice is based on a vote of two to one, only the party in the minority shall have the right to require that action contrary to that determined by the independent evaluator with respect to such invoice.

(a) If, notwithstanding the independent evaluator's determination that an invoice should be paid without protest, the party in the minority insists that it be paid under protest, the invoice shall be processed and paid under protest as provided in Subsection 13.I.(3) hereof, and such party shall become subject to Subsection 13.I.(7) hereof.

(b) If, notwithstanding the independent evaluator's determination that an invoice should be paid without protest, the party in the minority insists that it be rejected, the invoice shall be rejected as provided in Subsection 13.I.(2) hereof, and the protesting party shall become subject to Subsection 13.I.(6) hereof.

(c) If, notwithstanding the independent evaluator's determination that an invoice should be paid under protest, the party in the minority insists that it be rejected, the invoice shall be rejected as provided in Subsection 13.I.(2) hereof, and the party insisting that it be rejected shall become subject to Subsection 13.I.(6) hereof.

(d) If, notwithstanding the independent evaluator's determination that an invoice should be paid under protest, the party in the minority insists that it be paid without protest, the invoice shall be paid without protest as provided in Subsection 13.I.(1) hereof, and the party insisting that it be paid without protest shall become subject to Subsection 13.I.(7) hereof.

(e) If, notwithstanding the independent evaluator's determination that an invoice should be rejected, the party in the minority insists that it be paid without protest, the invoice shall be paid without protest as provided in Subsection 13.I.(1) hereof, and the party insisting that it be paid without protest shall become subject to Subsection 13.I.(7) hereof.

(f) If, notwithstanding the independent evaluator's determination that an invoice should be rejected, the party in the minority insists that it be paid under protest, the invoice shall be paid under protest as provided in Subsection 13.I.(3) hereof, and the party insisting that it be paid under protest shall become subject to Subsection 13.I.(7) hereof.

(6) Responsibilities Assumed by Party Insisting on Invoice Payment Under Protest or Rejection Contrary to Determination of Independent Evaluator. Whenever a party insists that an invoice be dealt with as specified in Subsections 13.I.(6)(b), or 13.I.(6)(c) hereof, such party shall become responsible for the defense of any claim or action brought by the invoicing person or entity for payment of the same or the payment of funds withheld from such



invoicing person or entity as a consequence of such party's insistence, and the payment of any sum found to be due and owing to such person or entity as well as all legal expenses and costs associated with any such defense, interest (if any) on withheld payment(s), and damages (if any, both direct and consequential) suffered by the other party.

(7) **Responsibilities Assumed by Party Insisting on Expenditure of Funds Contrary to Determination of Independent Evaluator.** Whenever a party insists that an invoice be paid without protest as specified in Subsection 13.I.(5)(d) or 13.I.(5)(e) or paid under protest as specified in Subsection 13.I.(5)(a) or 13.I.(5)(f) hereof, and the reason for the independent evaluator's determination regarding such invoice was that the invoicing person or entity's performance was deficient under the Construction Contract, Architect Agreement, or consultant's contract, or that some other condition for payment was not satisfied, and it is subsequently determined that such deficiency was not corrected or such condition was not satisfied, and the invoicing person or entity has been paid the disputed amount for its work, such party shall prosecute a claim or action to recover funds improperly expended, provide for the correction of the deficiency in the replacement or repair project that was the subject of the invoice dispute or the satisfaction of all condition for such payment (where possible), and assume, in connection therewith, all legal expenses and costs associated with such proceedings. No such claim or action shall be settled or compromised by the party responsible for its prosecution without the written approval of the other party to this Agreement. In the event that funds are recovered from a third person or entity as a consequence of the prosecution of such claim or action, the amount recovered shall be first allocated and expended to correct the performance deficiency and satisfy all conditions for payment (where possible). Any funds remaining after such corrective action has been completed shall be paid to the party responsible for such recovery.

(8) **Withdrawal of Protest Regarding Payment or Order to Pay Withheld Funds.** Whenever an invoicing person or entity makes corrections reasonably required to eliminate the basis for a party's protest against payment of any invoice paid under protest, or such invoicing party otherwise meets, to the reasonable satisfaction of the protesting party, all conditions for payment of an invoice paid under protest, or such party decides to abandon its protest against any invoice paid under protest, such party shall immediately provide written notice to the City's Project Manager that such party's protest is withdrawn. Whenever such Project Manager receives written notice that a protest against payment of any invoice paid under protest has been withdrawn, or City is ordered, by an arbitrator or judge having competent jurisdiction over the matter, to pay funds previously withheld from an invoicing person or entity under Subsection 13.I.(3) hereof, the Project Manager shall provide written notice to the appropriate invoicing person or entity that, contrary to any notice provided pursuant to Subsection 13.I.(3) hereof, a sum equal to the amount of the invoice paid under protest no longer will be withheld from the final payment(s) requested by such person or entity, and that such sum shall be paid when the same is due and payable.

J. Review of Replacement or Repair Project Contractor's and Consultants' Work; Withholding of Funds; Reporting of Progress and Expenses.

(1) **Review of Replacement or Repair Project Contractor's and Consultant's Work.** During the period from and after the date the City initial deposit is made into the BWTMRR Fund through the last day any balance remains in the BWTMRR Fund after the

making of the City's BWTMRR Fund deposit for 2009, the City's Project Manager shall review, on a regular basis, the performance of the contractor and every consultant working under a contract with respect to an Old Premises replacement or repair project to determine whether each performance deficiency asserted by the Project Manager, the SRT Managing Director, or the independent evaluator has been corrected and whether all other conditions for payment of invoices paid under protest have been satisfied.

(2) **Withholding of Funds.** During the period identified in Subsection 13.J.(1) hereof, City shall withhold from the total compensation and expense reimbursement respectively due to the contractor, the architect, and any consultant engaged for or related to any Old Premises replacement or repair project a sum equal to the aggregate amount paid under protest to such person or entity until the party that asserted a protest against the payment of a particular invoice paid under protest provides written notice to the Project Manager that such protest is withdrawn or abandoned, or until City is ordered to make such payment by an arbitrator or court of competent jurisdiction over the issue, whichever is earlier.

K. **Construction Scheduling.** The project manager for any Old Premises replacement or repair project shall consult with the Director and SRT Managing Director to schedule the undertaking of such project during such time period(s) as City and SRT mutually deem to be reasonable and feasible.

L. **Remedy Upon Either Party's Failure to Clean, Repair or Maintain Premises.** If either party fails, for more than thirty (30) calendar days after such party's receipt of a notice from the other party of the need for such work, to properly clean, repair and maintain the portion of the Premises for which it is responsible under this Agreement, the party providing such notice may (but shall not be obligated to) perform or cause to be performed such cleaning, repair, or replacement work on such dates and times as shall not unreasonably interfere with the operations of the other; Provided, that neither party shall undertake such work for the other if the other has requested proposals or invited bids for such work, has begun required processes for the undertaking of the same, or is otherwise diligently proceeding to have such repair or replacement work done. Upon completion of such repair or replacement work, the party responsible for performing such work under this Agreement shall reimburse the expenses incurred by the other party in securing the performance of such work.

M. **Physical Modification of Old Premises and Performance of Janitorial Activity Therein Subject to Prevailing Wage Requirements.**

(1) **General Applicability of Requirements.** The undertaking in, on and with respect to the Old Premises of any construction, alteration, improvement, enlargement, repair, demolition, replacement work (i.e., keeping the same in good, usable, operating condition other than the performing of ordinary, routine maintenance), and the performance of janitorial activity by janitors, rug shampooers, floor waxers, and window cleaners (hereinafter collectively referred to as "modification, maintenance or janitorial work") is subject to the wage requirements of R.C.W. Ch. 39.12 (Prevailing Wages on Public Works), R.C.W. Ch. 49.28 (Hours of Labor), and R.C.W. Ch. 49.46 (Minimum Wage Act), all as amended or supplemented. When any such activity is Federally funded, in whole or in part, Federal prevailing wage legislation and regulations shall apply, and such activity shall be subject to both State and Federal prevailing

wage requirements. SRT and its contractors and their subcontractors shall comply with whichever standard is the higher.

(2) **SRT's Obligations.** SRT shall prohibit its contractors and every subcontractor or other person doing any portion of any modification, maintenance or janitorial work from paying any laborer, worker, or mechanic less than the applicable prevailing hourly wage rates and fringe benefits for said worker's classification. Higher wages and benefits may be paid at the payor's option. SRT shall require its contractor to assign the appropriate classification to all laborers, workers or mechanics who perform any portion of such modification, maintenance or janitorial work pursuant to this Agreement, in conformance with the scope of work descriptions of the Industrial Statistician of the Washington State Department of Labor and Industries. SRT shall also require its contractor to ascertain the applicable prevailing rate of wage for each such classification. Laborers, workers, and mechanics must be paid in full in lawful money of the United States and at least once each week or such other frequency as is required by applicable law or regulation.

(3) **SRT's Indemnification of City from Prevailing Wage Claims.** City shall hold SRT responsible for the compliance by SRT's contractor(s) and all subcontractors with payroll reporting requirements and payment of prevailing wages. SRT shall indemnify, defend, and hold City harmless against any and all claims, demands, suits, causes of action, administrative proceedings, damages, costs and expenses (including but not limited to attorneys' fees) arising out of the failure by SRT or any of its contractors or any of their subcontractors to pay the applicable prevailing wage to any person who performs any work on the Old Premises that is subject to the State or Federal prevailing wage law.

#### **14. UTILITY SERVICES.**

A. **Premises Heating & Cooling.** Subject to the service capacity limitations inherent in the current Seattle Center common HVAC utility system and the City need to provide service to tenants in addition to SRT, City shall provide, to the extent reasonably possible, heating and cooling services to the Premises through the Seattle Center's common HVAC utility system. Unless otherwise approved by the Director, whose approval may be granted, withheld, or conditioned in the exercise of such official's discretion, the number and locations of points of delivery of such services to the Old Premises shall be those in existence on the commencement date of this Agreement, and to the New Premises, as approved by the Director through the Construction Agreement. The providing of points of delivery shall be at the sole cost of SRT and only in accordance with plans and specifications that have received the approval of the Director prior to the modification of service or points of delivery. SRT shall not install in the Premises any equipment or otherwise engage in any activity that results in the overloading of the capacity of any utility system serving the Premises or install any equipment or device that is incompatible with the common HVAC utility system serving the Premises. No equipment that SRT desires to have installed in the Premises that would require any change in the HVAC utility system serving the Premises in order to make such equipment operable shall be installed (1) prior to SRT's providing to the Director, SRT's written commitment to pay all City costs associated with and resulting from the making of such HVAC change, and (2) except in accordance with plans and specifications therefor that have received the Director's prior, written

approval. The total cost of cooling services provided to the Premises shall be divided in the following manner: Sixty percent (60%) shall be attributed to the Old Premises, and the remainder shall be attributed to the New Premises.

B. SRT-Secured Utility Services. SRT shall secure directly from the service provider thereof, whatever utility services are desired by SRT or its sublessees that are not provided by City through the Seattle Center Department under this Agreement, including but not limited to electricity, water and sewer, telephone, cable television and other cable-connected services, and solid waste removal services. Installation activity requiring any physical modification of the Old Premises or the exterior surface of the New Premises shall occur only with the prior written consent of the Director, which consent will not be unreasonably withheld or delayed.

C. Utility Expenses. SRT shall make arrangements with each utility service provider other than Seattle Center for the direct billing to SRT for the providing of all such service. SRT shall pay, before delinquency, all fees and charges imposed (if any) for all utility services provided to the Premises as well as special utility requirements such as transformers, converters, and the installation, change and relocation of points and means of service of all utility lines and systems.

D. City Grant of Easements. City hereby agrees, subject to the Director's reasonable approval, to grant to SRT such easements and/or licenses as may be needed to install the utilities provided for or permitted in this section. The Director shall execute such documents, in recordable form if required, to evidence the foregoing easements and/or licenses.

E. Limitations on City's Liability Regarding Utility Service Interruption or Reduction. City shall not be liable for the interruption or reduction of any utility service under either of the following circumstances:

(1) For City Maintenance. During or in connection with City maintenance work (provided such maintenance work is scheduled at reasonable times and with advance notice to SRT), unless the interruption is due to negligence on the part of City; or

(2) For Capacity Reasons. Whenever the Seattle Center common HVAC utility system reaches its service capacity.

## 15. PARKING & VEHICULAR TRAFFIC.

A. Parking Required for New Premises. As part of the permitting process associated with the development of the New Premises, City and SRT have executed an Off-Site Accessory Parking Covenant under which forty-six (46) parking spaces in the Seattle Center's "Mercer Street Parking Garage" have been identified as legally established parking spaces in a parking site accessory to the New Premises (the "Principal Building Site"), which spaces are to be used for off-street parking accessory to the New Premises for a period of twenty (20) years from and after June 15, 1995.

B. Cooperative Parking. As of the commencement date of this Agreement, the Seattle Center has a "Cooperative Parking Status" under Title 23 of the Seattle Municipal Code. Accordingly, and notwithstanding the provisions of Subsection 15.A hereof, and except as provided in Subsection 15.C hereof, City does not provide any area for the reserved use as a parking area for or associated with the Premises (including but not limited to any such area required by or for SRT staff, suppliers or customers), and whatever general, non-reserved parking City makes available for Seattle Center tenants and their respective staffs, suppliers, and customers shall be shared on a first-come, first-served basis.

C. City Provided Parking for SRT Personnel. The loading/unloading/parking area of the Old Premises is the only area made available hereunder for the parking of motor vehicles by SRT staff and its invitees at no additional charge to SRT.

D. Parking & Loading/Unloading Restrictions. SRT shall not permit any motor vehicle to be parked within or adjacent to the loading dock area of the New Premises without having people actively engaged in the loading or unloading of such vehicle. A Seattle Municipal Court citation may be issued for any motor vehicle that is parked in or adjacent to such loading dock but is not being actively loaded or unloaded.

E. Vehicle Movement on Seattle Center Roadways. SRT shall ensure that no motor vehicle larger than a twenty (20) foot truck is driven into the New Premises loading dock by or for SRT, or any of its caterers, concessionaires, contractors, suppliers, or any other person or entity authorized by SRT to use all or any portion of the Premises for any purpose whatsoever. SRT shall make a good faith effort to ensure that no motor vehicle is driven upon any Seattle Center roadway on any day during the term hereof before 7:00 a.m. or after 11:00 a.m. without the driver of such motor vehicle having in such person's possession a valid Seattle Center permit authorizing such activity at that time. (A Seattle Municipal Court citation may be issued for the driving of any motor vehicle onto the Seattle Center grounds before 7:00 a.m. or after 11:00 a.m. on any day where the driver of such motor vehicle does not have in his/her possession such a permit.)

## **16. OPERATING EQUIPMENT, SERVICES & PERSONNEL.**

A. City-Provided Equipment. As of the commencement date of this Agreement, City shall provide, as a part of the Old Premises, the fly system, lighting system, sound system, electrical distribution system and soft goods described in Exhibit 2. Any other or additional material or equipment desired by SRT in the Premises shall be secured by SRT at no cost or expense to City except as contemplated in Subsection 13.F hereof or Exhibit 8. Any modification of the Old Premises required for the installation of any such other or additional system(s) or equipment shall be subject to the prior, written approval of the Director.

B. Security Personnel. Security personnel shall be assigned by City through May 31, 2009, to assist in the protection of persons and property in the Old Premises during the Term of this Agreement at no additional cost to SRT. SRT may secure similar security personnel services through the Seattle Center for the performance of the same functions in and with respect to the New Premises, and from and after June 1, 2009, in and with respect to the

Old Premises, at the then-applicable City charge for such personnel services if the providing of such personnel and performance of such functions are standard Seattle Center business practices at the time such personnel are desired. The providing of any such security personnel service shall not constitute or be deemed to be insurance or protection for SRT against the effects of any criminal activity.

## 17. INDEMNIFICATION.

A. SRT Indemnification. Except as limited by Subsection 17.C hereof, SRT shall indemnify, defend, and hold City, its officers, employees and agents harmless from any and all liability, losses, claims, actions, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to the use and occupancy of the Premises or any portion thereof, or any act or omission of SRT or any of its sublessees, or any of the officers, employees, agents, contractors, or volunteers of any of the same on the Premises, or any claim by a third party arising from any of the foregoing, including but not limited to trademark, patent, and copyright infringement; Provided, that in the event the City determines that one or more principles of governmental or public law are involved, City retains the right to participate in such action at its own expense.

B. City Indemnification. Except as limited by Subsection 17.C hereof, City shall indemnify, defend and hold SRT and its directors, trustees, officers, employees and agents harmless from any and all losses, claims, actions, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any act or omission of City or any of its officers, employees or agents in connection with City's use, maintenance or occupancy of the Premises, or any claim by a third party arising from any of the foregoing including but not limited to trademark, patent, and copyright infringement.

C. Indemnification Regarding Any Alteration, Addition, or Improvement. Where any bodily injury or damage to property results from or arises out of any construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any portion of the Premises or any road, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, the indemnification provided pursuant to Subsections 17.A and 17.B hereof, shall be limited to the extent of the indemnitor's negligence.

D. Waiver of Immunity and Limitations on Industrial Insurance Liability. For purposes of this indemnification and hold harmless provision, City and SRT expressly waive their respective immunity and limitations on liability under any industrial insurance legislation including but not limited to Title 51 R.C.W. and acknowledge that this waiver was specifically entered into after mutual negotiation.

## 18. INSURANCE.

A. Minimum Insurance to be Secured and Maintained. Prior to the commencement of any activity on the Premises under this Agreement, SRT shall secure and shall thereafter

maintain, in full force and effect at no expense to City, one (1) or more policies of insurance as specified in Exhibit 9.

**B. Reconstruction Following Loss.**

(1) **Insurance Proceeds.** In the event of any loss, damage or casualty that is covered by property insurance, the parties to this Agreement shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which proceeds shall be jointly held in trust by City and SRT (including interest earned by City and SRT on such proceeds) for the purpose of restoring the Premises and improvements made thereto that have been damaged by the casualty to their former condition and usability or replacing the same with equivalent or more suitable improvements.

(2) **Reconstruction.** Using property insurance proceeds, the parties shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to prepare plans and specifications for, and thereafter to carry out, all work necessary (a) to repair and restore the Premises and all improvements made thereto that have been damaged by any insured casualty to their former condition, or (b) to replace the Premises and all improvements made thereto with a facility of a quality and usefulness for the activities contemplated in this Agreement that is at least equivalent to, or more suitable than, the Premises and improvements that were damaged or destroyed; Provided, that notwithstanding the provisions of this subsection, in the event that the Premises or the improvements made thereto, or a substantial portion thereof is damaged or destroyed by other than the fault of SRT or any of its officers, employees, contractors or agents, SRT shall have the option to terminate this Agreement, which option shall be exercised by SRT's delivering notice thereof to the Director not later than ninety (90) days after the date of any such damage or destruction. In the event of any such termination, the amount of money payable in the form of insurance proceeds as a consequence of such damage or destruction shall be divided between SRT and City as provided in Exhibit 10.

**C. Waiver of Subrogation.** City and SRT waive all subrogation rights against each other, any contractors, architect, architects' consultants, service providers, and all of their respective subcontractors, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Section 18 or other property insurance applicable to the Premises, except such rights as they have to proceeds of such insurance held by City and SRT as fiduciaries. SRT shall require a similar waiver from every contractor performing any work on the Premises. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.

**D. Mutual Defense Obligations.** With respect to any third-party claim against or potentially against both SRT and City that results from or arises out of any Premises use or the SRT operations thereon, SRT and City agree to coordinate their defense of such claims pursuant to this provision. The parties agree to work together in good faith, and cause their respective counsel to work together in good faith, to coordinate and implement a strategy with respect to the legal defense of any such action, including, without limitation, answers, counterclaims, motions, discovery, settlement, preparation for trial, dispute resolution and any other hearings,



and appeal. Notwithstanding the foregoing, the obligations hereunder shall not impair or restrict either party's rights with respect to the defense of such an action nor shall such obligations prohibit the taking of any action that is in a party's best interest, including, without limitation, seeking the dismissal or summary judgment of claims, negotiating or entering into a settlement or pursuing any form of alternative dispute resolution. Each party in all cases shall bear its own costs and related expenses with respect to any third-party claim hereunder, including, without limitation, attorneys' fees, costs, settlements and judgments.

E. Assumption of Risk. The placement and storage of personal property in the Premises shall be the responsibility, and at the sole risk, of SRT.

F. City Remedy Upon SRT Failure to Insure. The Director shall notify SRT whenever the Director has a reasonable belief that SRT has failed to secure or maintain insurance as required by this Agreement. In the event such failure is not remedied within such reasonable period as the Director may specify, the Director may secure such insurance and charge SRT the full premium cost therefor plus either an administrative service charge equal to the greater of either (a) fifteen percent (15%) of such premium charge or (b) Two Hundred Fifty Dollars (\$250) plus the percentage of such sum that equals the percentage increase, if any, in the Consumer Price Index ("CPI") for All Urban Consumer Items, All City Average, using the base 1982-84 = 100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor, that has occurred between July 1996 and beginning of the month in which such insurance is to be secured; Provided, that in the event of any change in the index base (1982-84 = 100) or other modification of such index, the parties hereto shall apply whatever conversion factor(s) are necessary to establish the true percentage change in the CPI for any period in which such modification(s) occur, and in the event such index is discontinued, the parties hereto shall select and use for such adjustment purpose, another, similar index that reflects consumer price changes.

## 19. DAMAGE OR DEFACEMENT OF PREMISES OR SEATTLE CENTER.

A. Damage or Defacement by SRT or Any SRT-Associated User. SRT shall not damage or in any manner deface the Premises or any building or the grounds of the Seattle Center and shall not cause or permit anything to be done by any of SRT's sublessees or licensee, or any invitee, agent, employee, officer, or contractor of any of the same such that the Premises or any other portion of the Seattle Center is damaged or defaced in any manner. In the event that any portion of the Seattle Center other than the Premises, or any portion of the Premises that is a City responsibility to repair and maintain, is damaged or defaced by an act or omission of SRT, any SRT sublessee or licensee, or any officer, employee, contractor, invitee or agent of any of the same, SRT shall pay City within thirty (30) days after the date of an invoice therefor, the full City costs for restoring such property to the condition it was in immediately prior to such damage or defacement.

B. Damage or Defacement by City. City shall not damage or in any manner deface the Premises or SRT property contained therein and shall not cause or permit anything to be done by any agent, employee, officer, or contractor of City such that the Premises or such SRT property is damaged or defaced in any manner. In the event that during the period of City's use

of the Premises, any portion of the Premises, or any SRT property therein, is damaged or defaced by an act or omission of City, or any of its officers, employees, contractors, invitees to the Premises, or agents, City shall restore the Premises to its condition immediately prior to such damage or defacement as quickly as is reasonably possible after the discovery of such damage and establishment of City responsibility for its damage or defacement or pay SRT within thirty (30) days after the date of an invoice therefor, the full SRT costs for restoring such property.

C. Standard for Restoration. The repair or restoration of the Premises following the occurrence of any damage or destruction thereof shall be to a condition substantially equal to or better than the condition the Premises were in immediately prior to the occurrence of such damage or destruction.

## 20. SIGNS & PROMOTIONAL MATERIALS.

A. Signs on Exterior of Premises. The SRT may install signs on the exterior of the Premises, identifying the building by name, its status as the site of the SRT's productions and containing other information related to SRT, including without limitation program information, fundraising information and special SRT announcements. The design, installation and location (but not the contents) of all such signs shall be subject to the written approval of the Director, which approval shall not be unreasonably withheld. No other sign(s) or other advertising matter, symbols, canopies or awnings shall be attached to, painted on, or otherwise installed on the exterior surface of any portion of the Premises, including any window thereof, without the prior written approval of the Director, who may approve, deny, or approve subject to conditions, any SRT request therefor in the exercise of such official's reasonable discretion.

B. Promotional Displays Outside of Premises. Areas outside of the Premises may be used for the posting or exhibiting by or for SRT of promotional, directional, or other communicative information or material only with the prior, express, written permission of the Director, who may approve, deny, or approve subject to conditions, any SRT request therefor in the exercise of such official's reasonable discretion. SRT shall ensure that any such material to which the Director objects, is removed from display immediately following SRT's receipt of such objection.

C. Promotional Materials to Include Reference to Premises. SRT shall, to the extent possible, include in any promotional material imprinted or published or otherwise produced by or on behalf of SRT that makes references to the Premises, including but not limited to advertisements, posters, programs, but not including tickets, notice that the Premises are located at the Seattle Center.

D. Promotional Material on Inside of Premises. All promotional materials on the interior of the Premises shall be designed and installed, to the extent reasonably practicable (given the fact that much of the exterior surface of the Premises consists of windows), to be primarily viewable by an audience that is inside, rather than outside, of the Premises. Neither City nor any City-authorized third party pursuant to Section 5 hereof shall post any information or material in or on the Premises except during periods of use of the Premises pursuant to

Section 5, and all such information or material shall relate only to such authorized use. All such information and material shall be submitted to SRT in advance of its being posted or displayed. The design, installation, and location (but not the contents) of said information or materials shall be subject to the written approval of SRT, which approval shall not be unreasonably withheld. City shall ensure that all such information and materials shall be removed at the end of the use period authorized under Section 5 hereof.

## **21. ASSIGNMENT, TRANSFER & SUBLEASES.**

A. Prior Notice, Consultation & Written Consent of Director Required. SRT shall not assign or transfer this Agreement or otherwise convey SRT's rights hereunder, or sublease all or any portion of the Premises without giving the Director at least fifteen (15) day's prior notice of such proposed action, and shall not execute any sublease of all or a portion of the Premises for a period of three (3) or more consecutive months (a "long-term sublease") without the prior written consent of the Director; Provided, that for the purposes of this section, different sublease agreements between SRT and the same subtenant of all or any portion of the Premises shall be treated as a single, long-term sublease if the aggregate duration of such subleases equals or exceeds ninety (90) days and the various periods of time that such subtenant is authorized to use and occupy any portion of the Premises under such sublease agreements are not separated from each other by at least sixty (60) consecutive days.

B. Conditions for Director's Consent. The Director's consent for any proposed assignment, interest transfer or long-term sublease shall not be unreasonably withheld or delayed when the following conditions are satisfied:

(1) Documentation Required to be Delivered to Director: SRT has delivered to the Director, to the Director's reasonable satisfaction, the following material:

(a) Identification of Proposed Assignee, Transferee, or Long-term Subtenant. SRT's written request to assign this Agreement or to execute a long-term sublease or to otherwise transfer all or a portion of its interests in this Agreement, which request identifies, with particularity, the legal name of the proposed assignee, transferee, or long-term subtenant; the form of organization that entity uses to engage in business; that entity's business address and telephone number; and, in the case of a long-term sublease, a description of the portion(s) of the Premises proposed to be sublet;

(b) Commitment to Operate Consistent with Seattle Center Policies. Evidence that a condition of the assignment, transfer or long-term sublease will require the proposed assignee, transferee or long-term subtenant to operate and conduct activities in the Premises consistent with the mission statement of, and activities otherwise permitted by, the Seattle Center;

(c) Commitment to Secure & Maintain Insurance and to Pay Fees & Royalties. Evidence that the proposed assignee, transferee or long-term subtenant has been legally obligated to secure and maintain during the term of its use and occupancy of the Premises or any portion thereof commercial general liability and business automobile insurance satisfying

the requirements of Section 18, hereof, and to pay any and all royalties, license fees and similar charges associated with its activities in the Premises;

(d) **Waiver of Property Damage Claims Against City.** A written waiver by such proposed assignee, transferee or long-term subtenant of any claim it has or may have against City for the damage or destruction during such assignee's, transferee's or long-term subtenant's use of the Premises or the subleased portion(s) thereof, of any personal property owned or under the control of such assignee, transferee or long-term subtenant (except damage or destruction that is due to City negligence);

(e) **Acknowledgement of Subordination of Long-term Sublease to Agreement and of SRT's Continuing Obligation to City.** Where SRT proposes to enter into a long-term sublease, a written acknowledgement executed by SRT and the proposed long-term subtenant that any such sublease is subordinate and subject to the terms and conditions of this Agreement, and that no sublease shall relieve SRT of its obligations under this Agreement; and

(2) **Determination Regarding Exclusive Use Conflicts.** The Director determines that the Premises use intended by the proposed assignee, transferee or long-term subtenant does not conflict with any exclusive use that may have been authorized for a third party at Seattle Center.

C. **Director's Consent Is No Waiver of Agreement Requirements.** The Director's consent to any assignment or other form of interest transfer or long-term sublease shall not be deemed a waiver of the requirement that SRT secure the consent of the Director for any subsequent assignment, interest transfer or long-term sublease. No assignment, transfer or sublease, with or without the Director's consent, shall release or relieve SRT of or from any of the obligations on its part to be kept and performed under this Agreement. In the event of any assignment of this Agreement, SRT shall cause to be delivered to the Director, simultaneously with such assignment, an instrument in writing, executed by the assignee, in which the assignee assumes and agrees to perform all of the terms and provisions of this Agreement, including those to be kept and performed by SRT that have not been fully performed.

## 22. CONCESSION OR CATERING ACTIVITY.

A. **Definitions.** As used in this section, unless the context clearly requires a different meaning,

(1) "Caterer" means any "caterer" as defined in the "Seattle Food Code" (Seattle Municipal Code Ch. 10.10 or its successor).

(2) "Concession or catering activity" means and includes the preparation, service, free distribution, or sale of food or any beverage, including any alcoholic beverage, or the free distribution or sale of any concession merchandise or service for any consideration including but not limited to the reimbursement of costs associated with such activity; and

(3) "Concession merchandise or services" means and includes inedible goods and hospitality services relating to the SRT, its sublessees, and the productions and performances presented in the Premises, but not elsewhere at the Seattle Center unless specifically authorized by the Director; it includes but is not limited to souvenirs and novelties and coat- and hat-checking services.

B. Grant of Right. Except as provided in Subsection 22.C, hereof, City grants to SRT the exclusive right to engage in concession or catering activity and to authorize individuals and other entities to engage in such activity for and on the behalf, or under the auspices of SRT, inside the buildings on the Premises, subject to the conditions set forth herein.

C. Right Not Effective During Certain Use Periods. The concession and catering rights granted to SRT in Subsection 22.B hereof shall not be effective during any period of time when the Production Areas are being used by City or by any City-authorized third party pursuant to Section 5 hereof. Nothing herein shall prohibit SRT from making separate arrangements with City or any City-authorized third party either for such person or entity's use of the SRT concession sales area(s) in the Premises or for SRT's engaging in concession or catering activity in the Premises during the period of time when the Production Areas are being used by City or any City-authorized third party pursuant to Section 5 hereof.

D. Food Service Establishment Permit Required. SRT shall ensure that all potentially hazardous food offered for sale within the Premises pursuant to this Agreement has been prepared, transported, served and otherwise provided only by a person or entity issued a current valid Food Service Establishment permit or comparable authorization issued by the Seattle-King County Department of Public Health or its successor.

E. Insurance Required. SRT shall ensure that any person or entity that it contracts with, licenses, or otherwise permits to engage in concession or catering activity within the Premises pursuant to this Agreement secures and maintains in full force and effect during the period such person or entity engages in such activity, a policy of general commercial public liability insurance, and if such person or entity drives any motor vehicle on the Seattle Center grounds, business automobile insurance, all consistent with the requirements of Section 18 hereof, under which policy(ies) The City of Seattle is named as an additional insured.

F. Licenses and Permits; Contingent Expiration of Right. All licenses, permits and other authorization required in order to legally conduct the concession or catering activity contemplated herein shall be acquired and maintained at no cost to City. The inability of SRT or any caterer, lessee or subcontractor of SRT, to secure or to maintain any such license, permit or other authorization shall not invalidate the concession and catering right granted herein.

G. Use of Banned Customer Service Serving Materials Prohibited. SRT shall not use, and shall prohibit every SRT subtenant and other person and entity authorized to engage in catering or concession activity hereunder from using, in connection with any concession or catering activity under this Agreement, any type of serving container or implement that is now or hereafter prohibited for use at Seattle Center. This SRT obligation with respect to materials other than polystyrene foam food or beverage containers shall be effective only after such materials have been identified by the Director through notice to SRT.



H. SRT's Restoration Responsibility for Areas Used for Serving Food & Beverages. Notwithstanding any other provision of this Agreement, in the event that any portion of the Premises or other portion of the Seattle Center is used for any catering activity by or for SRT, then, except as may be otherwise agreed upon by the Director and SRT Managing Director, SRT shall ensure that any area so used is restored immediately after such activity to at least as good a physical condition as such area was in immediately prior to such activity. All such restoration work on the interior of the Premises shall be completed within thirty (30) days after such event or such longer period as the Director shall allow, and on the exterior of the Premises, within such time period as the Director shall require.

I. Authorization for Subcontracting, Concession or Catering Activity. SRT is authorized to enter into such subcontracts, concession and caterer's agreements as it deems necessary to exercise the concession and catering right granted hereunder. This Agreement constitutes the prior express written authorization of City for the use of the Premises by SRT's caterers, concessionaires, and contractors, for concession or catering activity as described above.

J. No Catering or Concession Activity on Exterior Portion of Premises or on Seattle Center Grounds Without Director's Consent. Neither SRT nor any of its subtenants, caterers, or concessionaires shall use any exterior portion of the Premises or any other part of the Seattle Center for any catering or concession activity without the prior, express, written consent of the Director, whose consent shall not be unreasonably withheld.

## 23. OWNERSHIP OF PREMISES IMPROVEMENTS, ALTERATIONS & ADDITIONS.

Except as otherwise provided in this Agreement, all alterations, additions, and improvements to the Old Premises and all landscaping improvements made by SRT under the Construction Agreement shall become the property of City immediately upon their affixation to the Premises or their substantial completion, whichever is earlier, and shall be subject to all of the provisions of this Agreement. The improvements, additions and alterations made by SRT under the Construction Agreement other than landscaping improvements shall become City property as of the expiration or earlier termination of this Agreement.

## 24. COMPLIANCE WITH LAW.

A. Lawful Use. SRT, as the lessee hereunder, and City, with respect to its use of the Premises pursuant to Section 5 hereof, each agree to abide by, conform and comply with, and SRT and City each agrees to use its best efforts to ensure that every person it admits to the Premises abides by, conforms and complies with, all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of The City of Seattle; rules and regulations of the Seattle Center, Fire, Health, and Police Departments or the functional successors thereof; and licenses, permits, and authorizations required by any such authority. Whenever either party or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it, it shall immediately desist from such violation and shall make its best effort to prevent such

violations by any person admitted by it to the Premises. The final judgment of any court or administrative body of competent jurisdiction or the admission by a party in any action against it, whether the other party is a party thereto or otherwise, that it or its invitees has violated any law, ordinance, rule, or regulation shall be conclusive of that fact as between City and SRT.

B. Licenses and Similar Authorizations. SRT, at no expense to City, shall secure and maintain in full force and effect during the term of this Agreement all required licenses, permits and similar legal authorizations, and comply with all requirements thereof; Provided, however, such responsibilities shall be City responsibilities with respect to City use of the Premises pursuant to Section 5 hereof.

C. Taxes. SRT shall pay, before delinquency, all taxes, levies, and assessments of any kind or nature that are imposed or become due during the term of this Agreement and arise from any activity on or use and occupancy of the Premises pursuant to this Agreement, including but not limited to taxes arising out of the activity or business conducted on the Premises (other than non-SRT use pursuant to Section 5 hereof); taxes levied on SRT property, equipment, and improvements on or to the Premises; taxes on SRT's interest in this Agreement and any leasehold interest deemed to have been created thereby under RCW 82.29A, if applicable; and any assessment levied for any local improvement, utility local improvement, or any similar undertaking; Provided, that in the event an assessment is based upon the extent of property lying adjacent to a street, SRT shall be responsible for its pro-rata share of such assessment based upon the portion of the street frontage occupied by the Premises. In the event the State of Washington makes any demand upon City for payment of any tax resulting from SRT's use or occupancy of the Premises or the conduct of any activity subject to tax, or the State withholds funds due to City to enforce collection of leasehold excise or any other tax, SRT, at its sole expense, shall contest such action and indemnify City for all sums expended by or withheld by the State from City in connection with such taxation; Provided, that SRT may pay any such tax in lieu of contesting it or indemnifying City. City shall pay, or shall contractually obligate all City-authorized third parties to pay, and shall indemnify and hold SRT harmless for all imposed taxes that relate to events in the Premises pursuant to Section 5 hereof (except for taxes imposed on concession sales by SRT or for SRT's benefit), and for all taxes that may be imposed on SRT or SRT's use of the Premises resulting from any use pursuant to Section 5 hereof by City or any City-authorized third party.

D. Attendance & Safety Standards. The Seattle Fire Chief or his/her designee shall have the authority to determine, in the reasonable exercise of his/her discretion, the number of persons that may be admitted to, and safely and freely move about in the Premises. SRT shall not sell or issue tickets or credentials for admission to the Premises in an aggregate number that exceeds the Seattle Fire Chief's determined number. SRT shall not admit to the Premises more people than the number so determined by the Seattle Fire Chief. SRT shall not permit any chair or movable seat or other obstruction to be erected or placed in any passageway or fire exit. Sidewalks, grounds, entries, passages, vestibules, halls, elevators, abutting streets and all ways of access to the Premises shall not be obstructed by SRT or used for any purpose other than for ingress and egress to the Premises. City shall be responsible for assuring compliance with each of the foregoing requirements during periods of City use of the Premises pursuant to Section 5 hereof.

E. Nondiscrimination and Affirmative Action. SRT shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including the Seattle Municipal Code (SMC), notably SMC Ch. 20.44; and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

F. Women's and Minority Business Enterprise Utilization Compliance.

(1) Incorporation of Ordinance. This Agreement hereby incorporates by reference S.M.C. Ch. 20.46A (the "Women's & Minority Business Utilization ["WMBE"] Ordinance") and all regulations implementing the same. The purpose of Seattle's WMBE Program is to provide a prompt remedy for the effects of past discrimination. The failure of SRT or any contractor or subtenant of SRT to comply with any of the requirements of S.M.C. Ch. 20.46A in the exercise of the rights granted by this Agreement shall be a material breach of contract.

(2) SRT's Obligations. During the Term of this Agreement and any extension thereof, SRT shall:

(a) Meet the minority business enterprise ("MBE") and women's business enterprise ("WBE") set-asides established for this Agreement, if any;

(b) Make affirmative efforts to utilize WMBEs in performing SRT's obligations under this Agreement, whether as contractors, suppliers, subtenants, or in any other capacity;

(c) Require that all contractors and subtenants make affirmative efforts to utilize WMBEs in the performance of this Agreement;

(d) Maintain records reasonably necessary for monitoring compliance with the provisions of S.M.C. Ch. 20.46A, and submit such information as may be requested by the DAS Director or such official's functional successor in order to monitor and enforce compliance; and

(e) Require that contractors and subtenants maintain records reasonably necessary for monitoring the compliance of such contractors and subtenants with the provisions of S.M.C. Ch. 20.46A, and that the contractors and subtenants submit such information as may be requested by the DAS Director or such official's functional successor in order to monitor and enforce compliance.

(3) Liquidated Damages for Breach. City, in general, and its WMBE Program in particular, are damaged when a contract, or portion of a contract, to be performed by a WBE or MBE is not actually performed by a WBE or MBE in compliance with S.M.C. Ch. 20.46A. Because the actual amount of such damage is not reasonably calculable, City and SRT agree and stipulate that liquidated damages equal to the unmet dollar amount of any WBE or MBE set-aside (if any) will fairly compensate City for resulting delays in carrying out the purpose of the WMBE Program, the costs of meeting utilization targets through additional

contracts, the administrative costs of investigation and enforcement, and other damages and costs caused by the violation.

## **25. ROYALTIES, LICENSE FEES, AND SIMILAR PAYMENTS.**

SRT shall pay, before delinquency, all royalties, license fees, and other charges due and payable to any person or entity as the consequence of any public performance(s) or display(s) of copyrighted work(s) during its use of the Premises or any portion thereof. City or its authorized third party users shall be responsible for all similar royalties, license fees and other charges in connection with such entities' use of the Premises pursuant to Section 5.

## **26. LIENS AND ENCUMBRANCES.**

SRT shall keep the Premises free and clear of any lien or encumbrance arising or growing out of its use and occupancy of the Premises or any portion thereof. At City's request, SRT shall furnish City written proof of payment of any item that would or might constitute the basis for such a lien or encumbrance on the Premises if not paid.

## **27. MEDIATION OF DISPUTES.**

The parties hereto shall make their best efforts to resolve disputes as expeditiously as possible through negotiations at the lowest possible decision-making level, and in the event such negotiations are unsuccessful, to participate in good faith in the mediation process described below, and attempt to resolve all claims and disputes between them in a one mediation effort.

A. Involvement of Mediator & Mediator's Consultants. In the event an issue cannot be resolved by negotiations between subordinate staff of SRT and Seattle Center, the matter shall be referred to the Director and the SRT Managing Director. In the event those officials are unable to resolve the dispute within a period of fifteen (15) days after the matter has been formally referred to them for resolution, they shall meet during the immediately succeeding seven (7) days to select a mediator to assist in the resolution of such dispute; Provided, that in the event the Director and SRT Managing Director cannot agree upon a mediator within such seven (7) day period, either party may apply to the American Arbitration Association or the Judicial Arbitration & Mediation Service for the appointment of a mediator according to the process that is established by such entity for such action. SRT and City shall share equally the cost charged for the mediation of any dispute. The mediator shall have the authority to engage one or more expert consultants with knowledge in the field(s) or area(s) involved in the matter(s) that are in dispute to assist the mediator and the parties to evaluate their respective claims and possibly reach agreement to resolve their dispute.

B. Continuation of Efforts in Event of Dispute: No Litigation Without Mediation. Notwithstanding the existence of any dispute between the parties hereto, the parties shall continue to carry out, without unreasonable delay, all of their respective responsibilities under this Agreement that are not affected by the dispute. Neither party to this Agreement shall

commence any litigation against the other with respect to any claim or dispute under this Agreement without first participating, in good faith, with the other party in mediation as contemplated in this section.

## 28. DEFAULT.

A. Default by SRT. The following acts and omissions by SRT shall constitute a default and material breach of this Agreement:

- (1) SRT's failing to comply with any of the material requirements of Section 18 hereof, regarding insurance;
- (2) SRT's failing to cease, or correct or remedy, any violation of any law, ordinance, rule, or regulation, after SRT's receipt of notice and a reasonable time to cease such violation or make such correction or provide such remedy;
- (3) SRT's abandoning or vacating the Premises;
- (4) SRT's failing to pay any sum of money due to City within thirty (30) days after notice from City that such a payment is overdue, notwithstanding the right of City to interest on any such sums that become delinquent;
- (5) SRT's becoming insolvent, making a general assignment for the benefit of creditors, suffering or permitting the appointment of a receiver for its business or assets, becoming subject to any proceeding under any bankruptcy or insolvency law (whether domestic or foreign), or being wound up or liquidated, voluntarily or otherwise; or
- (6) SRT's failing to perform any other material condition or covenant of this Agreement where such failure in performance is not remedied within the time allowed by Subsection 28.C hereof, or such other period for remedial action as is expressly otherwise provided for in this Agreement.

B. Default by City. City shall be in default and material breach of this Agreement if City fails to perform a material condition or covenant required of it where such failure in performance is not remedied within the time allowed by Subsection 28.C hereof, or such other period for remedial action as is expressly otherwise provided for in this Agreement.

C. Notice of Default; Opportunity to Cure; Extension of Period to Cure Default. Neither City nor SRT shall be in default unless such party fails to perform an obligation required of it within a reasonable time, which time shall not extend more than thirty (30) days after written notice from the aggrieved party has been received by the other, specifying the particular obligation that the other has failed to perform or provision of this Agreement that has been materially breached; Provided, that if the nature of the other party's obligation is such that more than thirty (30) days are reasonably required for performance or the curing of such material breach, then the other party shall not be in default if it commences performance or cure within such thirty (30) day period, and thereafter diligently prosecutes the same to completion;



Provided, further, that if City has provided to SRT a notice of default and an opportunity to cure pursuant to the terms and conditions of the Construction Agreement, then no separate notice of default or separate opportunity to cure shall be required under this Agreement with respect to the termination by City of the Construction Agreement as a consequence of SRT's refusing or failing to have the New Premises constructed consistent with, or other material breach of, the terms and conditions of the Construction Agreement.

## **29. REMEDIES UPON DEFAULT AND MATERIAL BREACH.**

A. City Right to Terminate Agreement. In the event a court of competent jurisdiction determines that there has been a material and substantial default or breach of this Agreement by SRT, and City is not in default or breach of this Agreement, City may terminate this Agreement, re-enter the Premises, permit others to use said Premises during any portion of the period of use remaining under this Agreement had it not been terminated, and receive compensation therefor. In such event, SRT's liability for the rent, expense reimbursements and other charges to be paid to City hereunder shall not be extinguished, and SRT shall pay to City within thirty (30) days after the date of any invoice therefor, the shortfall between what City actually receives on a monthly basis for the use and occupancy of the Premises by third parties and the amounts that are to be paid by SRT hereunder.

B. City Remedies Upon Material Breach of Concession & Catering Requirements. Notwithstanding any other provision hereof, in the event of a default and material breach of any provision of Section 22 of this Agreement, as now existing or hereafter amended, City may revoke and terminate the concessions and catering right granted to SRT without affecting SRT's right to use and occupancy of the Premises hereunder; and in such event Subsections 30.C and 30.D shall apply with respect to all property related to concession or catering activity installed on the Premises by or on behalf of SRT, except that all such property shall be removed by SRT within thirty (30) days after the effective date of the revocation and termination of the concessions and catering rights.

### C. City Remedies Upon SRT's Material Breach of Construction Agreement.

(1) Adjustment of Annual New Premises Rent. In the event that by September 30, 1997, (a) the New Premises has not been completed as provided in the Construction Agreement (by, for example, not having the exterior appearance of the New Premises and its adjacent landscaping completed in accordance with the plans and specifications therefor as last approved by the Director [Exhibits A and D to the Construction Agreement], and (b) the New Premises has not had installed therein all of the theatrical equipment and furnishings identified in Exhibit 3 (the list of equipment that is required to keep the New Premises equipped as a fully functioning performance facility), then the rent payable under Subsection 6.A.(3) hereof shall be as specified in Section 2 of Appendix 4.

(2) SRT Assumption of Maintenance, Repair & Replacement Responsibilities With Respect to Premises Shell. If, at any time during the term of this Agreement, City determines that (a) the New Premises or the connection between the New Premises and the Old Premises is not weather-tight, (b) damage has occurred to the Premises or any of the

Provided, further, that if City has provided to SRT a notice of default and an opportunity to cure pursuant to the terms and conditions of the Construction Agreement, then no separate notice of default or separate opportunity to cure shall be required under this Agreement with respect to the termination by City of the Construction Agreement as a consequence of SRT's refusing or failing to have the New Premises constructed consistent with, or other material breach of, the terms and conditions of the Construction Agreement.

## **29. REMEDIES UPON DEFAULT AND MATERIAL BREACH.**

A. City Right to Terminate Agreement. In the event a court of competent jurisdiction determines that there has been a material and substantial default or breach of this Agreement by SRT, and City is not in default or breach of this Agreement, City may terminate this Agreement, re-enter the Premises, permit others to use said Premises during any portion of the period of use remaining under this Agreement had it not been terminated, and receive compensation therefor. In such event, SRT's liability for the rent, expense reimbursements and other charges to be paid to City hereunder shall not be extinguished, and SRT shall pay to City within thirty (30) days after the date of any invoice therefor, the shortfall between what City actually receives on a monthly basis for the use and occupancy of the Premises by third parties and the amounts that are to be paid by SRT hereunder.

B. City Remedies Upon Material Breach of Concession & Catering Requirements. Notwithstanding any other provision hereof, in the event of a default and material breach of any provision of Section 22 of this Agreement, as now existing or hereafter amended, City may revoke and terminate the concessions and catering right granted to SRT without affecting SRT's right to use and occupancy of the Premises hereunder; and in such event Subsections 30.C and 30.D shall apply with respect to all property related to concession or catering activity installed on the Premises by or on behalf of SRT, except that all such property shall be removed by SRT within thirty (30) days after the effective date of the revocation and termination of the concessions and catering rights.

C. City Remedies Upon SRT's Material Breach of Construction Agreement.

(1) Adjustment of Annual New Premises Rent. In the event that by September 30, 1997, (a) the New Premises has not been completed as provided in the Construction Agreement (by, for example, not having the exterior appearance of the New Premises and its adjacent landscaping completed in accordance with the plans and specifications therefor as last approved by the Director [Exhibits A and D to the Construction Agreement], and (b) the New Premises has not had installed therein all of the theatrical equipment and furnishings identified in Exhibit 3 (the list of equipment that is required to keep the New Premises equipped as a fully functioning performance facility), then the rent payable under Subsection 6.A.(3) hereof shall be as specified in Section 2 of Appendix 4.

(2) SRT Assumption of Maintenance, Repair & Replacement Responsibilities With Respect to Premises Shell. If, at any time during the term of this Agreement, City determines that (a) the New Premises or the connection between the New Premises and the Old Premises is not weather-tight, (b) damage has occurred to the Premises or any of the

improvements made thereto or equipment installed therein as a consequence of the New Premises or the connection between the Old Premises and the New Premises not being weather-tight, and (c) the exterior of the New Premises and its adjacent landscaping were not constructed according to the plans and specifications therefor as last approved by the Director (Exhibits A and D to the Construction Agreement), SRT shall be given notice of such condition and a demand to correct such non-conforming construction and compensate City for all damage or losses occasioned by such condition. In the event that SRT fails, after having been provided such notice and an opportunity as contemplated in Subsection 28.C hereof, to correct such non-conforming construction and to compensate City for such damage and losses, then, notwithstanding anything to the contrary in Section 13 hereof or in Exhibits 5 through 7 hereto, and in addition to SRT's remaining liable to City for such compensation, SRT shall become responsible for the maintenance, repair and replacement of the roof and exterior shell of the New Premises (including but not limited to the exterior walls, exterior doors and locks, and exterior windows) and the connection between the New Premises and Old Premises until such time as SRT demonstrates, to the reasonable satisfaction of the Director, that the New Premises and its connection to the Old Premises have been constructed according to the plans and specifications therefor as last approved by the Director, or to such other plans and specifications for the New Premises as are approved by the Director, in the exercise of such City official's discretion.

D. Injunctive Relief & Specific Performance. In the event that after its receipt of due notice and an opportunity to cure as provided hereunder, either party fails to cure a material breach and default of any of its obligations hereunder, the other party shall be entitled to damages and, as appropriate, to an order for injunctive relief or specific performance.

### **30. SURRENDER OF PREMISES AND REMOVAL OF SRT'S PROPERTY; DISPOSITION OF MONEY IN BWTMRR FUND & SRT REPLACEMENT TRUST FUND.**

A. Surrender of Premises. Upon termination or expiration of this Agreement, SRT shall surrender to City the Premises and all keys to any door or window therein.

B. Condition of Premises Upon Surrender. The Premises to be surrendered to City shall be surrendered in at least as good a condition as the Old Premises were in on the commencement date of this Agreement, except for the effects of construction of the SRT's improvements on the New Premises pursuant to the Construction Agreement and other improvements, additions, alterations, and repairs made to the Premises with the approval or concurrence of City; property damage by fire and other perils insured in contracts or policies of fire, extended coverage, and vandalism; and reasonable wear and tear.

C. Removal of Property. Prior to the expiration of the term of this Agreement, or within sixty (60) days after this Agreement's earlier termination, SRT shall remove from the Premises, at no cost or expense to City, all office equipment, furnishings, and other personal property owned and placed in or on the Premises by SRT that is not reasonably required to keep the Premises in the condition of a fully functional and safe, live theatrical performance facility. In removing such material and property, SRT shall take due care to not damage or injure the Premises, and any such damage or injury shall be immediately repaired by SRT to the Director's reasonable satisfaction, at SRT's sole cost and expense. Structural alterations, additions,

improvements, and stage production equipment and fixtures identified in Exhibits 2 and 3 shall not be removed. In no event shall either party make any claim or demand upon the other, nor shall either party be liable for any inconvenience, annoyance, disturbance, or loss of business arising out of such removal operation during such sixty (60) day period.

D. Inventory & Ownership of Office Equipment & Related Items. SRT shall deliver to the Director on or by October 1, 1996, a written Property Inventory identifying all SRT-owned office equipment, furnishings and other personal property moved onto the Premises during any time prior to the immediately preceding July 1st that SRT expects to be able to remove at the end of the term of this Agreement. On or by October 1st of every year thereafter during the term of this Agreement, SRT shall deliver to the Director a replacement Property Inventory or a written addendum to the most recently delivered Property Inventory indicating additions and deletions to the same that occurred during any time during the twelve (12) months prior to the immediately preceding July 1st. Each such Property Inventory that is delivered to the Director and its supplementary additions and deletions list shall constitute and be incorporated herein as Exhibit 11 until a succeeding Property Inventory is delivered to the Director.

E. Disposition of Unremoved Property. In the event that after the expiration or earlier termination of this Agreement, SRT has not removed the removable office equipment, furnishings, and other personal property listed on the most recently filed Property Inventory within the time allowed for such removal, City may, but need not, remove the same and hold it for SRT, or may place the same in storage, all at SRT's expense and risk; and SRT shall reimburse City for any reasonable expense incurred by City in connection with such removal and storage. City shall have the right to sell such stored property, without notice to SRT, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied, first, to the cost of the sale; second, to the payment of the charges for storage; third, to the payment of any other amounts which may then be due from SRT to City; the balance, if any, shall be paid to SRT. SRT hereby waives and expressly releases City from any and all claims for loss or damage, of any kind or nature, arising out of said removal, storage and sale.

F. Disposition of Money in BWTMRR Fund & SRT Replacement Trust Fund. In the event this Agreement is terminated for any reason prior to the earlier of (a) May 31, 2009, or (b) the date when the BWTMRR Fund has received the City remittance for 2009 and the balance of that City fund has been expended, SRT shall remit to City, without protest, offset or deduction of any kind or nature whatsoever, all of the money in the SRT Replacement Trust Fund, which money City shall aggregate with and deposit into the BWTMRR Fund and thereafter divide and expend as follows: First, City shall deduct from the BWTMRR Fund an amount equal to all expenditures that (1) the parties expected to make in the year in which this Agreement is terminated with such funds, as indicated in Exhibit 8, and (2) have not been made as of the effective date of termination. Second, City shall deduct from the BWTMRR Fund an amount equal to the sum of all outstanding financial obligations of SRT to City under this Agreement and otherwise, to the extent such obligations can be paid therefrom. The aggregate amount (if any) remaining in the BWTMRR Fund after such deductions have been made shall be held by City as a reasonable damage deposit to cover all City costs that may be incurred in remedying any SRT failure to leave the Premises in the condition required by Subsections 30.B and 30.C hereof. Upon the full payment of all financial obligations of SRT to City under this Agreement and otherwise (whether by direct SRT payment or deduction from the BWTMRR

Fund as contemplated herein) and SRT's timely satisfaction of the requirements of Subsections 30.B and 30.C hereof, the balance of the BWTMRR Fund (if any) shall be divided between City and SRT consistent with following calculations:

The sum of the annual SRT deposits into the SRT Replacement Trust Fund pursuant to §13.F.(3) plus the sum of the unreimbursed SRT Supplemental Deposits made pursuant to §13.F.(4)(b) hereof through the effective year of termination =  $\Sigma$  SRT

The sum of the annual City deposits into the BWTMRR Fund pursuant to §13.F.(3) plus the sum of all City Supplemental Deposits into the BWTMRR Fund pursuant to §13.F.(4)(a) that have not been reimbursed, each through the effective year of termination =  $\Sigma$  City

$\Sigma$  SRT +  $\Sigma$  City = Total Deposits

$\Sigma$  SRT  $\div$  Total Deposits = SRT Share of Balance of BWTMRR Fund

$\Sigma$  City  $\div$  Total Deposits = City Share of Balance of BWTMRR Fund

City shall remit to SRT the SRT Share of Balance of BWTMRR Fund within thirty (30) days after the determination of such amount.

### 31. NO WAIVERS.

No action other than a written document by the Director or the SRT Managing Director (or such other person as may be specified for such purpose in a notice given by SRT to the Director) specifically acknowledging that it constitutes a waiver of a particular breach or default by the other shall constitute a waiver by a party of such breach or default. No such document shall waive a failure to fully comply with any term or condition of this Agreement not specifically referenced therein, irrespective of any knowledge any officer or employee of a party may have of such breach, default, or noncompliance. A party's failure to insist upon full performance of any provision of this Agreement shall not be deemed to constitute consent to or acceptance of such incomplete performance in the future.

### 32. BINDING EFFECT.

The provisions, covenants and conditions contained in this Agreement are binding upon the parties hereto and their legal successors and assigns.

### 33. REMEDIES CUMULATIVE.

The rights under this Agreement are cumulative; the failure to exercise promptly any right recognized hereunder shall not operate to forfeit any such right. The use of one remedy shall not be taken to exclude or waive the right to use another.



**34. APPLICABLE LAW AND VENUE.**

This Agreement shall be construed under the laws of the State of Washington. The venue for any litigation relating to this Agreement shall be in the Superior Court of the State of Washington for King County.

**35. OBLIGATION OF SRT LIMITED TO CORPORATION.**

Any and all obligations of SRT under this Agreement are enforceable only against the Seattle Repertory Theatre, a nonprofit corporation, and are not enforceable against nor do they impose any liability upon SRT's officers, directors, trustees, members, employees, or agents.

**36. NO PARTNERSHIP, ASSOCIATION OR JOINT VENTURE RELATIONSHIP CREATED.**

In no event shall either party be construed, held, or become, in any way or for any purpose, a partner, associate, or joint venturer of the other party or any party associated with the other party in the conduct of the other party's business or otherwise. This Agreement does not constitute either party as the agent or legal representative of the other party for any purpose whatsoever, nor is either party granted any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other party, or to bind the other party in any manner or thing whatsoever.

**37. ADDRESSES.**

Unless otherwise directed in writing, all notices and reports shall be in writing, and together with any payments, shall be delivered to City at the following address:

Director  
Seattle Center Department  
305 Harrison Street  
Seattle, Washington 98109

and to SRT at the following address:

Managing Director  
Seattle Repertory Theatre  
155 Mercer Street  
Seattle, Washington 98109

Either party may change its address for receipt of reports, notices or payments without the formal amendment of this Agreement by giving the other party written notice of such change not less than fifteen (15) days prior to the effective date thereof.

**38. TITLES OF SECTIONS.**

The titles of sections and subsections set forth herein are for convenience only, and do not in any way define, limit or construe the contents of any section.

**39. AMENDMENTS.**

The parties hereto expressly reserve the right to amend this Agreement from time to time as they mutually deem necessary. No alteration or modification of the terms hereof shall be valid unless made in writing and signed by an authorized representative of each of the parties hereto.

**40. DIRECTOR'S AUTHORITY.**

The action of the Director pursuant to or in implementation of this Agreement does not constitute any official action by any other City department or official that may be required by law, ordinance, rule or regulation.

**41. SURVIVAL OF INDEMNIFICATION OBLIGATIONS.**

The indemnification obligations assumed by each party under this Agreement shall survive the expiration or earlier termination of this Agreement.

**42. ATTORNEYS' FEES.**

In the event a suit or arbitration is initiated to resolve a dispute with respect to this Agreement, the losing party in such suit or arbitration shall pay to the prevailing party the reasonable attorneys' fees and other reasonable costs and expenses incurred by the prevailing party in such suit or arbitration. If City prevails, its attorneys' fees shall be computed as if it were represented by attorneys in a private law firm having as many attorneys as are employed by the Seattle Law Department, and with as much experience as that possessed by the attorneys actually representing City.

**43. SUPERSESSION OF AMENDED LICENSING AGREEMENT & RELATED MEMORANDUM OF UNDERSTANDING.**

This Agreement supersedes the "Bagley Wright Theatre at Seattle Center Licensing Agreement" executed on or about February 20, 1981; the "First Amendment to the Bagley Wright Theatre at Seattle Center Licensing Agreement" executed on or about November 3, 1983; the "Memorandum of Understanding by The City of Seattle and The Seattle Repertory Theatre regarding certain production-related equipment contemplated by the Bagley Wright

Theatre at Seattle Center Licensing Agreement" executed on or about July 19, 1991; the letter dated July 7, 1995 that was signed by a representative of each of the parties hereto; and all portions of Resolution 29212 of the Seattle City Council that are inconsistent with the contents hereof.

#### 44. APPENDICES & EXHIBITS.

The following appendices and exhibits are incorporated herein, whether or not attached hereto. Notwithstanding any provision to the contrary herein, the parties hereto may agree to the substitution and replacement, from time to time, of subsequently agreed-upon exhibits without the formality of an actual amendment to this Agreement, each of which substitute and replacement exhibits shall be identified on the face thereof as a substitute and replacement exhibit and the effective date of such substitution and replacement.

Appendix 1	Construction Agreement between The City of Seattle and Seattle Repertory Theatre
Appendix 2	Rent Schedule for Use & Occupancy of Old Premises Through May 31, 2009
Appendix 3	Rent Schedule for Use & Occupancy of Old Premises On & After June 1, 2009
Appendix 4	Rent for Use & Occupancy of New Premises or Land Occupied by New Premises
	* * * * *
Exhibit 1	Legal Description of Premises
Exhibit 2	Equipment Required to Keep Old Premises Equipped as a Fully Functioning Performance Facility
Exhibit 3	Equipment Required to Keep New Premises Equipped as a Fully Functioning Performance Facility
Exhibit 4	SRT Maintenance & Repair Responsibilities With Respect to the New Premises
Exhibit 5	City's Maintenance & Repair Responsibilities With Respect to Old Premises Through May 31, 2009
Exhibit 6	City's Maintenance & Repair Responsibilities With Respect to New Premises

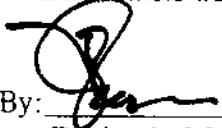
- Exhibit 7 City's & SRT's Maintenance & Repair Responsibilities With Respect to Old Premises On & After June 1, 2009
- Exhibit 8 BWTMR Fund & SRT Replacement Trust Fund: Minimum Annual Deposits & Expenditure Schedule
- Exhibit 9 Minimum Required Insurance Coverage
- Exhibit 10 Division of Insurance Proceeds in Event of SRT Election to Terminate Agreement Following Substantial Damage or Destruction of Premises or Improvements Thereto
- Exhibit 11 SRT Property Inventory

**45. ENTIRE AGREEMENT.**

The parties hereto acknowledge that it is a negotiated understanding, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against either party on the basis of that party's having drafted the same. This Agreement, together with all of the exhibits attached hereto, embodies the entire Agreement of the parties hereto. There are no other understandings or agreements, written or oral, between the parties regarding the Premises except as expressly referenced herein.


IN WITNESS WHEREOF, the authorized representative(s) of each of the parties hereto has/have executed this Agreement by affixing his/her/their signature(s) in the spaces below.

**SEATTLE REPERTORY THEATRE**

By:   
Benjamin Moore, Managing Director

By:   
James F. Tune, Chairman  
Board of Directors

**THE CITY OF SEATTLE**

By:   
Virginia Anderson, Director  
Seattle Center Department

STATE OF WASHINGTON                    )  
  ) ss. (THEATRE'S ACKNOWLEDGEMENT)  
COUNTY OF KING                        )

On this 7 day of May, 1996, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Benjamin Moore and James F. Tune, the respective Managing Director and Chairman of the Board of Trustees of the Seattle Repertory Theatre, who on oath stated that they executed the annexed agreement and acknowledged such agreement to be the free and voluntary act of the Seattle Repertory Theatre for the uses and purposes mentioned therein, and that they were authorized to execute said agreement for and on behalf of the Seattle Repertory Theatre.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Diane James  
(Signature)

DIANE JAMES  
(Print or type name of notary)

Notary Public in and for the State of Washington, residing at Seattle  
My commission expires 6/9/98

STATE OF WASHINGTON                    )  
  ) ss. (CITY'S ACKNOWLEDGMENT)  
THE COUNTY OF KING                        )

On this 9<sup>th</sup> day of May, 1996, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Virginia Anderson, to me known to be the Director of the Seattle Center Department of The City of Seattle, who on oath stated that she executed the annexed agreement, and acknowledged said agreement to be the free and voluntary act and deed of The City of Seattle for the uses and purposes therein mentioned, and that she was authorized to execute said agreement for and on behalf of The City of Seattle.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Carolyn C. Gossard  
(Signature)

CAROLYN C. GOSSARD  
(Print or type name of notary)

Notary Public in and for the State of Washington, residing at Seattle  
My commission expires 11/28/96



APPENDIX 1

**CONSTRUCTION AGREEMENT  
BETWEEN  
THE CITY OF SEATTLE  
&  
SEATTLE REPERTORY THEATRE**

*[Document incorporated, but not attached because of its bulk.]*

## APPENDIX 2

### **RENT SCHEDULE FOR USE & OCCUPANCY OF OLD PREMISES THROUGH MAY 31, 2009**

As consideration for any use of the Old Premises by SRT and all other persons and entities (other than City and third parties authorized by City to use the Old Premises Production Areas pursuant to Section 5 of this Agreement), from and after the Commencement Date of this Agreement through May 31, 2009, SRT shall pay to City the following rent:

In 1996:       \$7,332.83 per month.

Effective January 1, 1997, and each January 1st thereafter during the term hereof, the monthly rent shall be increased by the percentage increase (if any) in the Consumer Price Index ("C.P.I.") for All Urban Consumer Items, All City Average (using the base 1982-84 = 100) as published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of any change in the index base (1982-84 = 100) or other modification of such index, the parties hereto shall apply whatever conversion factor(s) are necessary to establish the true percentage change in the C.P.I. for any year(s) in which such modification(s) occur, and in the event such index is discontinued, the parties hereto shall select and use for such rent adjustment purpose, another, similar index that reflects consumer price changes.

(To illustrate the parties' intentions under this Agreement, if the C.P.I. index for January 1996 = 156.79, and the C.P.I. index for January 1997 = 162.59, the percentage increase in the C.P.I. occurring during 1996 = +3.7%. That percentage, when applied to the 1996 monthly rent of \$7,332.83, would result in an increase of \$271.31, and thus make the revised monthly rent payable for 1997 = \$7,604.14.)

Effective on the third anniversary of the date a Certificate of Occupancy is issued with respect to the New Premises, the then-current revised monthly rent shall be reduced by an amount equal to the average monthly cost incurred by the Seattle Center Department in providing cooling service to the Old Premises pursuant to Subsection 14.A of the annexed Agreement during the first three years after the date a Certificate of Occupancy is issued with respect to the New Premises. The Seattle Center Director shall calculate such average monthly cooling service cost as soon as reasonably possible after such anniversary date but no later than July 1, 1999, and provide notice of to the SRT Managing Director of (a) the amount of such average monthly cooling cost; (b) the amount by which monthly rent as revised by the C.P.I. as provided for herein is to be reduced, and the resulting revised reduced monthly rent; (c) the amount of any rent credit due to SRT (which credit shall be applied by City to the revised reduced monthly rent due for the month(s) immediately after the date of such Director's notice); and (d) the amount of the revised reduced monthly rent due for the month in which such credit is sufficient to pay only a portion of that month's revised reduced monthly rent. Until the SRT Managing Director's receipt of notice of the revised reduced monthly rent, SRT shall continue to pay in a timely manner the revised monthly rent last specified by the Director as provided herein.

### APPENDIX 3

#### **RENT SCHEDULE FOR USE & OCCUPANCY OF OLD PREMISES FROM & AFTER JUNE 1, 2009**

As consideration for any use of the Old Premises by SRT and all other persons and entities (other than City and third parties authorized by City to use the Old Premises Production Areas pursuant to Section 5 of this Agreement), from and after June 1, 2009, SRT shall:

1. Pay to City monthly rent equal to \$1.00 per month consistent with the requirements of Section 6 of the Agreement; AND

2. Provide to City for use by City and City-authorized third parties the Old Premises Production Areas and New Premises Production Areas as contemplated in Section 5 hereof; AND

3. Expend, and provide documentation to the reasonable satisfaction of the Director of SRT's having made an expenditure, no later than September 1, 2010, of not less than One Million Dollars (\$1,000,000) on capital renovations and improvements to the Old Premises (which expenditure shall be in addition to SRT's expenditures from the SRT Replacement Trust Fund pursuant to Section 13 of the annexed Agreement); Provided, that all such renovations and improvements shall be subject to the requirements of Section 12 of this Agreement; Provided, that:

- a. Notwithstanding any provision in Section 12 of this Agreement to the contrary, SRT shall submit to the Director, for the Director's approval, schematic designs, design development drawings, and final working drawings and specifications for all renovations and improvements to be paid for using any portion of such required expenditure;
- b. The Director's approval with respect to any such renovation or improvement project or undertaking involving or affecting, in any manner whatsoever, the exterior of the Old Premises or the New Premises (including but not limited to the appearance of the same) or any City maintenance responsibility under Section 13 of this Agreement, may be granted, withheld, or conditioned in the exercise of the Director's discretion.

In the event that SRT fails to not only expend the amount required by this Exhibit by the deadline specified hereunder but also provide written documentation to the reasonable satisfaction of the Director that such expenditure has been made, the rent for the Old Premises Production Areas shall be renegotiated by the Director and SRT Managing Director, but in the absence of their agreement, shall be fixed at a "fair market rate" as established by a qualified commercial real estate appraiser selected by the City's Mayor.

#### APPENDIX 4

### **RENT SCHEDULE FOR USE & OCCUPANCY OF NEW PREMISES OR LAND OCCUPIED BY NEW PREMISES**

1. Except as provided in Subsection 2 hereof, the annual rent for SRT's use and occupancy of the New Premises shall be the amount specified as the "Level Annual Rent" for the then-current year in the term of said Agreement that is indicated on the attached schedule.

2. In the event that SRT fails to have the New Premises construction fully completed by the date specified in Subsection 29.C of the annexed Facility Use & Occupancy Agreement, and the rent is to be adjusted as contemplated in such subsection, the annual rent specified in Subsection 6.A.(3) of such Agreement for SRT's use of the land occupied by the New Premises (or whatever portion thereof exists at the time) shall be the amount specified as the "Calculated Rent" for the then-current year in the term of said Agreement that is indicated on the attached schedule; Provided, that from and after the date that the New Premises has been completed in a manner consistent with the plans and specifications therefor as last approved by the Director (Exhibits A and D to the Construction Agreement) and all of the theatrical equipment and furnishings identified on Exhibit 3 have been installed in the New Premises (which date shall be reasonably determined by the Director after consultation with the SRT Managing Director), SRT shall pay only the rent for the New Premises specified in Section 1 of this Appendix 4.

NEW ADDITION BAGLEY WRIGHT THEATRE																
Facility:	15,754	Sq. ft.	1	2	3	4	5	6	7	8	9	10	11	12	13	14
<b>SRT Capital Contribution:</b>																
Terminal Depreciation			7,374,338	7,510,317	7,653,847	8,105,170	8,364,535	8,632,201	8,908,431	9,193,501	9,487,893	9,791,289	10,104,621	10,427,968	10,761,663	11,106,037
Present Value of Reversion																
Annual Payments to Recapture			844,668													
<b>City Capital Contribution:</b>																
Terminal Depreciation			0	0	0	0	0	0	0	0	0	0	0	0	0	0
Present Value of Reversion			0													
Annual Payments to Recapture																
<b>SRT CONTRIBUTION</b>																
Recapture of Improvements			75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030
Annual Imputed Rent			75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030
<b>CITY CONTRIBUTION</b>																
Hypothetical Land Rent:																
Land value @	\$50	sq. ft.	787,700	812,906	838,919	865,765	893,469	922,060	951,566	982,016	1,013,441	1,045,871	1,079,339	1,113,878	1,149,522	1,186,307
Increasing at CPI																
Annual return adj. every 5 years @	8.0%		63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016	63,016
Recapture of Improvements			0	0	0	0	0	0	0	0	0	0	0	0	0	0
Management Costs			4,000	4,128	4,260	4,396	4,537	4,682	4,832	4,987	5,146	5,311	5,481	5,656	5,837	6,024
Calculated Annual Rent:			67,016	67,144	67,276	67,412	67,553	67,697	67,847	67,997	68,148	68,299	68,451	68,603	68,756	68,910
"Fair Rent" = Calculated Rent less Imp. Rent			(8,014)	(7,886)	(7,754)	(7,617)	(7,477)	(7,341)	(7,207)	(7,075)	(6,944)	(6,814)	(6,685)	(6,556)	(6,428)	(6,301)
Present Value of "Fair Rent" Payments (assumes 8.0% discount rate)			62,091													
Level Annual Rent			5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515



NEW ADDITION BAGLEY WRIGHT THEATRE																
Facility	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
<b>SRT Capital Contribution:</b>																
Terminal Depreciation	11,461,430	11,828,196	12,206,698	12,587,312	13,000,426	13,416,440	13,845,768	14,288,830	14,746,073	15,217,947	15,704,922	16,207,479	16,726,118	17,261,354	17,813,718	18,383,757 (9,884,148)
Present Value of Reversion																
Annual Payments to Recapitula																8,499,609
<b>City Capital Contribution:</b>																
Terminal Depreciation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Present Value of Reversion																0
Annual Payments to Recapitula																0
<b>SRT CONTRIBUTION</b>																
Recapture of Improvements	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030	75,030
Annual Imputed Rent																
<b>CITY CONTRIBUTION</b>																
Hypothetical Land Rent																
Land value @	1,224,268	1,263,445	1,303,875	1,345,599	1,388,658	1,433,095	1,478,964	1,526,281	1,575,122	1,625,626	1,677,543	1,731,224	1,786,623	1,843,795	1,902,797	1,963,686
Increasing at CPI																
Annual return adj. every 5 years @	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347	86,347
Recapture of Improvements	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Management Costs	6,217	6,416	6,621	6,833	7,052	7,277	7,510	7,751	7,999	8,255	8,519	8,791	9,073	9,363	9,663	9,972
Calculated Annual Rent	92,564	92,763	92,968	93,180	93,399	93,624	93,857	94,098	94,346	94,602	94,866	95,138	95,420	95,710	96,010	96,319
"Fair Rent" = Calculated Rent less Imp.	17,534	17,733	17,939	18,150	18,369	18,595	18,828	19,068	19,316	19,572	19,836	20,109	20,390	20,680	20,980	21,289
Present Value of "Fair Rent" Payments (assumes 8.0% discount rate)																
Level Annual Rent	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515	5,515

## EXHIBIT 1

### **LEGAL DESCRIPTION FOR OLD PREMISES**

The building and adjacent parking area located on portions of Lots 2-5 and 10-14, Block 34, D. T. Denny's Home Addition to the City of Seattle, as recorded in Volume 3 of Plats, page 115, Records of King County, Washington.

### **LEGAL DESCRIPTION FOR LAND OCCUPIED BY NEW PREMISES**

Portions of Lots 5-10, Block 34, D. T. Denny's Home Addition to the City of Seattle, as recorded in Volume 3 of Plats, page 115, Records of King County, Washington.

## EXHIBIT 2

### EQUIPMENT REQUIRED TO KEEP OLD PREMISES EQUIPPED AS A FULLY FUNCTIONING PERFORMANCE FACILITY

#### LIGHTING:

Front End Control Console  
Submaster Console  
Dimmer Racks and Dimmers  
Printer  
System CRT Monitors  
House Light Control Stations  
Work Light Control Stations  
Raceways  
Cue Light System  
Remote Cue Light System  
40 Fresnels  
65 PARS  
100 Lekos  
2 Followspots  
40 Cyc Lights

#### OTHER:

Stage Floor  
Theatre Seats

#### AUDIO:

Mixing Console and Remote Console  
Built-in Amplifiers with Racks  
Built-in Speakers including Center Cluster, Surround and Fill  
Page/Monitor System  
Headset System  
Assistive Listening System  
Effects Processing Equipment  
2 Reel-to-Reel Tape Decks with Auto Locators  
Misc. Miscrphones, Stands, Booms  
DAT Recorder  
CD Player  
2 3-way Portable Monitor Speakers  
4 2-way Portable Monitor Speakers  
2 Mixing Console Monitor Speakers

#### RIGGING/FLY SYSTEM:

65 Counterweighted 50' Linesets  
6 Motorized Tab Winches  
2 Grid Motorized Winches  
1 Bull Winch  
80 Mule Blocks  
30 Loft Blocks  
Sand Bags, Hemp, Misc. Rigging Supplies

#### SOFT GOODS:

Fire Curtain  
Act Curtain  
Grand Teaser  
4 Traveller Panels (Used for Blackout Curtain)  
20 Legs  
6 Borders  
Cyc  
Scrim

### EXHIBIT 3

#### **EQUIPMENT REQUIRED TO KEEP NEW PREMISES EQUIPPED AS A FULLY FUNCTIONING PERFORMANCE FACILITY**

##### **LIGHTING EQUIPMENT:**

Control Console  
2 Back-up Control Consolettes  
Dimmer Racks and Dimmers w/ Advanced Features  
Printer  
System CRT Monitors  
House Light Control Stations  
Worklight Control Stations  
Raceways and Plug-in Boxes  
Cue Light System  
5 Lighting Trusses with Chain Motors  
165 Lekos  
20 Pars  
20 Fresnels  
8 Cyc Lights

##### **OTHER:**

Stage Floor  
Theatre Seats

##### **AUDIO:**

Mixing Console  
Amplifiers and Racks  
Speakers for Effects and P.A.  
Programmable Page/Monitor System  
Headset System with Wireless Components  
Dual Channel Assistive Listening System  
Video Monitoring System with IR Lights  
Equalizers  
Effects Processor  
CD Player  
Cassette Player  
CD Recorder  
Power Conditioners  
Otari Reel to Reel Decks  
Patchbay and Cables  
Wireless Mics and Receivers  
Various Microphones  
Production Control Panel

##### **RIGGING/FLY SYSTEM:**

Pipes  
Rope for Linesets  
6 General Purpose Chain Motors  
Pin Rail

##### **SOFT GOODS:**

Grand Drape  
Grand Valence  
3 Borders  
6 Legs  
Blackout  
3 Scrims  
5 Storage Hampers

##### **NOTE:**

EXHIBIT 3 will be revised to reflect inventory  
upon completion of new premises.

## EXHIBIT 4

### **SRT'S MAINTENANCE & REPAIR RESPONSIBILITIES WITH RESPECT TO THE NEW PREMISES**

#### **1. DEFINITIONS**

As used in this exhibit, the following definitions shall be controlling unless another meaning is clearly evident from the context:

"Routine repair" means work required when equipment or a structural or system element is partially or fully inoperable.

"Predictive maintenance" means work of a non-routine nature performed to avoid an untimely failure of equipment or a system.

"Preventive maintenance" means routine work accomplished on a regular schedule to avoid routine repair and/or to extend the useful life of equipment or a structural or system element.

"Major maintenance" means work required when an item of equipment or a structural or system element has reached the end of its useful life and must be replaced or rebuilt.

"End of useful life" means the good faith and reasonable determination by the SRT Managing Director that an item of equipment or a building element no longer functions and cannot be economically repaired or rebuilt, or, in the case of a component, replaced.

"Stage production equipment" means theatrical equipment necessary to operate a live production for the stage, and includes but is not limited to the lightboard, dimmers, lighting equipment, soft goods, the sound system, and fixed and movable rigging equipment.

#### **2. MAINTENANCE SCHEDULE**

SRT shall perform or have performed all of the following maintenance work consistent with the schedule below:

##### **A. Routine Repair:**

Electrical system -- Repair all system components up to the service entrance including but not limited to panels, conduits, wires, fixtures, and lamps; replace exit lighting batteries.

Elevator -- After the elevator warranty expires, contract and pay for elevator maintenance servicing including all routine and emergency repair required; contract and

pay for monitoring of the elevator emergency telephone for A.D.A. compliance purposes; comply with the recommendations of City's elevator inspector(s).

Exterior Doors and Locks -- Repair as needed.

Exterior Building Lighting -- Repair controllers for the exterior lights connected to the New Premises electrical system.

Exterior Hard Surfaces -- Clean and maintain the hard surfaces of the courtyard on the West side of the New Premises.

Fixed Seats -- Repair seat anchors, pivots, upholstery, and other parts as necessary.

Interior Doors and Locks -- Repair as needed.

Interior Finishes and Accessories -- Repair walls, ceilings, floors, and all other interior finishes and accessories as needed; remove and/or paint over all graffiti and repair all other vandalism within three (3) days SRT's receipt of a report of the existence of such graffiti or vandalism, or such within shorter period as may be required by law or ordinance.

Potable Water System and Waste Water System -- Repair showers, sinks, drains, toilets, urinals, sump pump, dispensers, and drinking fountains, as needed; repair the waste water system lines out to the building cleanout closest to the exterior wall, and the potable water system out to the water meter, each as needed.

Rest room Stalls -- Repair doors, pilasters, hardware, and other parts as necessary.

Stage Production Equipment -- Repair all stage production equipment as necessary. After the warranties expire, where applicable, purchase a maintenance and emergency repair contract or contracts or otherwise provide for the necessary maintenance.

B. Preventive & Predictive Maintenance: (Task items and frequency are as specified below, or consistent with the manufacturer's recommendations, warranty requirements, or code or regulatory requirements, whichever is the most stringent.)

Electrical System -- Annually check, tighten and clean all panels, switch gears and connectors; check motor operation; read amperage; replace bad bearings; tighten connections on control and contactors; as necessary, rewind motor, replace bearings, controls, heaters, fuses, breakers, and occupancy sensors; every five years, replace emergency battery packs.

HVAC -- The following tasks shall be completed quarterly and repairs made as necessary:



Supply Fans -- Inspect fan bearings, scroll and blades, clean as required; inspect for leakage and clean coil face as required; inspect belt alignment and sheave wear. Inspect filters for condition and pressure drop; change and clean filter rack; inspect damper and valve controls; inspect motor bearings, record operating amps and check mountings and bolts.

Exhaust Fans -- Inspect fan bearings, scroll and blades; clean and grease as required; inspect belt alignment and sheave wear; inspect motor bearings; record operating amps and check mountings and bolts.

Pumps -- Inspect motor and bearings, check amperage and mounts, oil or grease as necessary; check pump for noise and vibration, and oil or grease as necessary; check packing for leakage and coupling for alignment and wear, adjust or replace as necessary; inspect pump mounts.

Elevator -- After the elevator warranty expires, contract and pay for elevator maintenance servicing providing for all necessary preventive and predictive maintenance.

Exterior Doors and Locks -- Annually inspect, adjust and tighten hinges, pivots and closure hardware; conduct three-cycle performance tests on doors.

Fixed Seats -- Annually inspect for motion and function of backs, seats, and standards; tighten as needed.

Interior Finishes and Accessories -- Annually inspect and repair walls, ceilings, floors and all other interiors finishes; biennially reseal all ceramic tile grout.

Potable Water System and Waste Water System -- Complete the following tasks quarterly and make appropriate repairs or replacements as necessary:

Drinking Fountain -- Check function, drain, cartridges and mounting.

Toilets and urinals -- Check flushometer, seat, base, drain and flow mountings.

Sink/valve and wash up sink -- Check operation flow, temperature mounting, drain, and back flow preventer; have operation of back flow preventer annually certified by properly licensed personnel.

Dispensers -- Check mounting and function.

Drains -- Check function.

Showers -- Check valve and drain.

Sump -- Check function, fittings and mounting.

Plumbing system, generally -- Treat plumbing system annually with bacterial viable enzymes.

Rest room Stalls -- Annually inspect for tightness and alignment of doors, pilasters, and hardware; tighten and adjust as needed.

Stage Production Equipment -- Where applicable, after the warranties expire, purchase a preventive maintenance contract or contracts or otherwise provide for the necessary maintenance; as necessary, repack bearings, change hemp, and lubricate the rigging equipment.

Other Elements -- Make repairs as necessary.

C. Major Maintenance:

Building Systems -- Replace or rebuild all interior building systems and individual components thereof when each reaches the end of its useful life.

HVAC -- Replace or rebuild supply and exhaust fans, pumps, belts, controls and other components when each reaches the end of its useful life.

Elevator -- Replace or rebuild the elevator when it reaches the end of its useful life.

Exterior Doors and Locks -- Replace or rebuild each when it reaches the end of its useful life.

Fixed Seats -- Reupholster or replace when each reaches the end of its useful life.

Interior Doors and Locks -- Replace or rebuild when each reaches the end of its useful life.

Stage Production Equipment -- Replace when each item thereof reaches the end of its useful life.

D. Record Keeping: SRT shall maintain complete and accurate records of all routine repairs, preventive and predictive maintenance, and major maintenance undertaken in and with respect to the New Premises. A written report documenting all of the routine maintenance, preventive and predictive maintenance, and major maintenance work performed in, on, and with respect to the New Premises during the twelve (12) months immediately preceding each July 1st during the term hereof shall be delivered annually by SRT to the Director on or before September 1st, beginning September 1, 1997, and continuing through September 1, 2009.

E. Permits & Certificates: Any permit or certificate, as required by law or ordinance, for operation of any elevator, hot water tank assembly or boiler, or air compressor on or in the

portion of the Premises to be maintained under this Exhibit, and any permit required by any hazardous substance or hazardous waste enactment affecting activity in the portion of the Premises to be maintained under this Exhibit shall be secured and maintained in full force and effect.

## EXHIBIT 5

### **CITY'S MAINTENANCE & REPAIR RESPONSIBILITIES WITH RESPECT TO OLD PREMISES THROUGH MAY 31, 2009**

#### **1. DEFINITIONS**

As used in this exhibit, the following definitions shall be controlling unless another meaning is clearly evident from the context:

"Routine repair" means work required when equipment or a structural or system element is partially or fully inoperable.

"Predictive maintenance" means work of a non-routine nature performed to avoid an untimely failure of equipment or a system.

"Preventive maintenance" means routine work accomplished on a regular schedule to avoid routine repair and/or to extend the useful life of equipment or a structural or system element.

"Major maintenance" means work required when an item of equipment or a structural or system element has reached the end of its useful life and must be replaced or rebuilt.

"End of useful life" means the good faith and reasonable determination by the Director that an item of equipment or a building element no longer functions and cannot be economically repaired or rebuilt, or, in the case of a component, replaced.

"Stage production equipment" means theatrical equipment necessary to operate a live production for the stage, and includes but is not limited to the lightboard, dimmers, lighting equipment, soft goods, the sound system, and fixed and movable rigging equipment.

#### **2. MAINTENANCE SCHEDULE**

Seattle Center shall perform the following maintenance work with respect to the Old Premises through May 31, 2009, according to the schedule below:

##### **A. Routine Repair:**

Electrical system -- Repair all system components up to the service entrance including but not limited to panels, conduits, wires, fixtures, and lamps; replace exit lighting batteries.

Elevator -- Contract and pay for elevator maintenance servicing including all routine and emergency repair required; contract and pay for monitoring of the elevator emergency

telephone for A.D.A. compliance purposes; comply with the recommendations of City's elevator inspector(s).

Exterior Doors and Locks -- Repair as needed.

Exterior Shell -- Repair foundation, walls and all other exterior finishes other than exterior windows, doors and the roof, as needed; remove and/or paint over all graffiti and repair all vandalism within three (3) days after the receipt by Seattle Center's Technical Facilities Manager, or such official's functional successor, of a report of the existence of such graffiti or vandalism.

Exterior Windows -- Clean exterior side of windows one (1) time per year and repair damaged or broken windows as needed.

Exterior Building Lighting -- Repair controllers for the exterior lights connected to the Old Premises electrical system.

Roof -- Patch as needed; Provided, that if roof patching is necessary due to unauthorized access to the roof by SRT or any of its employees, agents or contractors, SRT shall reimburse City for the labor and materials required to repair the roof.

HVAC -- Repair supply and exhaust fans, pumps, belts, controls and other components as needed.

Fixed Seats -- Repair seat anchors, pivots, upholstery, and other parts as necessary.

Potable Water System and Waste Water System -- Repair showers, sinks, drains, toilets, urinals, sump pump, dispensers, and drinking fountains, as needed; repair the waste water system lines out to the building cleanout closest to the exterior wall, and the potable water system out to the water meter, each as needed; as needed, repair system lines from the building cleanout closest to the exterior wall to the main water line for the waste water system.

Rest room Stalls -- Repair doors, pilasters, hardware, and other parts as necessary.

Interior Doors and Locks -- Repair as needed.

Interior Finishes and Accessories -- Repair walls, ceilings, floors, and all other interior finishes and accessories as needed; remove and/or paint over all graffiti and repair all vandalism within three (3) days after the receipt by Seattle Center's Technical Facilities Manager, or such official's functional successor, of a report of the existence of such graffiti or vandalism.

B. Preventive & Predictive Maintenance: (Task items and frequency are minimum standard)

Exterior walls -- Inspect annually and repair as needed; seal every ten (10) years.

Exterior windows - Inspect annually and repair as needed.

Roof -- Biannually clean gutters and drains and inspect; floodcoat once every five (5) years.

Waste water system -- Inspect annually; clean from the building cleanout closest to the exterior walls to the main water line as needed.

Electrical System -- Annually check, tighten and clean all panels, switch gears and connectors; check motor operation; read amperage; replace bad bearings; tighten connections on control and contactors; as necessary, rewind motor, replace bearings, controls, heaters, fuses, breakers, and occupancy sensors; every five years, replace emergency battery packs.

HVAC -- The following tasks shall be completed quarterly and repairs made as necessary:

Supply Fans -- Inspect fan bearings, scroll and blades, clean as required; inspect for leakage and clean coil face as required; inspect belt alignment and sheave wear. Inspect filters for condition and pressure drop; change and clean filter rack; inspect damper and valve controls; inspect motor bearings, record operating amps and check mountings and bolts.

Exhaust Fans -- Inspect fan bearings, scroll and blades; clean and grease as required; inspect belt alignment and sheave wear; inspect motor bearings; record operating amps and check mountings and bolts.

Pumps -- Inspect motor and pump bearings, check amperage and mounts, oil or grease as necessary; check pump for noise and vibration, and oil or grease as necessary; check seals for leakage and coupling for alignment and wear, adjust or replace as necessary; inspect pump mounts.

Elevator -- Contract and pay for elevator maintenance servicing providing for all necessary preventive and predictive maintenance by an elevator mechanic.

Exterior Doors and Locks -- Annually inspect, adjust and tighten hinges, pivots and closure hardware; conduct three-cycle performance tests on doors.

Fixed Seats -- Annually inspect for motion and function of backs, seats, and standards; tighten and repair as needed.

Interior Finishes and Accessories -- Annually inspect and repair walls, ceilings, floors and all other interiors finishes; biennially reseal all ceramic tile grout.



Potable Water System and Waste Water System -- Complete the following tasks quarterly and make appropriate repairs or replacements as necessary:

Drinking Fountain -- Check function, drain, cartridges and mounting.

Toilets and urinals -- Check flushometer, seat, base, drain and flow mountings.

Sink/valve and wash up sink -- Check operation flow, temperature mounting, drain, and back flow preventer; have operation of back flow preventer annually certified by properly licensed personnel.

Dispensers -- Check mounting and function.

Drains -- Check function.

Showers -- Check valves and drains.

Sump -- Check function, fittings and mounting.

Plumbing system, generally -- Treat plumbing system annually with bacterial viable enzymes.

Rest room Stalls -- Annually inspect for tightness and alignment of doors, pilasters, and hardware; tighten and adjust as needed.

Other Elements -- Make repairs as necessary.

C. Major Maintenance:

Exterior walls -- Repair any damage to or replace exterior wall surface when it reaches the end of its useful life; paint as needed.

Exterior windows -- Replace caulking when it reaches the end of its useful life.

Roof -- Replace when existing roof reaches the end of its useful life.

Waste water system -- Replace supply and waste lines from the building cleanout closest to the exterior wall to the main line, as needed.

HVAC -- Replace or rebuild supply and exhaust fans, pumps, belts and controls and other elements when each has reached the end of its useful life.

Other Building Systems -- Replace or rebuild all interior building systems and individual components thereof when each reaches the end of its useful life.

Elevator -- Replace or rebuild the elevator when it reaches the end of its useful life.

Exterior Doors and Locks -- Replace or rebuild each when it reaches the end of its useful life.

Interior Doors and Locks -- Replace or rebuild when each reaches the end of its useful life.

Fixed Seats -- Reupholster or replace when each reaches the end of its useful life.

D. Permits & Certificates: Any permit or certificate, as required by law or ordinance, for operation of any elevator, hot water tank assembly or boiler, or air compressor on or in the portion of the Premises to be maintained under this Exhibit, and any permit required by any hazardous substance or hazardous waste enactment affecting activity in the portion of the Premises to be maintained under this Exhibit shall be secured and maintained in full force and effect.

## EXHIBIT 6

### **CITY'S MAINTENANCE & REPAIR RESPONSIBILITIES WITH RESPECT TO NEW PREMISES**

#### **1. DEFINITIONS**

As used in this exhibit, the following definitions shall be controlling unless another meaning is clearly evident from the context:

"Routine repair" means work required when equipment or a structural or system element is partially or fully inoperable.

"Predictive maintenance" means work of a non-routine nature performed to avoid an untimely failure of equipment or a system.

"Preventive maintenance" means routine work accomplished on a regular schedule to avoid routine repair and/or to extend the useful life of equipment or a structural or system element.

"Major maintenance" means work required when an item of equipment or a structural or system element has reached the end of its useful life and must be replaced or rebuilt.

"End of useful life" means the good faith and reasonable determination by the Director that an item of equipment or a building element no longer functions and cannot be economically repaired or rebuilt, or, in the case of a component, replaced.

#### **2. MAINTENANCE SCHEDULE**

Seattle Center shall perform the following maintenance according to the schedule below:

##### **A. Routine Repair:**

Exterior Shell -- Repair foundation, walls and all other exterior finishes other than exterior windows, doors and the roof, as needed; remove and/or paint over all graffiti and repair all vandalism within three (3) days after the receipt by Seattle Center's Technical Facilities Manager, or such official's functional successor, of a report of the existence of such graffiti or vandalism.

Exterior Windows -- Clean exterior side of windows one (1) time per year and repair damaged or broken windows as needed.

Roof -- Patch as needed; Provided, that if roof patching is necessary due to unauthorized access to the roof by SRT or any of its employees, agents or contractors, SRT shall reimburse City for the labor and materials required to repair the roof.

B. Preventive & Predictive Maintenance: (Task items and frequency are minimum standard)

Exterior walls -- Inspect annually and repair as needed; seal every ten (10) years.

Exterior windows - Inspect annually and repair as needed.

Roof -- Biannually clean gutters and drains and inspect; floodcoat once every five (5) years.

C. Major Maintenance:

Exterior walls -- Repair any damage to or replace exterior wall surface when it reaches the end of its useful life; paint as needed.

Exterior windows -- Replace caulking when it reaches the end of its useful life.

Roof -- Replace when existing roof reaches the end of its useful life.

D. Permits & Certificates: Any permit or certificate, as required by law or ordinance, for operation of any elevator, hot water tank assembly or boiler, or air compressor on or in the portion of the Premises to be maintained under this Exhibit, and any permit required by any hazardous substance or hazardous waste enactment affecting activity in the portion of the Premises to be maintained under this Exhibit shall be secured and maintained in full force and effect.

## EXHIBIT 7

### **CITY'S & SRT'S MAINTENANCE & REPAIR RESPONSIBILITIES WITH RESPECT TO OLD PREMISES & NEW PREMISES ON & AFTER JUNE 1, 2009**

A. City Maintenance Responsibilities: On and after June 1, 2009, City shall continue to perform or have performed all of the exterior shell, exterior walls, exterior windows, exterior doors and locks, and roof maintenance work specified in Exhibits 5 and 6 according to the schedule set forth therein.

B. SRT Maintenance Responsibilities: On and after June 1, 2009, SRT shall perform or have performed all of the maintenance work described in Exhibits 4, 5 and 6 according to the schedule set forth therein, other than the maintenance of the roof and the exterior shell (including exterior doors and locks, exterior windows, and exterior walls) of the New Premises and Old Premises (which maintenance shall remain a City responsibility). SRT shall maintain complete and accurate records, in writing, of all routine repairs, preventive and predictive maintenance, and major maintenance undertaken in, on, and with respect to the Premises. Commencing on September 1, 2010, and on each September 1st thereafter during the term hereof, SRT shall deliver to the Director a written report documenting all of the routine maintenance, preventive and predictive maintenance, and major maintenance work performed in, on, and with respect to the Premises during the twelve (12) months that immediately precede the July 1st that is immediately prior to such report deadline.

EXHIBIT 8

**BWTMRR FUND & SRT REPLACEMENT TRUST FUND:  
MINIMUM ANNUAL DEPOSITS & EXPENDITURE SCHEDULE**



**AMENDMENT NO. 1  
TO FACILITY USE AND OCCUPANCY AGREEMENT  
BETWEEN  
SEATTLE REPERTORY THEATRE  
&  
THE CITY OF SEATTLE**

THIS FIRST AMENDATORY AGREEMENT is entered into by and between the **Seattle Repertory Theatre** (hereinafter referred to as "SRT"), a not-for-profit corporation organized under the laws of, and authorized to do business in the State of Washington, and **The City of Seattle** (hereinafter referred to as "the City"), a municipal corporation of the State of Washington.

WHEREAS, on or about May 9, 1996, the parties hereto entered into a Facility Use and Occupancy Agreement, (hereinafter referred to as the "Agreement"), pursuant to which SRT was authorized to use and occupy certain premises located at 155 Mercer Street at Seattle Center in Seattle, King County, Washington; and

WHEREAS, the Agreement provided for SRT to commence paying the City directly for the cost of heating and cooling services rather than having those costs included in the rent, and the rent was accordingly reduced by an amount intended to be equal to the average cost of heating the Old Premises, all of which was designed to be cost neutral for SRT and revenue neutral for the City, yet provide an incentive for SRT to conserve energy; and

WHEREAS, the formula used in calculating the average cost of heating the Old Premises, "Fuel Cost per Therm  $\times$  Boiler Efficiency  $\times$  (1 - Line Loss %)  $\times$  Pounds of Water per Gallon (pressure)  $\times$  Gallons of Condensate (units used) /100", was incorrect and should have been "(Fuel Cost per Therm / Boiler Efficiency / (1 - Line Loss %))  $\times$  Pounds of Water per Gallon (pressure)  $\times$  Gallons of Condensate (units used) /100", thereby understating the average cost of heating; and

WHEREAS, the agreement included a rate and allocation percentage for the cost of cooling which was incorrect; and

WHEREAS, the Consumer Price Index for All Urban Consumer Items, All City Average included in the lease as the index for annual rent increases is inconsistent with the Seattle Center Department's practice of using the Consumer Price Index for All Urban Consumer Items, Seattle, Tacoma, Bremerton Area; and

WHEREAS, the Parties have agreed to delay the due date for notification of the Old Premises cooling cost credit; and

WHEREAS, the parties hereto desire to modify their agreement to make these corrections; and

WHEREAS, the changes contemplated above are not inconsistent with current City policies and procedures; NOW, THEREFORE,

IN CONSIDERATION of the mutual promises, covenants and conditions set forth in this Amendment, the parties agree as follows:

1. Appendix 2 is amended to read as follows, thereby replacing the original Appendix 2:

As consideration for any use of the Old Premises by SRT and all other persons and entities (other than City and third parties authorized by City to use the Old Premises Production Areas pursuant to Section 5 of this Agreement), from and after the Commencement Date of this Agreement through May 31, 2009, SRT shall pay to City the following rent:

In 1996:       \$ 6,835.29 per month.

Effective January 1, 1997, and each January 1st thereafter during the term hereof, the monthly rent shall be increased by the percentage increase (if any) in the Consumer Price Index ("CPI") for All Urban Consumer Items, Seattle, Tacoma, Bremerton Area (using the base 1982-84 = 100) as published by the US Department of Labor, Bureau of Labor Statistics, or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of any change in the index base (1982-84 = 100) or other modification of such index, the parties hereto shall apply whatever conversion factor(s) are necessary to establish the true percentage change in the CPI for any year(s) in which such modification(s) occur, and in the event such index is discontinued, the parties hereto shall select and use for such rent adjustment purpose, another, similar index that reflects consumer price changes.

(To illustrate the parties' intentions under this Agreement, if the CPI index for January 1996 = 156.79, and the CPI index for January 1997 = 162.59, the percentage increase in the CPI occurring during 1996 = +3.7%. That percentage, when applied to the 1996 monthly rent of \$6,835.29, would result in an increase of \$252.91, and thus make the revised monthly rent payable for 1997 = \$7,088.20.)

Effective on January 1, 2005, the 2005 revised monthly rent of \$8,617.48 shall be reduced by \$1,729.12, which is an amount equal to the average monthly cost incurred by the Seattle Center Department during 2002, 2003 and 2004 in providing cooling service to the Old Premises pursuant to Subsection 14.A of the Agreement. Until the SRT Managing Director's receipt of notice of the revised reduced monthly rent, SRT shall continue to pay in a timely manner the revised monthly rent last specified by the Director as provided herein.

2. Section 6.A.(4)(c) is amended to read as follows, thereby replacing the original Section 6.A (4)(c):

The cost of cooling services provided by the Seattle Center to the New Premises from and after the date of issuance by City of a Certificate of Occupancy for the New Premises, and to the Old Premises, all at the rate of \$.21 per ton hour increased by the ratio of the current cost of a kilowatt-hour divided by the 1986 cost of a kilowatt-hour: \$.0265;

3. The last sentence of Section 14. A. is amended to read as follows, thereby replacing the last sentence of Section 14. A.:

The total cost of cooling services provided to the Premises shall be divided in the following manner: Sixty-five percent (65%) shall be attributed to the Old Premises, and the remainder shall be attributed to the New Premises.

4. Section D.2 of Exhibit 9 is amended to read as follows, thereby replacing the original Section D.2 of Exhibit 9:

The evidence specified in Subsection D.1 hereof shall be delivered as follows:

Director  
Seattle Center Department  
The City of Seattle  
305 Harrison Street  
Seattle, WA 98109

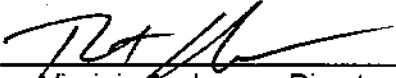
Risk Manager  
Finance Department  
The City of Seattle  
600 Fourth Avenue  
Seattle, WA 98104

or to such other official(s) and address(es) as City may hereafter specify.

5. All of the terms and conditions of the Facility Use and Occupancy Agreement shall remain in full force and effect except as provided in or as modified by this Amendment. The additions, deletions, and modifications made herein shall be effective as of the date this Agreement is fully executed.

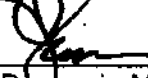
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by having an authorized representative of each such party affix his/her signature in the space below:

THE CITY OF SEATTLE

By:   
Virginia Anderson, Director

Date: 7/7/05

SEATTLE REPERTORY THEATRE

By:   
Benjamin Moore, Managing Director

Date: 7.15.05

By:   
Bruce E.H. Johnson, Board of Directors Chair

Date: 8-8-05

**SECOND AMENDMENT  
TO FACILITY USE AND OCCUPANCY AGREEMENT  
BETWEEN  
SEATTLE REPERTORY THEATRE  
AND  
THE CITY OF SEATTLE**

This SECOND AMENDMENT AGREEMENT is entered into by the CITY OF SEATTLE (hereinafter referred to as "City"), acting by and through its Seattle Center Department, and the SEATTLE REPERTORY THEATRE (hereinafter referred to as "SRT"), a not-for-profit corporation organized under the laws of the State of Washington.

WHEREAS, the Seattle Repertory Theatre was founded in 1963 and began operations in the Seattle Center Playhouse, making it one of the longest standing resident organizations at Seattle Center; and

WHEREAS, Ordinance 109853 passed by the City Council in 1981, authorized an agreement between the City and SRT regarding the design and construction of a theatre on the Seattle Center campus to be the new home for the Seattle Repertory Theatre and authorized a licensing agreement for use of the new theatre by SRT from the inaugural season of 1983-4 through the 2008-9 season, with the agreement expiring May 31, 2009; and

WHEREAS, the new theatre at Seattle Center was completed in 1983 at a cost of \$10 million, \$5.6 million in 1977 bond funds from the City, and \$4.4 million from SRT, with the new theatre being named the Bagley Wright Theatre (BWT) in recognition of substantial donations to the project by anonymous private donors in honor of Bagley Wright; and

WHEREAS, in May 1996, authorized by Ordinance 118109, the City and SRT executed a 30-year Facility Use and Occupancy Agreement ("1996 Agreement") which incorporated the new, second stage addition to the BWT now known as the Leo Kreielsheimer Theatre and extended the term for use of the BWT by 17 years, from 2009 to 2026; and

WHEREAS, one of the goals of the 1996 Agreement, as stated in Ordinance 118109, was for SRT to assume greater financial responsibility for costs of its operations; and

WHEREAS, under the 1996 Agreement, by June 1, 2009, SRT would assume full responsibility for operating and maintenance costs and building systems of the BWT, except for the roof and exterior shell, consistent with the structure of more recent agreements between Seattle Center and resident arts organizations; and

WHEREAS, the severe economic downturn which began in 2008 had a dramatic impact on SRT, reducing the value of its endowment and ultimately resulting in a one-third reduction in SRT's operating budget, including layoffs, furloughs and a four-day work week for full-time staff; and

WHEREAS, due to the impact of the economic downturn, SRT was not able to assume the financial obligations of the 1996 Agreement by June 1, 2009 and initiated discussions with the City on revisions to and/or postponement of terms of the 1996 Agreement; and

WHEREAS, the City and SRT have negotiated a five-year interim agreement which recognizes the ongoing economic challenges while still making progress towards the goals of the 1996 Agreement; and

WHEREAS, SRT remains committed to assuming financial responsibility for the operating and maintenance expenses of the BWT per the 1996 Agreement, and at the end of this five-year interim agreement, the terms of the 1996 Agreement shall be in effect; NOW THEREFORE,

The parties agree as follows:

The ending date of the 1996 Agreement is changed from May 31, 2026 to June 30, 2026 in order to be in alignment with SRT's fiscal year, which runs from July 1 to June 30. The term of the 5-year interim agreement begins June 1, 2009 and ends June 30, 2014.

Year 1 of the interim agreement begins June 1, 2009 and ends June 30, 2010. Years 2 through 5 begin July 1 and end the following June 30.

During the term of this 5-year interim agreement, provisions of the 1996 Agreement are amended as follows:

- SRT foregoes its 2009 and 2010 contributions to SRT's Replacement Trust Fund.
- SRT makes annual contributions to the SRT Replacement Trust Fund after 2010 as follows:
  - 2011 – 1/3 of the 2011 amount in Exhibit 8 of the 1996 Agreement
  - 2012 – 2/3 of the 2012 amount in Exhibit 8 of the 1996 Agreement
  - 2013 and beyond – 100% of the amount in Exhibit 8 of the 1996 Agreement
- SRT rent continues under the pre-June 1, 2009 terms of the 1996 Agreement and first amendment.
- Seattle Center continues to provide janitorial services at the BWT at no additional cost to SRT.
- Seattle Center maintenance staff (trades and laborers) continues to provide routine maintenance and repair (O&M) services and supplies at the BWT. These routine and repair services are paid for as follows:
  - Year 1 – City pays 100% of routine O&M expenses at the BWT, same as under the pre-June 1, 2009 arrangement in the 1996 Agreement, with funding from the Seattle Center Operating Budget.
  - Year 2 – City pays 1/2 from the Seattle Center Operating Budget and 1/2 from the City's Bagley Wright Theatre Maintenance, Repair and Replacement Fund.
  - Year 3 – SRT pays 2/3 from the SRT Replacement Trust Fund; City pays 1/3 from the City's Bagley Wright Theatre Maintenance, Repair and Replacement Fund.

- Years 4 and 5 – SRT pays 100% from the SRT Replacement Trust Fund and/or the SRT Operating Budget.
- SRT and City shall work together to commission an assessment of building and theatrical systems in the BWT and the projected costs for maintaining and/or replacing such systems, with the cost of such assessment to be paid from the City's Bagley Wright Theatre Maintenance, Repair and Replacement Fund.
- There will be a moratorium on spending from the City's Bagley Wright Theatre Maintenance, Repair and Replacement Fund and SRT's Replacement Trust Fund, except as agreed upon between the parties in writing, until the building and theatrical systems assessment is completed.
- If a major capital expense need arises that is beyond the resources of the City's Bagley Wright Theatre Maintenance, Repair and Replacement Fund and SRT's Replacement Trust Fund, taking into consideration other obligations of these two Funds, SRT will take the lead in addressing how to fund this need.
- The \$1 million SRT capital contribution required under the 1996 Agreement by September 1, 2010, in connection with SRT rent for the BWT being reduced to \$1, is delayed by five years to September 1, 2015. In order to preserve the value of this capital contribution, the \$1 million capital contribution amount will have annual CPI adjustments from 2010 to 2015. For example, if the CPI adjustment were 3% per year, the required capital contribution by September 1, 2015 would be approximately \$1,160,000. Actual CPI adjustments will be calculated in the same manner as for CPI adjustments to SRT rent for the BWT.
- Seattle Center and SRT will review the current mutual reporting requirements of the 1996 Agreement and agree on revisions for this interim period that can reasonably be met by both parties.

Except to the extent otherwise modified herein, the 1996 Agreement remains in full force and effect. The amendments and modifications to the 1996 Agreement shall terminate as of July 1, 2014 and the Parties will be thereafter bound by the full Agreement unless otherwise agreed, provided that the parties agree that the ending date of the 1996 Agreement is changed from May 31, 2026 to June 30, 2026 to align with the end of SRT's fiscal year.



IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by having their authorized representative(s) affix their signatures in the spaces below:

SEATTLE REPERTORY THEATRE

By



Benjamin Moore  
Managing Director

Date:

03.29.2012

THE CITY OF SEATTLE

By



Robert Nellams, Director  
Seattle Center Department

Date:

2/22/12

**THIRD AMENDMENT  
TO  
FACILITY USE AND OCCUPANCY AGREEMENT  
BETWEEN  
SEATTLE REPERTORY THEATER  
AND  
THE CITY OF SEATTLE**

This THIRD AMENDMENT TO FACILITY USE AND OCCUPANCY AGREEMENT (this “Amendment”) is effective as of the date of the last signature below (the “Effective Date”) and is entered into by the CITY OF SEATTLE (hereinafter referred to as “City”), a Washington municipal corporation, acting by and through its Seattle Center Department, and the SEATTLE REPERTORY THEATER (hereinafter referred to as “SRT”), a not-for-profit corporation organized under the laws of the State of Washington.

**RECITALS**

WHEREAS, SRT was founded in 1963 and began operations in the Seattle Center Playhouse before moving to the Bagley Wright Theatre, making it one of the longest standing resident organizations at Seattle Center; and

WHEREAS, the City and SRT are parties to that certain Facility Use and Occupancy Agreement (the “1996 Agreement”), authorized by Ordinance 118109, which governs SRT’s use, occupancy and financial obligations with respect to the Bagley Wright Theatre; and

WHEREAS, the 1996 Agreement requires SRT to establish and maintain the SRT Replacement Trust Fund (the “Fund”), to be used exclusively for the replacement, maintenance and repair of the Bagley Wright Theatre; and

WHEREAS, the 1996 Agreement requires SRT to make annual contributions to the Fund each year during the term in the amounts set forth in Exhibit 8 to the 1996 Agreement, including contributions of \$170,571 for the 2019 SRT fiscal year and \$174,836 for the 2020 SRT fiscal year; and

WHEREAS, the COVID-19 pandemic has had a dramatic impact on SRT’s financial situation, resulting in a reduction to SRT’s operating budget by two-thirds as of Q3 2020 as well as layoffs, furloughs, and reliance on a federal Paycheck Protection Program (PPP) loan, and has caused uncertainty as to SRT’s ability to bring patrons to the theater before a vaccine becomes available; and

WHEREAS, in light of the COVID-19 pandemic, SRT initiated discussions with Seattle Center in March 2020 seeking temporary relief from certain financial obligations under the 1996 Agreement; and

WHEREAS, Seattle Center and SRT have reached a nonbinding agreement to amend certain terms of the 1996 Agreement and now wish to formalize the terms of that agreement in this Amendment;

NOW, THEREFORE, the parties agree to amend the 1996 Agreement as follows:

## AGREEMENT

Notwithstanding Subsection 13.F of the 1996 Agreement, the City and SRT agree to the following exceptions concerning the Fund to allow SRT to respond to the financial stress created by the COVID-19 pandemic:

1. SRT shall not be required to make the following minimum annual deposits to the Fund:
  - A. The contribution for the 2019 SRT fiscal year in the amount of \$170,571; and
  - B. The contribution for the 2020 SRT fiscal year in the amount of \$174,836.
2. In the event SRT requires additional financial relief beyond forbearing from making the above contributions, then from the Effective Date of this Amendment through June 30, 2022, or such later date as may be necessary to provide SRT with financial relief due to the economic impact of COVID-19, which date shall be mutually agreed upon in writing (such period, the “Interim Period”), SRT shall be allowed to draw on funds currently deposited in the Fund in order to finance SRT’s Operating Expenses (the “Permitted Withdrawals”); provided, however, that SRT shall at all times maintain a minimum balance of \$160,000 in the Fund.

“Operating Expenses”, for purposes of this Amendment only, shall be defined as all necessary costs and expenses incurred by SRT in the course of operating and maintaining the Premises for its authorized use as set forth in Section 4 of the 1996 Agreement. Operating Expenses include, but are not limited to, the following:

- A. Costs of producing and presenting live theater, music, and dance rehearsals, productions and performances, film screenings, meetings, classes and other educational programs;
  - B. All regular wages, salaries and other labor costs, including taxes and insurance, and retirement, medical and other employee benefits;
  - C. Training costs, consulting fees, legal fees (other than fees arising from a dispute between the City and SRT), accounting fees, and fees of all other independent contractors engaged by SRT in connection with the ordinary course of business;
  - D. All local and state taxes;
  - E. Costs of maintaining the minimum insurance required under Section 18.A of the 1996 Agreement and any other insurance policy SRT deems advisable or necessary; and
  - F. All expenses reasonably and necessarily incurred in connection with providing ordinary maintenance of the Premises.
3. SRT and the City agree to work toward a collaborative review and re-assessment of the schedule described in Exhibit 8 of the 1996 Agreement, and within twelve (12) months following the end of the Interim Period, to produce a final approved copy of the updated plan for the remainder of the term of the 1996 Agreement.
  4. On or prior to the expiration of the 1996 Agreement, and insofar as the money is

needed for maintenance and repair, SRT shall reimburse the Fund for its Permitted Withdrawals by depositing into the Fund an amount equal to the sum of all Permitted Withdrawals, if any, made by SRT pursuant to this Amendment. If, upon expiration of the 1996 Agreement, SRT is unable to fully reimburse the Fund for its Permitted Withdrawals due to SRT's then-existing financial condition, then SRT shall reimburse the Fund in such lower amount as its financial condition permits, which amount shall be determined in consultation with the Seattle Center Director and mutually agreed upon by the parties. The parties acknowledge and agree that such lower amount may be zero. In the event the parties elect to enter into a new occupancy agreement or other replacement agreement upon expiration of the 1996 Agreement, the parties agree to work in good faith to negotiate an equitable schedule of maintenance contributions to be made by SRT under such agreement, taking into account the then-existing maintenance and repair needs of the Premises, and the total amount, if any, of the Permitted Withdrawals for which SRT was unable to reimburse the Fund.

5. Except to the extent modified by this Amendment, all terms of the 1996 Agreement shall remain in full force and effect.
6. Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the 1996 Agreement.
7. While preparing this Amendment, it was discovered that SRT's name was incorrectly stated in the 1996 Agreement as "Seattle Repertory Theatre"; however, pursuant to SRT's Articles of Incorporation which were filed with the Washington Secretary of State on June 14, 1963, the legal name of SRT is "Seattle Repertory Theater". Additionally, SRT has undergone a rebranding effort and is now primarily known by the name "Seattle Rep" or "The Rep". Accordingly, all references to "Seattle Repertory Theatre", "Seattle Repertory Theater", "Seattle Rep" and "The Rep" in the 1996 Agreement and in all amendments to the 1996 Agreement are references to SRT.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by having their authorized representatives affix their signatures in the spaces below.

SEATTLE REPERTORY THEATER

By \_\_\_\_\_

Jeffrey Herrmann  
Managing Director

Date \_\_\_\_\_

THE CITY OF SEATTLE

By \_\_\_\_\_

Robert Nellams, Director  
Seattle Center Department

Date \_\_\_\_\_

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Center	Julia Levitt/206-300-8171	William Chen/206-233-7274

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute the Third Amendment to the Facility Use and Occupancy Agreement between The City of Seattle and the Seattle Repertory Theater.

#### **Summary and background of the Legislation:**

The Seattle Repertory Theater (SRT), founded in 1963 under the leadership of Bagley Wright, is one of the oldest resident organizations on the Seattle Center campus. They have been giving joy, inspiring laughter, and providing gist for discussion at Seattle Center for 57 years. SRT's first home was the Seattle Center Playhouse, a performance space built for the 1962 Seattle World's Fair.

In 1977, Seattle voters approved a \$19 million Seattle Center bond issue, which included \$4.8 million for a new theater home for SRT. Following years of planning and fundraising, ground was broken on the new theater in 1981, and the new Bagley Wright Theatre (named due to ten anonymous private donations in honor of Bagley Wright) opened in October 1983. The final cost was \$10 million, with the City providing \$5.6 million in bond proceeds and SRT providing the remaining \$4.4 million. The design included a smaller, second stage auditorium, but funding was only available for the main theater.

The Bagley Wright Theatre was the first new facility constructed on the Seattle Center campus since the 1962 World's Fair, and the first public/private partnership undertaken by Seattle Center. SRT was the first arts group to make such a substantial contribution to a Seattle Center facility. In 1981, authorized by Ordinance 109853, SRT and the City executed a Licensing Agreement covering 26 years, from the 1983-4 season through the 2008-9 season, with the agreement expiring May 31, 2009. SRT's license fee was calculated to equal approximately 25% of operating costs, in consideration of their capital contribution to the project. SRT was a tenant in the building and the City was responsible for all operating and maintenance costs, including utilities, janitorial services, theatrical systems, and all other building systems.

By the mid-1990's, by which time three other major arts organizations chose to locate at Seattle Center and make significant capital investments (Intiman Theatre, Pacific Northwest Ballet, and Seattle Children's Theatre) the standards for financial terms had changed. In these later three cases, the arts organizations had exclusive use (with a specified number of days available to the City) and were responsible for the internal systems and the regular maintenance and operating expenses of the facilities.

When SRT was ready to construct a smaller, second stage addition in 1996, the financial terms for this new space reflected this new standard. In May 1996, the City Council passed Ordinance 118109 authorizing a Premises Use and Occupancy Agreement and a Construction Agreement with SRT. The 1996 agreement wrapped the second stage addition (which became known as the Leo Kreielsheimer Theatre) and the Bagley Wright Theatre (BWT) into one agreement, superseding the 1981 agreement, and extending the term for the BWT from 2009 to 2026.

For the Leo Kreielsheimer (“Leo K”) Theatre, SRT covered 100% of the construction costs and was responsible for all operating and maintenance costs, and for theatrical and other internal building systems. The City was responsible for the building shell. The 1996 agreement was structured to transition the BWT to a similar financial structure. Over time, by June 1, 2009, SRT assumed full responsibility for operating costs and internal systems of the BWT, consistent with the structure of the more recent agreements between Seattle Center and resident arts organizations.

To achieve this transition from the 1981 agreement, the 1996 agreement specified that the City and SRT each make annual contributions into separate funds for replacement and renovation of internal building systems (primarily theatrical systems) of the Bagley Wright Theatre. Annual funding levels were established to pay for anticipated internal maintenance, repair and replacement needs through 2009 and to generate a sufficient balance for SRT to assume full responsibility for internal systems after May 31, 2009, the expiration date of the original 1981 agreement. As of June 1, 2009, the City’s financial obligation for the maintenance, repair, and replacement of internal systems at the BWT ended, and the City’s responsibility for the entire facility (both theaters) is limited to external systems, structures and finishes.

The 1996 agreement also specified that after May 31, 2009, the rent for the BWT reduced to \$1.00 per month, provided SRT made an investment of \$1 million in capital renovations and improvements of the BWT by September 1, 2010 and provided certain free use days for the City.

In August 2005, the 1996 Agreement was amended to correct and modify the process for calculation of cooling costs and change the Consumer Price index used to calculate annual adjustments to the rent. This was a purely administrative amendment and did not require City Council approval.

As was true with nearly all arts organizations, the severe economic downturn that began in 2008 had a major impact on SRT. In April 2009, SRT implemented significant reductions in their operations, including layoffs, furloughs, and reductions in the number of performances. Given their severe financial difficulties, SRT was unable to make the \$1 million capital investment in the BWT by September 1, 2010 and was not able to take on the full operating costs of the facility as scheduled. Subsequently, Seattle Center and SRT negotiated a five-year interim agreement, for the period of June 1, 2009 through June 30, 2014, giving SRT time to make a financial recovery and work its way back to being able to meet the intent of the 1996 agreement.

The interim agreement, authorized by Ordinance 123767 and approved on November 2011 in the 2<sup>nd</sup> Amendment to the 1996 Agreement, required SRT to continue paying rent and making deposits into their fund, the SRT Replacement Trust Fund (the “Fund”), for replacement,

maintenance, and repair of the BWT building systems (primarily theatrical systems) and modified the payment plan for SRT's investment of \$1 million in capital renovations. The planned annual deposits were "stair-stepped" back to the full level of scheduled deposit by year five of the interim agreement and the deadline for the full \$1 million capital investment was extended from 2010 to 2015 with the value of the investment adjusted by CPI to preserve the value of the contribution.

SRT has made the payments required by the interim agreement and operation of the theatre continues under the terms of the 1996 Agreement.

COVID-19 has created economic challenges for SRT. But as they note, creativity cultivates resilience and they are focused on brighter days ahead. SRT has reduced staff and operating expenses and cancelled their 2020/21 performance schedule. They have continued working offstage and online, providing online programs and youth acting classes.

SRT, like the rest of the Seattle arts community, faces severe economic challenges as they will be unable to hold in person performances until the Governor's restrictions regarding public gathering are lifted, and the public is once again comfortable attending performances.

To address the challenges caused by the pandemic, this proposed third amendment to the 1996 Agreement would remove the obligation for SRT to make their 2019 (\$170,571) and 2020 (\$174,836) fiscal year contributions to the Fund and also allow them to use the Fund for operating expenses through June 30, 2022, or such later date as may be agreed upon between SRT and the Seattle Center Director. SRT would be required to maintain a minimum balance of \$160,000 in the Fund. The Fund, which is owned and managed by SRT, and per the 1996 Agreement was to have been used solely for replacement, maintenance, and repair purposes of the Bagley Wright Theatre, currently has a balance of approximately \$860,000. The amendment also requires SRT to reimburse the Fund for any funds used for operating purposes, but if SRT is financially unable to do so, to reimburse an amount mutually agreed upon by SRT and the Seattle Center Director. In addition, if upon expiration of the 1996 Agreement, there is a new use agreement with SRT, then the new agreement would include a schedule of maintenance contributions by SRT taking into consideration the amount of unreimbursed withdrawals from the Fund.

While preparing the third amendment, it was discovered that SRT's name was incorrectly stated in the 1996 Agreement as "Seattle Repertory Theatre"; however, pursuant to SRT's Articles of Incorporation which were filed with the Washington Secretary of State on June 14, 1963, the legal name of SRT is "Seattle Repertory Theater". Additionally, SRT has undergone a rebranding effort and is now primarily known by the name "Seattle Rep" or "The Rep". Accordingly, all references to "Seattle Repertory Theatre", "Seattle Repertory Theater", "Seattle Rep" and "The Rep" in the 1996 Agreement and in all amendments to the 1996 Agreement are references to SRT.



## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☐ Yes ☒ No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?  
No

Is there financial cost or other impacts of *not* implementing the legislation?

There are no immediate costs to the City of Seattle of not implementing the legislation, but there would be impacts to SRT which would need to find alternative funding sources to address the financial impacts of COVID-19.

## 4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?  
No

b. Is a public hearing required for this legislation?  
No

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?  
No

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?  
No

e. Does this legislation affect a piece of property?  
No

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This legislation indirectly impacts vulnerable or historically disadvantaged communities. SRT, whose vision is theater at the heart of public life, is committed to the elevation of each and every voice. They are committed to and have amplified the voices of artists and activists who have long been engaged in the fight for justice. If one of the results of the

pandemic is the loss of SRT, then vulnerable and disadvantaged communities will have lost a champion working to ensure their voices are heard.

- g. If this legislation includes a new initiative or a major programmatic expansion:  
What are the specific long-term and measurable goal(s) of the program? How will  
this legislation help achieve the program's desired goal(s)?**  
N/A

**List attachments/exhibits below:**



## Legislation Text

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**File #:** CB 119746, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to Seattle Parks and Recreation; authorizing the Superintendent of Parks and Recreation to execute an amendment to the amended and restated Concession Agreement with Tennis Center at Sand Point, LLC at Warren G. Magnuson Park.

WHEREAS, Ordinance 122754 authorized the Superintendent of Parks and Recreation (“Superintendent”) to execute, for and on behalf of The City of Seattle (“City”), a master Concession Agreement to allow Seattle Court Sports Unlimited (“Concessionaire,” now doing business as Tennis Center at Sand Point, LLC) to build, operate, and manage a tennis facility on a portion of Warren G. Magnuson Park (“Magnuson Park”) for the use and benefit of the public; and

WHEREAS, the City and Concessionaire entered into an amended and restated concession agreement (“Concession Agreement”) with a 20-year term, pursuant to Ordinance 123331, on August 2, 2010; and

WHEREAS, Concessionaire invested \$6.2 million to build the facility, which opened for business in September 2013; and

WHEREAS, the City and Concessionaire have established a mutually beneficial and positive working relationship since the commencement of the Concession Agreement; and

WHEREAS, Concessionaire has participated in and continues to support the City’s Race and Social Justice Initiative by providing public benefits to underrepresented communities, the general public, seniors, and children in the City; and

WHEREAS, the City and Concessionaire desire to clarify expectations and definitions of public benefits to be provided to the public by Concessionaire in the Concession Agreement; and

WHEREAS, the Concession Agreement stated that Concessionaire would demolish the building commonly known as Magnuson Park Building 41 (“Building 41”), the former Naval gas station, and build a new structure to house a pro shop and welcome center; and

WHEREAS, after commencement of the Concession Agreement, the parties discovered that the condition of Building 41 would make demolition or renovation cost-prohibitive for Concessionaire; and

WHEREAS, the public and Magnuson Park community stakeholder groups have expressed interest in renovating and activating Building 41 to be utilized for parks and public access purposes; and

WHEREAS, the City and Concessionaire mutually desire to remove Building 41 from the description in Section 1.1, Premises, of the Concession Agreement, in exchange for an additional five-year extension option to the Concession Agreement term, therefore allowing opportunities for additional stakeholder groups to renovate and activate Building 41 for parks and public access purposes; and

WHEREAS, the City is satisfied that the removal of Building 41 from the Concession Agreement, and the provision of these additional facilities at Magnuson Park, is in the City’s, Concessionaire’s, and the public’s best interest; NOW, THEREFORE,

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

Section 1. The Superintendent of Parks and Recreation is authorized to execute, for and on behalf of The City of Seattle, a Concession Agreement Amendment in substantially the form of Attachment 1 to this ordinance.

Section 2. To the extent that Ordinance 118477 is applicable to the amended Concession Agreement, the requirements of Initiative 42 (attached to this ordinance as Attachment 3) are superseded.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by

me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**Attachments:**

Attachment 1 - Amendment to Concession Agreement Between The City of Seattle and Tennis Center at Sand Point, LLC

Attachment 2 - Amended and Restated Concession Agreement Between The City of Seattle Department of Parks and Recreation and Seattle Court Sports Unlimited, Inc.

Attachment 3 - Ordinance 118477

**AMENDMENT TO CONCESSION AGREEMENT**  
**Between**  
**THE CITY OF SEATTLE**  
**and**  
**TENNIS CENTER AT SAND POINT, LLC**

This Amendment to the August 2, 2010 Amended and Restated Concession Agreement (“Concession Agreement”) by and between **THE CITY OF SEATTLE** (“City”), a Washington municipal corporation, and **TENNIS CENTER AT SAND POINT, LLC** (“Concessionaire”), a Washington Limited Liability Company organized under the laws of the State of Washington, is effective as of \_\_\_\_\_, \_\_\_\_\_, 2020 (the “**Effective Date**”). City and Concessionaire are together referenced in this Amendment as “Parties” and individually as a “Party.”

**RECITALS**

- A. Whereas, City and Concessionaire entered into a 20-year Concession Agreement (“Concession Agreement”), Ordinance #123331 on August 2, 2010, for Concessionaire to build, operate, and manage a tennis facility on a portion of Magnuson Park for the use and benefit of the public; and
- B. Whereas, Concessionaire invested \$6.2 million to build the facility which opened for business in September 2013; and
- C. Whereas, City and Concessionaire have established a mutually beneficial and positive working relationship since the commencement of the Concession Agreement; and
- D. Whereas, Concessionaire has participated and continues to support City’s Race and Social Justice Initiative by providing Public Benefits to underrepresented communities, the public, seniors, and children in the city; and
- E. Whereas, City and Concessionaire desire to clarify expectations and definitions of Public Benefits to be provided by Concessionaire in the Concession Agreement to better align with updated public benefit expectations and requirements; and
- F. Whereas, the Concessionaire initially intended to renovate or the building commonly known as Magnuson Park Building 41 (“Building 41”), the former Naval gas station, and build a new structure to use as a pro-shop and welcome center. Subsequently, the City and Concessionaire agreed to an amended Concession Agreement allowing Concessionaire to demolish the building and addressing certain costs associated with environmental hazards; and
- G. Whereas, after commencement of the Concession Agreement, Concessionaire discovered conditions, present in and around Building 41, making demolition or renovation of the building cost prohibitive for Concessionaire; and

H. Whereas, Concessionaire has no future plans to renovate Building 41 and City does not require tennis-related activities to be conducted in and around Building 41; and

I. Whereas, the public and Magnuson Park community stakeholder groups have expressed interest in renovating and activating Building 41 to be utilized for parks and public access purposes; and

J. Whereas, City and Concessionaire mutually desire to remove Building 41 from Premises of the Concession Agreement, in exchange for an additional five (5)-year extension option to the Concession Agreement Term, allowing opportunities for additional stakeholder groups to renovate and activate Building 41 for parks and public access purposes, which is a benefit to Seattle Parks and Recreation (SPR); and

K. Whereas, City is satisfied that the removal of Building 41 from the Concession Agreement, and the provision of these additional facilities at Magnuson Park is in the City's and public's best interests; and

L. Whereas, the Concessionaire has provided public benefits required by the Concession Agreement while also providing additional public benefits as a responsible member of the Magnuson Park community; and

M. Whereas, the Parties wish to clarify requirements for Concessionaire to deliver public benefits and further document the mutual benefits the Concession Agreement provides to Concessionaire and City.

NOW, by the mutual covenants and conditions of Agreement, both parties hereby agree to the following:

### **AGREEMENT**

In consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt of which are hereby acknowledged, City and Concessionaire hereby agree as follows:

1. Definitions. Capitalized terms used and not defined in this Amendment shall have the meanings given to them in the Concession Agreement.
2. Superintendent. All references to "Superintendent" in this Amendment and the Concession Agreement are understood and agreed to include any Seattle Parks and Recreation staff person delegated authority by the Superintendent to administer this Concession Agreement.
3. Modification Section 1.1 Premises. The Parties agree to remove Building 41 from the Concession Premises. In exchange for Concessionaire releasing and disclaiming all rights to use or occupy Building 41, City releases Concessionaire from all obligations



to improve or otherwise operate the Building 41 area. Section 1.1 of the Concession Agreement is hereby deleted and replaced with the following:

1.1 Premises. Premises means the building currently used as a tennis center situated on a portion of the land depicted on Exhibit A hereto with a footprint of approximately 79,581 square feet. The street address of the Premises is 7135 Sportsfield Dr. NE, Seattle, WA 98115.

The Premises are situated on a portion of the real property legally described in Exhibit B (“Property”). The Premises do not include the buildings commonly known as Magnuson Park Building 18, Magnuson Park Building 41 or any other portion of the Property except the building used as a tennis center and depicted in Exhibit A

4. Modification of Section 1.7.1 Base Concession Fee.

a. The Parties agree to remove Building 41 from the Base Concession Fee. Section 1.7.1 of the Concession Agreement is hereby deleted and replaced with the following:

1.7.1 Base Concession Fee. \$1.00 per square foot, annually, for a total initial annual Base Concession Fee of \$79,581.00.

b. The modification to Section 1.7.1 set out in this section does not modify, delete or replace Section 4.2 of the Concession Agreement (“Adjustments to Base Concession Fee”). For avoidance of doubt, the Concession Fee will continue to be subject to annual increases measured by reference to the Consumer Price Index (CPI).

5. Modification of Section 1.8 Notice and Delivery Addresses. The Parties agree to update the Notice and Delivery Addresses in the Concession Agreement. Section 1.8 is hereby deleted and replaced with the following:

To City:           The City of Seattle  
Seattle Parks and Recreation  
Attention: Manager, Magnuson Park,  
6310 NE 74th St.  
Seattle, WA 98115

To Concessionaire:  
Tennis Center at Sand Point, LLC  
Attention: Scott Marshall, Managing Director  
7135 Sportsfield Dr. NE

Seattle, WA 98115

6. Modification of Section 2.1 Grant. The Parties agree to redefine the description of the facility in the Concession Agreement from an indoor and outdoor tennis facility to an indoor facility only, including a pro-shop. Section 2.1 is hereby deleted and replaced with the following:

2.1 Grant. Subject to all of the terms and conditions contained herein, City hereby grants to Concessionaire and Concessionaire hereby accepts from City, the exclusive right throughout the Term to use the Premises to operate an indoor public tennis facility containing ten (10) regulation-sized indoor tennis courts and a supporting retail pro-shop, for a fee.

7. Modification of Section 2.3 Condition. The Parties agree to remove Building 41 and any references thereof from the Concession Agreement. Section 2.3 is hereby deleted and replaced with the following:

2.3 Condition. Concessionaire accepts the Premises in their “as is” condition; Concessionaire agrees that all construction on or improvements to the Premises shall comply with all applicable laws relating to the abatement and disposal of Hazardous Substances and shall be subject to all of the requirements of Section 8.

8. Modification of Section 2.5 Permitted Use. The Parties agree to update the facility description in the Concession Agreement from an indoor and outdoor tennis facility to an indoor facility only, including a pro-shop, and to remove references to the Management and Operations Report to be replaced with Public Benefit Plan references. Section 2.5 is hereby deleted and replaced with the following:

2.5 Permitted Use. Commencing on the Possession Date, Concessionaire shall use the Premises to construct and, upon receipt of a certificate of occupancy therefor, to operate upon the Premises a tennis facility containing ten (10) regulation-sized indoor tennis courts. In addition, Concessionaire may construct a pro-shop inside the Premises for purposes incidental to the operation of the tennis facility, including storage, offices, locker rooms and meeting rooms. Concessionaire may sell food and beverages at the Premises; provided, however, that in no event shall Concessionaire conduct any food service operation that, if open to the public, has any interior seating area with twenty (20) or

more seats dedicated exclusively for use by food and beverage customers.

With the Superintendent's prior approval, Concessionaire may engage in Third-Party Rentals of all or part of the Premises on an intermittent basis involving not more than five (5) consecutive days for any one event or, collectively, for not more than thirty (30) days in any one calendar year, provided such use is consistent with the Permitted Use of the Premises. Concessionaire shall include the process for selection of individuals or groups to use the Premises in the annual Public Benefit Plan required pursuant to Exhibit F attached hereto, together with the standard terms and conditions of any proposed use agreements.

9. Modification of Section 2.7 Public Program Requirement. The Parties agree to change the title of this Section 2.7 to "Public Benefit Offsets, Process, and Description of Eligible Programming and Services" and to remove the definition of the Public Benefit requirements from this Section 2.7 and to include descriptions of the types of programs and services eligible for Public Benefit Offset in Exhibit G of the Concession Agreement. Section 2.7 is hereby deleted and replaced with the following:

2.7 Public Benefit Offsets, Process, and Description of Eligible Programming and Services. Public Benefit Offsets and Process are as described in Exhibit F. Descriptions of Eligible Programming and Services for Public Benefit Offset are included in Exhibit G. Throughout the Term, Concessionaire shall provide 8.75 hours per week of open court time, free-of-charge, to youth (defined as children ages 10 and 18) and seniors (defined as adults 65 years or older). Concessionaire shall propose for the Superintendent's approval the schedule and terms and conditions for open court time with the Public Benefit Plan. As in the original Concession Agreement, this open court time is a baseline contract requirement and not eligible for any offset.

10. Modification of Section 3.2 Extended Term. The Parties agree to add a third five (5)-year extension option to the Concession Agreement. Section 3.2 is hereby deleted and replaced with the following:

3.2 Extended Term.

Provided Concessionaire is not in default under this Agreement and has continuously used and occupied the Premises for the Permitted Use, Concessionaire shall have the option to extend the Term of this Agreement for three (3) additional terms of five (5)

years, each, on the same terms and conditions as are set forth herein. Concessionaire shall exercise its option(s) to extend the Term by giving the City written notice of its intention to do so at the address specified in Section 1.8 at least ninety (90) days prior to the expiration of the then-current Term.

11. Modification of Section 4.1 Concession Fee Payment. The Parties agree to change the payment schedule for Percentage Concession Fee's from monthly to annual payments in the Concession Agreement. Section 4.1 is hereby deleted and replaced with the following:

4.1 Concession Fee Payment. Beginning on the Concession Fee Commencement Date and thereafter, in advance, on the twentieth (20th) day of each month, Concessionaire covenants to pay the City at the address and to the account the City specifies, without notice or demand, in lawful money of the United States, the monthly amount of the Base Concession Fee. Annually on the anniversary of the Concession Fee Commencement Date Concessionaire shall pay the Percentage Concession Fee due from Third-Party Rentals that occurred during the immediately preceding year.

Concessionaire shall pay the Percentage Concession Fee due for the last year of the Term within thirty (30) days from the date this Agreement expires or is terminated. The Concession Fee and, if appropriate, as reasonably determined by City, Additional Charges shall be prorated on a daily basis for any partial month during the Concession Agreement Term.

12. Deletion of Section 4.4 Public Program Concession Fee Offsets. Section 4.4 is hereby deleted and replaced with modifications to Section 2.7 and the addition of Exhibits F and G.
13. Deletion of Section 8.5 Management and Operations Plan. Parties agree to delete Section 8.5. Section 8.5 is hereby deleted:
14. Modification of Exhibit A. Exhibit A to the Concession Agreement is hereby deleted and replaced with Exhibit A to this Amendment, which is incorporated by reference into this Amendment and the modified Agreement.
15. Modification of Exhibit B. Exhibit B to the Concession Agreement is hereby deleted and replaced with Exhibit B to this Amendment, which is incorporated by reference into this Amendment and the modified Agreement.

16. Addition of Exhibit F Public Benefit Offsets and Process. Exhibit F to the Concession Agreement is hereby attached to this Amendment, which is incorporated by reference into this Amendment and the modified Agreement.
17. Addition of Exhibit G Description of Eligible Public Benefits . Exhibit G to the Concession Agreement is hereby attached to this Amendment, which is incorporated by reference into this Amendment and the modified Agreement.
18. Reaffirmation of Concession Agreement. The Concession Agreement, as modified by this Amendment, shall remain in full force and effect and is hereby ratified and reaffirmed.
19. Entire Agreement. The Concession Agreement, together with this Amendment, embodies the entire agreement of City and Concessionaire with respect to the subject matter thereof and hereof and supersedes or incorporates all prior negotiations and agreements, written or oral.
20. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be one document.
21. Governing Law. This Amendment shall be governed in all respects by the laws of the State of Washington.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the day and year first set forth above.

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures with the intent to be bound by the terms hereof as of the Effective Date.

City:  
THE CITY OF SEATTLE  
By its Seattle Parks and Recreation

Concessionaire:  
Tennis Center at Sand Point, LLC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its Superintendent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Attachments: Updated Exhibit A: Map of the Premises with Dimensions  
Updated Exhibit B: Legal Description  
Exhibit F: Public Benefit Offsets and Process  
Exhibit G: Description of Eligible Public Benefits

STATE OF WASHINGTON                    )  
  )       ss.  
COUNTY OF KING                        )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_, to me known to be the Superintendent of The City of Seattle, Seattle Parks and Recreation, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of said party.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Signature  
Notary Public in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

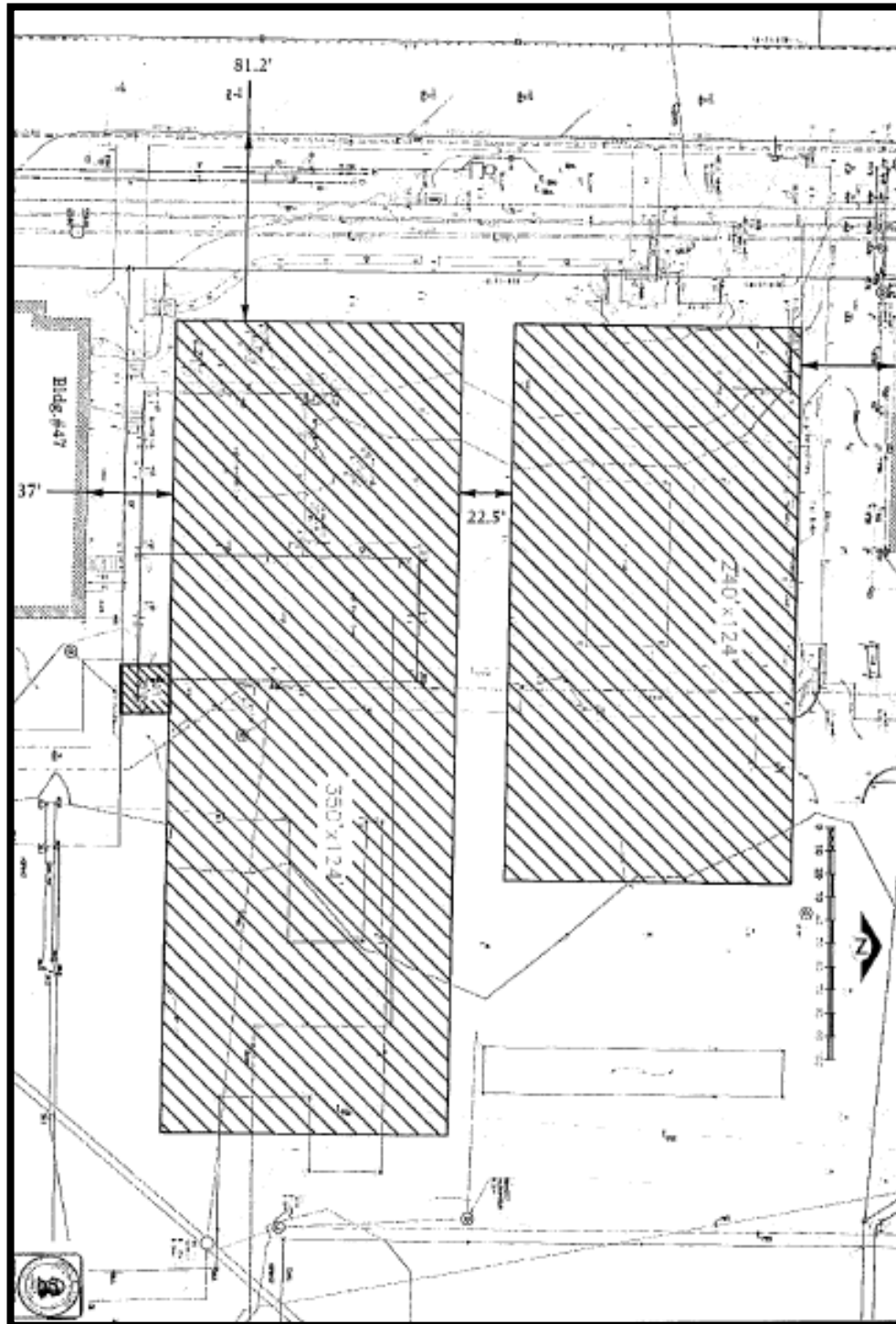
STATE OF WASHINGTON                    )  
  )       ss.  
COUNTY OF \_\_\_\_\_                        )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the Washington corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Signature  
Notary Public in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

**Updated Exhibit A**  
**Map of the Premises with Dimensions**





## Updated Exhibit B

### LEGAL DESCRIPTION OF PARCEL CONTAINING TENNIS CENTER PREMISES

PARCEL 6, LOT B, CITY OF SEATTLE DEPARTMENT OF PARKS AND RECREATION SURVEY RECORDED IN THE RECORDS OF KING COUNTY, WASHINGTON UNDER RECORDING NO. 20000906900018, BEING ACQUIRED BY THE CITY OF SEATTLE BY DEED RECORDED IN THE RECORDS OF KING COUNTY, WASHINGTON UNDER RECORDING NO. 9905041194.

#### PARCEL 6

##### Lot B

That portion of the east one-half of the southwest quarter (SW<sup>4</sup>) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 323.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence continuing N 00° 01' 23" W a distance of 410.18 feet, thence N 89° 42' 47" E a distance of 796.53 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence S 00° 02' 51" W on said NOAA boundary a distance of 276.81 feet to a concrete monument marking a boundary corner of Warren G Magnuson Park as established in 1975, thence continuing S 00° 02' 51" W on said Park boundary a distance of 159.18 feet, thence leaving said Park boundary S 89° 44' 09" W a distance of 546.98 feet, N 00° 15' 51" W a distance of 25.49 feet, thence S 89° 44' 09" W a distance of 248.90 feet to the **True Point Of Beginning**.

## **Exhibit F**

### **Public Benefit Offsets and Process**

City's willingness to enter into this Concession Agreement was conditioned, in part, on Concessionaire's commitment to provide Public Benefits through recreation-related public programming at Magnuson Park (the "Public Benefits"). Concessionaire agrees to the following.

1. Public Benefit Offsets.

Concessionaire may offset up to 20.00% of the annual Concession Fee through the "Public Benefit Offset." As used in this Agreement, "Public Benefit Offset" means the value of Concessionaire's delivery of programming and services to City or the public, as approved by the Superintendent according to the process in this Exhibit F. Examples of programming and services eligible for the Public Benefit Offset, are as described in Exhibit G ("Description of Eligible Public Benefits").

2. Annual Public Benefit Plan.

In order to obtain the Public Benefit Offset, within thirty (30) days after the Commencement Date of this Amendment, and thereafter on or before November 1<sup>st</sup> of each year during the Initial Term and any Extended Terms, Concessionaire shall submit to the Superintendent (or designee) a proposal of public programming with measurable performance objectives it intends to provide during the coming calendar year. The proposal shall include an estimate of the value based on factors such as the estimated cost to Concessionaire of the labor and materials provided, the value of the public services to be provided, or other reasonable factors demonstrating the dollar value. In addition, the annual plan shall include details regarding the communities to be served by the proposed activities or services. The Superintendent will respond to the proposal within sixty (60) calendar days, approving or disapproving in whole or in part. If the Superintendent disallows any proposed public benefit or the estimated value, the Superintendent will provide the reasons. After receiving the Superintendent's approval of the proposal for the coming year, Concessionaire may apply the offset in twelve (12) equal installments against the monthly amount of the Concession Fee for the applicable year.

3. Annual Public Benefit Report.

Within thirty (30) days after the end of each calendar year, Concessionaire shall submit to the Superintendent a Public Benefit Offset report outlining the pre-approved programs, benefits and

services actually delivered in the prior year and including an itemized statement of time, labor rates, materials and other information supporting the dollar value of Concessionaire's Public Benefit Offset applied to the Concession Fee in the prior year. The Superintendent will respond within sixty (60) days, and may request more information, deny the request, or approve the request. If the Superintendent determines that the value of Public Benefit Offset actually provided is less than the amount applied against the Concession Fee in the prior calendar year, Concessionaire shall pay the deficiency in cash within thirty (30) days. Concessionaire shall not be entitled to a Public Benefit Offset that exceeds percent (20.00%) of the Concession Fee, even if the actual value of Public Benefit programming exceeds that amount. Concessionaire shall not be entitled to carry forward any excess public benefits provided, nor shall Concessionaire be entitled to any refund. Final approval of Public Benefit Offsets is at the sole discretion of the Superintendent.

## Exhibit G

### Description of Eligible Public Benefits

The following are examples of the activities and services eligible for the annual Public Benefit Offset throughout the Initial Term and all Extended Terms of this Concession Agreement.

<b>Public Benefits Category</b>	<b>Description of Services</b>	<b>Applicable Metric (# served, # events, # scholarships, # programs offered, capital improvement description)</b>	<b>Value of Services*</b>
<b>Public Access</b>	<p>The Tennis Center at Sand Point (TCSP) will provide public access to the facility for 343 days/year for 105 hours/week. Examples of public access include:</p> <ul style="list-style-type: none"> <li>Public restrooms for park visitors (youth and adults) needing access. The public will be informed of this benefit via signs indicating there is a public restroom.</li> <li>In addition to the free court time requirement outlined in section 2.7, TCSP may receive an offset for providing up to 3.75 hours of additional free court time per week. Access to this court time shall be dedicated to members of underserved communities with outreach and priority provided to Magnuson Park residents, including seniors. Concessionaire shall propose for the Superintendent's approval, the schedule and terms and conditions for open court time with the Public Benefit Plan annually.</li> </ul>	Target: access for 10,000+ community members	<p>Restroom Access - \$12,000</p> <p>Free Court Time - \$35 hr -</p>
<b>Scholarship (Tennis Memberships)</b>	Waiver of TCSP annual membership fees to allow access for up to 20 low-income youth. Priority provided to Magnuson Park residents.	# served: Up to 20	Waiver of TCSP annual membership fees - \$55 per child

<b>Scholarships (Summer Camp)</b>	TCSP will provide up to 20 scholarships to youth in grades K-12, and up to age 18, to the summer camps offered on the TCSP website. Outreach and priority sign-ups shall be provided to Magnuson Park residents.	# served: Up to 20	Summer camp fees - \$250 per participant for full scholarships to TCSP summer camps
Scholarships (Tennis Programs)	TCSP will provide scholarships to low-income youth, adults and/or families, to pay for educational expenses, transportation, registration fees, emergency expenses. Priority for these scholarships shall be provided to Magnuson Park residents. Examples include: <ul style="list-style-type: none"> <li>• Free tennis programs for selected youth living in Solid Ground Housing and Mercy Housing (residents located in Magnuson Park sites)</li> <li>• Free tennis programs for selected youth in the Seattle Tennis Education Foundation nonprofit program</li> <li>• Free tennis programs for low-income youth</li> </ul>	# served: Up to 20 students	\$1,000 per youth (1-Year program with 5 sessions @\$200 per session.)
<b>Programs</b>	TCSP will provide K-12 students and youth up to age 18 access to the following subsidized and free programs. Priority access will be provided to Magnuson Park residents: <ul style="list-style-type: none"> <li>• YMCA tennis camps</li> <li>• Wheelchair tennis programs</li> <li>• Tennis programs designed for youth with autism</li> <li>• Free clinics for low-income and special needs children</li> <li>• Special community fundraisers</li> </ul>	Target: 100 youth served	\$35 per participant

In addition to the public benefits described above, TCSP may, in partnership with the Seattle Tennis and Education Foundation (STEF), conduct outreach to at least 100 students through programs and activities presented at five (5) schools, targeting low-income students in underserved communities. Schools will include Sand Point Elementary, Dunlap Elementary and Emerson Elementary. TCSP may produce at least one community event annually that is free and open to the public and includes outreach to youth living in Magnuson Park. Examples of these include:

- 2-hour Adult Tennis Clinic

- Tennis Pro Exhibition where people in the community can enjoy free food and drink while watching high quality tennis and learning about the sport.

\*The rates listed are the professional rates that Concessionaire values for the services outlined in the plan as of the Commencement Date of this Amendment. Concessionaire represents that it has acted in good faith to set these rates at the market value for said services. These rates may be modified by Concessionaire on an annual basis to reflect then-current market rates, subject to advanced approval by the Superintendent (or designee). The cost estimates in this exhibit reflect projected costs in 2019

**AMENDED AND RESTATED CONCESSION AGREEMENT**  
**Between**  
**THE CITY OF SEATTLE**  
**Department of Parks and Recreation**  
**And**  
**SEATTLE COURT SPORTS UNLIMITED, INC.**

THIS AMENDED AND RESTATED CONCESSION AGREEMENT is made and entered into as of the last date set forth below by and between **THE CITY OF SEATTLE** ("the City"), a first class city of the State of Washington, acting by and through its Superintendent of Parks and Recreation ("Superintendent"), and **SEATTLE COURT SPORTS UNLIMITED, INC.** ("Concessionaire"), a Washington corporation.

**RECITALS**

- A. Whereas, the Seattle Department of Parks and Recreation ("DPR") has jurisdiction over and manages certain land formerly known as US Naval Air Station Sand Point/Magnuson Park ("Magnuson Park"), and deeded to the City by quitclaim deed recorded on May 4, 1999, in the records of King County at Recording Number 9905041194 (the "USA Deed"); and
- B. Whereas, Recreation Use Covenant No. 3 of the USA Deed provides that the property "shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency . . . However, nothing in this provision shall preclude the [City] from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior;" and
- C. Whereas, the City and Concessionaire desire to provide a participant tennis facility as more specifically described below on a portion of Magnuson Park for the use and benefit of the general public; and
- D. Whereas, the City is satisfied that provision of these additional services and facilities at Magnuson Park is in the City's best interest; and
- E. Whereas, the Secretary of Interior's delegated representative at the National Park Service has concurred in writing with the issuance of this Agreement.



## AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein, the City and Concessionaire covenant and agree as follows:

1. Concession Agreement Data; Exhibits. The following terms have the following meanings, except as otherwise specifically modified in this Concession Agreement ("Agreement"):

1.1 Premises. Premises means the portion of the land depicted on Exhibit A hereto, and consisting of approximately 79,581 square feet, together with the building located thereon containing 2,083 square feet, more or less, and commonly known as Magnuson Park Building 41 (the "Building"). The street address of the Premises is 6327 NE 74<sup>th</sup> Street, Seattle, WA 98105

The Premises are situated on a portion of the real property legally described on Exhibit B.

1.2 Effective Date. The date when the Superintendent signs this Agreement.

1.3 Possession Date. The earlier of the date when Concessionaire receives a building permit from the Seattle Department of Planning and Development ("DPD") to construct the Initial Improvements or authorization from the Superintendent to commence the Roadway Improvement project, each as defined in Sections 7.1 and 7.2.

1.4 Concession Fee Commencement Date. The date DPD issues a certificate of occupancy for the Initial Improvements.

1.5 Expiration Date. The date that is twenty (20) years from the Concession Fee Commencement Date, unless this Agreement is extended pursuant to Section 3.2.

1.6 Initial Improvements. Initial Improvements means the improvements Concessionaire is required to make to the Premises as generally described in Exhibit C.

1.7 Concession Fee and Additional Charges. The term "Concession Fee" as used herein, means the Base Concession Fee and the Percentage Concession Fee.

1.7.1 Base Concession Fee. \$1.00 per square foot, annually, for a total initial annual Base Concession Fee of \$79,581.00; provided, however, that if

Concessionaire determines to rehabilitate rather than remove the Building, then the Base Concession Fee will be \$91,297.00.

1.7.2 Percentage Concession Fee. Ten percent (10%) of the total compensation Concessionaire receives from short-term rentals of the Premises to third parties for corporate conferences, meetings, promotions and similar events ("Third-Party Rentals").

1.7.3 Additional Charges. Whether or not so designated, all other sums due from Concessionaire under this Concession Agreement shall constitute Additional Charges, payable when specified in this Agreement and if not specified, then upon Concessionaire's receipt of the City's invoice therefor.

1.7.4 Gross Receipts. As used herein, Gross Receipts means and includes the total income of Concessionaire and every other person or entity conducting business in, on or from the Premises for or on behalf of Concessionaire including, but not limited to, the proceeds from all Third-Party Rentals; retail and wholesale sales and rentals of services or merchandise of any kind whatsoever, for cash, barter, exchange or credit, regardless of collections; sales from vending devices; all deposits not refunded to purchasers; fees; commissions; catalog sales; and rental receipts. An installment or credit sale shall be deemed to have been made for the full price on the date of sale regardless of when payment is received. The term Gross Receipts does not mean or include the amount of money refunded to, and not merely credited to the account of, customers who return or do not accept services or merchandise sold by Concessionaire; any exchange of merchandise between stores or the central warehouses of Concessionaire where such exchange is made solely for the convenient operation of Concessionaire's business and not for the purpose of consummating a sale made in, on or from the Premises; returns to shippers or manufacturers; any discount allowed by Concessionaire to customers; or the Washington State Sales Tax and any other tax imposed by any government agency directly on sales.

1.8 Notice & Delivery Addresses.

To City: The City of Seattle  
Department of Parks and Recreation  
Attention: Manager  
Contracts and Business Resources  
6310 NE 74th Street  
Seattle, WA 98105

To Concessionaire: Before Occupancy:

c/o Scott Marshall  
Managing Member, SCSU  
1048 NE 100th Street  
Seattle, WA 98125

After Occupancy: At the Premises

1. Exhibits. The following exhibits are made a part of this Agreement:

Exhibit A: Map of the Premises with Dimensions

Exhibit B: Legal Description

Exhibit C: Conceptual Plan for Initial Improvements (including Replacement Parking) and Roadway Improvements

Exhibit D: USA Deed

Exhibit E: Insurance Requirements

2. Premises.

2.1 Grant. Subject to all of the terms and conditions contained herein, City hereby grants to Concessionaire and Concessionaire hereby accepts from City, the exclusive right throughout the Term to use the Premises to construct and operate indoor and outdoor public tennis facilities, for a fee.

2.2 Conditions in USA Deed. This Agreement and the obligations of the parties hereto are subject to the terms and conditions set forth in the USA Deed, Exhibit D. Concessionaire shall use the Premises in strict accordance with all terms and conditions imposed by the United States of America and set forth in the USA Deed that pertain to its use including, but not limited to, the terms and conditions regarding hazardous materials, lead based paints, asbestos, and historic resources contained in the paragraphs numbered 8, 9, 10, 11, 12, and 13 of the USA Deed. In the event of any conflict between the terms and conditions of the USA Deed and any provision of this Agreement, the terms of the USA Deed shall control. Violations of the said terms and conditions of the USA Deed may be grounds for reversion to the United States of America of the Premises, in the discretion of the United States of America and with no compensation to either Concessionaire or the City from the United States of America.

2.3 Condition. Concessionaire accepts the Premises in their "as is" condition. Concessionaire acknowledges that Building 41, which is located on the Premises and which Concessionaire intends to demolish may contain Hazardous Substances (as defined in Section 8.8), particularly including lead paint and

asbestos. Concessionaire agrees that all construction on or improvements to the Premises shall comply with all applicable laws relating to the abatement and disposal of Hazardous Substances and shall be subject to all of the requirements of Section 8, below.

**2.4 License.** Concessionaire and its licensees, invitees and customers may use the public areas of Magnuson Park (the "Park") as the same may be constituted from time to time, in common with the general public and other Park occupants and their respective licensees, invitees, customers and employees. City shall at all times have exclusive control and management of the Park; provided, however, that the City agrees to exercise such control and management of the Park in a manner that does not unreasonably interfere with Concessionaire's business operations on the Premises. In addition, for so long as is reasonably necessary to carry out the work, Concessionaire and its licensees, invitees and contractors shall have the right to use portions of the Park that the Superintendent designates, in advance, as staging areas to construct the Roadway Improvements. These staging areas are depicted generally on Exhibit C.

**2.5 Permitted Use.** Commencing on the Possession Date, Concessionaire shall use the Premises to construct and, upon receipt of a certificate of occupancy therefor, to operate upon the Premises an indoor tennis facility containing six or more regulation-sized tennis courts, and four or more regulation-sized outdoor tennis courts. In addition, Concessionaire may use the indoor tennis facility for purposes incidental to the operation of the tennis facility, including storage, offices, locker rooms and meeting rooms. Concessionaire may sell food and beverages at the Premises; provided, however, that in no event shall Concessionaire conduct any food service operation that, if open to the general public, has any interior seating area with twenty (20) or more seats dedicated exclusively for use by food and beverage customers.

With the Superintendent's prior approval, Concessionaire may engage in Third-Party Rentals of all or part of the Premises on an intermittent basis involving not more than five (5) consecutive days for any one event or, collectively, for not more than thirty (30) days in any one calendar year, provided such use is consistent with the Permitted Use of the Premises. Concessionaire shall include the process for selection of individuals or groups to use the Premises in the annual Management and Operations Plan required pursuant to Section 8.5, below, together with the standard terms and conditions of any proposed use agreements.

**2.6 Continuous Operation.** From and after the Concession Fee Commencement Date, Concessionaire shall conduct its

business operations on the Premises continuously throughout the Term and shall keep the Premises open for business during the usual business hours of each and every business day as is customary for businesses of like character except for closures for remodeling, repair or renovation that the Superintendent approves, in advance.

2.7 Public Program Requirement. Throughout the Term Concessionaire shall provide open court time, free of charge, to youth (defined as children between the ages of 10 and 18) and seniors (defined as adults 65 or over) in an amount equal to or greater than that offered by the City's Amy Yee Tennis Center, but in no event less than a total of 8.75 hours per week. Concessionaire shall propose for the Superintendent's approval, the schedule and terms and conditions for open court time.

### 3. Concession Agreement Term.

3.1 Term. This Agreement shall commence on the Effective Date and terminate twenty (20) years from the Concession Fee Commencement Date unless the Agreement is terminated earlier as provided herein. On the Possession Date, Concessionaire shall have exclusive access to the Premises in order for Concessionaire to construct the Initial Improvements.

3.2 Extended Term. Provided Concessionaire is not in default under this Agreement and has continuously used and occupied the Premises for the Permitted Use, Concessionaire shall have the option to extend the Term of this Agreement for two (2) additional terms of five (5) years, each, on the same terms and conditions as are set forth herein except that there shall be no further renewal option. Concessionaire shall exercise its option(s) to extend the Term by giving the City written notice of its intention to do so at the address specified in Section 27, at least ninety (90) days prior to the expiration of the then-current Term.

### 4. Concession Fee.

4.1 Concession Fee Payment. Beginning on the Concession Fee Commencement Date and thereafter, in advance, on the twentieth (20<sup>th</sup>) day of each month, Concessionaire covenants to pay the City at the address and to the account the City specifies, without notice or demand, in lawful money of the United States, the monthly amount of the Base Concession Fee together with any Percentage Concession Fee due from Third-Party Rentals that occurred during the immediately preceding month. Concessionaire shall pay the Percentage Concession Fee due for the last month of the Term within thirty (30) days from the date this Agreement expires or is terminated. The Concession Fee and, if appropriate, as reasonably determined by City, Additional Charges

shall be prorated on a daily basis for any partial month during the Concession Agreement Term.

4.2 Adjustments to Base Concession Fee. Beginning on the first anniversary of the Concession Fee Commencement Date and every anniversary thereafter until the expiration or termination of this Agreement (each, a "Concession Fee Adjustment Date"), the Base Concession Fee shall be increased to an amount determined by multiplying the Base Concession Fee payable during the year immediately preceding the Concession Fee Adjustment Date by a fraction, the denominator of which shall be the Consumer Price Index for All Urban Consumers (All Items) in the Seattle-Tacoma-Bremerton region (1982-84 = 100) ("CPI"), published by the Bureau of Labor Statistics, United States Department of Labor, in effect as of the date which is twelve (12) months prior to the Concession Fee Adjustment Date, and the numerator of which shall be the CPI in effect as of the date immediately preceding the Concession Fee Adjustment Date.

By way of example, only, if the CPI on the commencement date of this Concession Agreement is 100 and the CPI most recently issued prior to the first Concession Fee Adjustment Date is 110 and the annual Base Concession Fee due under this Concession Agreement is \$60,000.00, then the total CPI adjustment would be 110% and the annual Base Concession Fee under this Concession Agreement would increase to \$66,000.00 effective as of the Concession Fee Adjustment Date.

If the CPI is discontinued, the parties shall agree upon another similar index to be used to calculate the contemplated adjustment and, in the event of an inability to agree, the parties shall request the American Arbitration Association or its successor to appoint a qualified arbitrator to establish an appropriate adjustment standard to measure inflation.

Notwithstanding the foregoing, beginning on the tenth (10th) anniversary of the Concession Fee Commencement Date and every five (5) years thereafter (each such period a "Concession Fee Review Date"), the City shall have the option to adjust the Base Concession Fee by either (i) the percentage increase in the CPI during the preceding year or (ii) the percentage increase in Concessionaire's Gross Receipts from the "Revenue Base Year" to the relevant "Revenue Adjustment Year," as defined and illustrated in the table below:

Concession Fee Adjustment Date	Revenue Base Year	Revenue Adjustment Year
Year 10	Sixth full calendar year after the Concession Fee Commencement Date	Ninth full calendar year after the Concession Fee Commencement Date
Year 15	Eleventh full calendar year after the Concession Fee Commencement Date	Fourteenth full calendar year after the Concession Fee Commencement Date
Year 20 (in the event the Agreement is extended)	Sixteenth full calendar year after the Concession Fee Commencement Date	Nineteenth full calendar year after the Concession Fee Commencement Date
Year 25 (in the event the Agreement is extended)	Twenty-first full calendar year after the Concession Fee Commencement Date	Twenty-fourth full calendar year after the Concession Fee Commencement Date

By way of further example, only, if the CPI on the ninth (9th) anniversary of the Concession Fee Commencement Date is 100 and the CPI most recently issued prior to the tenth anniversary of the Concession Fee Commencement Date is 110 and the annual Base Concession Fee then due under this Agreement were \$250,000.00, the City could increase the annual Base Concession Fee 110% to \$275,000.00 as of the tenth (10th) anniversary date. Alternatively, if Concessionaire's Gross Receipts were \$600,000.00 for the sixth (6th) full calendar year of the Agreement and \$900,000.00 for the ninth (9th) full calendar year then, in lieu of the CPI adjustment for that year, the City could elect to increase the Base Concession Fee 150% to \$375,000.00, effective on the tenth (10th) anniversary. The CPI adjustment formula would thereafter be applied each year as described above, until the next Concession Fee Review Date.

Under no circumstances shall the Base Concession Fee, as adjusted for any period, be less than Base Concession Fee payable during the immediately preceding period.

**4.3 Roadway Improvement Project Offset.** Throughout the Term, Concessionaire shall be entitled to apply as an offset against up to twenty percent (20%) of each monthly Base Concession Fee payment the actual remaining unamortized costs expended by Concessionaire and



directly related to the design, permitting and construction of the Roadway Improvement Project, as depicted generally on Exhibit C, to a maximum of \$200,000.00. These improvements shall generally be limited to roadway and sidewalk construction and related street tree, landscaping and lighting improvements. These costs may include hard and soft costs such as, but not limited to, labor, materials, architecture and engineering fees, permits, licensing fees, equipment costs or rental fees, construction or project management fees, sales tax, and consultants' fees.

#### 4.3.1 Superintendent's Approval of Alterations Budget.

Prior to commencing construction of the Roadway Improvement Project, Concessionaire shall submit to the Superintendent a budget for the same (the "Construction Budget"). Within thirty (30) days after receipt of the Construction Budget and subject to the provisions of Section 4.3, the Superintendent shall indicate the total amount of budgeted construction costs for the improvements that the Superintendent approves as potentially eligible for a Concession Fee Offset.

4.3.2 Superintendent Approval of Alterations' Actual Costs. Not later than six (6) months after Concessionaire finally completes the Roadway Improvement Project, as evidenced by Concessionaire's proof of final payment for the Roadway Improvement Project, Concessionaire shall provide the Superintendent with an accounting of its actual costs associated with the capital improvements, together with such supporting documentation as the Superintendent may reasonably request. The Superintendent shall certify the final amount of costs expended by Concessionaire in connection with such improvements and this amount shall constitute the amount of Roadway Improvement Project Offset.

4.3.3 Concession Fee Offset Reporting. Each month throughout the Term, Concessionaire shall report to the Parks Finance Director, or his or her designee, the dollar amount of Roadway Improvement Project Offset it is applying to the Base Concession Fee. If the aggregate amount of capital expenditures subject to the Roadway Improvement Project Fee Offset exceeds the total Base Concession Fee payable under this Concession Agreement during the Term, Concessionaire shall not have any right to recover from the City the balance. Unless the Superintendent agrees otherwise, upon the termination or expiration of this Concession Agreement, any remaining balance shall be deemed to be donated to the City, and the improvements shall be surrendered with the Premises in accordance with Sections 11.3 and 14.

4.4 Public Program Concession Fee Offsets. Concessionaire may request a Public Program Concession Fee Offset against Base Concession Fee to reflect expenditures for programming that is available to the public (such as scholarship programs or free public classes) beyond that which is required by Section 2.7. In the annual Management and Operations Plan, Concessionaire may identify the amount of Public Program Concession Fee Offset it is requesting for the upcoming calendar year based upon public programming it provided during the preceding calendar year and any other justification for the request. The Superintendent will respond to the request within thirty (30) days, stating the amount, if any, of the Public Program Concession Fee Offset allowed for the upcoming calendar year. The amount of the Public Program Concession Fee Offset for a given year shall rest in the Superintendent's sole Discretion.

After the first month of operation and continuing during the first year of operation, the Concessionaire may request a Public Program Concession Fee Offset against Base Concession Fee to reflect expenditures in the preceding month for programming that is available to the public beyond that which is required by Section 2.7.

5. Late Charge; Interest. If Concessionaire fails to pay the City any sum when due, such amount shall bear interest at the rate of twelve percent (12%) per annum from the date due until the date paid.

6. Recordkeeping and Reporting; Audit. Concessionaire shall keep true, full and accurate books of account setting forth Concessionaire's receipts and all related revenues associated with the Tennis Center, together with any other information that will affect the determination of the Concession Fee and Additional Charges and shall account for its Gross Receipts on a daily basis. Together with each monthly Percentage Concession Fee payment due hereunder, Concessionaire shall deliver to the City an accurate, itemized accounting report of all revenues earned during the month for which payment is being made. Within thirty (30) days after the end of each calendar year throughout the Term, Concessionaire shall deliver to the City a written report, itemized by revenue source, identifying the aggregate amount of Gross Receipts generated from operation of the Premises during the immediately preceding calendar year.

The City shall be allowed, after five (5) days' prior written notice to Concessionaire, to inspect Concessionaire's books of account at Concessionaire's office and to procure audits thereof by an auditor at the City's sole cost and expense (except as provided below). If in the reasonable judgment of such auditor, Concessionaire's books of account are incomplete or improperly

reflect the information necessary for an accurate determination of the Concession Fee, or if the audit shall show that the reports submitted by Concessionaire understated Concessionaire's receipts by more than three percent (3%) thereof for any year covered by the audit, the costs and fees for such audit shall be paid by Concessionaire to the City. Concessionaire shall retain all books of accounting and any other information that will affect the determination of the Concession Fee and Additional Charges for a period of six (6) years after the last day of the period that such particular record covers, and Concessionaire shall make them available for inspection at Concessionaire's office within ten (10) days of City's prior written demand therefor. For example, Concessionaire shall maintain its 2010 financial records through December 31, 2016. Concessionaire's obligations under this Section shall survive expiration or termination of this Concession Agreement.

Concessionaire shall supply the City with any documentation that the City requires in order for it to file required compliance reports required by the Federal Lands to Parks Program, National Park Service.

#### 7. Conditions Subsequent.

7.1 Concessionaire's Alteration Requirements. The parties acknowledge and agree that the construction of the improvements as contemplated herein, is a fundamental purpose of this Concession Agreement and Concessionaire agrees to use every commercially reasonable effort to complete the Initial Improvements and the Roadway Improvement Project and to obtain a certificate of occupancy for the Permitted Use within twenty-four (24) months of the Effective Date. The Superintendent may extend this deadline if Concessionaire can demonstrate that the delay is attributable to obtaining necessary city permits through no fault of Concessionaire, necessary pending amendments to the Land Use Code, or Force Majeure events.

If Concessionaire fails to complete the Initial Improvements and the Roadway Improvement Project by the above date, the City may terminate this agreement by providing written notice to Concessionaire and the parties shall have no further rights or obligations with respect to one another.

7.2 Approval of Initial Improvement and Roadway Improvement Plans. Prior to June 1, 2009, Concessionaire shall submit to the Superintendent for review and approval, in his or her reasonable discretion, plans and specifications detailing the Initial Improvements and the Roadway Improvements Concessionaire proposes to

make to the Premises, which plans and specifications shall, to the extent commercially reasonable, incorporate environmentally sustainable design principles. The Superintendent shall approve the Initial Improvements and Roadway Improvement plans or provide Concessionaire with written comments thereon by thirty (30) days after the date of the Initial Improvements and the Roadway Improvements plan submission. If the Superintendent does not deliver written comments on Concessionaire's Initial Improvements and Roadway Improvement plans by thirty (30) days after the plan submission, then the Initial Improvements and Roadway Improvement plans shall be deemed approved by the Superintendent for purposes of this Concession Agreement, only. If the Superintendent delivers written comments by thirty (30) days after the plan submission, Concessionaire shall make such modifications to the plans as will address the Superintendent's concerns.

7.3 Concessionaire's Funding Responsibilities. Concessionaire shall be fully responsible for and shall promptly pay all costs associated with the Initial Improvements and the Roadway Improvements including, but not limited to, all design, permitting and construction costs. The City shall provide no funds for the Initial Improvements or the Roadway Improvements. Prior to starting construction, Concessionaire shall present evidence to the reasonable satisfaction of the Parks Finance Director that it has access to sufficient funds to complete the Initial Improvements and the Roadway Improvements. If Concessionaire fails to present satisfactory evidence, the City may terminate this agreement by providing written notice to Concessionaire and the parties shall have no further rights or obligations with respect to one another.

7.4 Land Use Code Amendments. Concessionaire and the Superintendent shall work together to develop and propose to the City Council amendments to Seattle Municipal Code Chapter 23.72 (Sand Point Overlay District) that would allow the Permitted Use of the Premises under this Concession Agreement. If applicable land use ordinances, rules or regulations do not allow the Permitted Use of the Premises on or before June 30, 2010, either party may terminate this Concession Agreement by providing written notice to the other not later than July 31, 2010 and the parties shall have no further rights or obligations with respect to one another under this Concession Agreement.

7.5 Approval of Signage Plan. Once code amendments are approved setting standards for signage at Magnuson Park, Concessionaire shall submit to the Superintendent for review and approval, in his or her sole discretion, a plan for exterior signage for the Premises and for the Park describing Concessionaire's

Permitted Use. The Superintendent shall approve the plan or provide written comments thereto by forty-five (45) days after the signage plan submission. If the Superintendent does not deliver to Concessionaire written comments on Concessionaire's signage plan by forty-five (45) days after the plan submission, then Concessionaire's signage plan shall be deemed approved by the Superintendent. If the Superintendent objects to any element of Concessionaire's signage plan by forty-five (45) days after the plan submission, City and Concessionaire shall negotiate in good faith revisions to Concessionaire's signage plan. The Superintendent shall approve or deny the plan by one-hundred twenty (120) days after the initial submission. If Concessionaire's signage plan is not approved by one-hundred twenty (120) days after the initial submission, then Concessionaire may terminate this Agreement by providing written notice to the City not later than one-hundred fifty (150) days after the initial submission, and the parties shall have no further rights or obligations with respect to one another.

#### 8. Concessionaire's Operations.

8.1 Use of Premises. Concessionaire shall use the Premises only for the Permitted Use. As City's willingness to enter into this Concession Agreement with Concessionaire was predicated, in part, on the nature of Concessionaire's business, and the compatibility of such business with the use of the remainder of the Park, Concessionaire shall not use or permit the use of the Premises for any other business, or purpose, without City's prior written consent. Furthermore, Concessionaire's use shall be in strict accordance with all terms and provisions imposed by the United States of America as set forth in the USA Deed. Written concurrence by the National Park Service shall be required for other proposed use in conjunction with or in addition to the Permitted Use. Concessionaire shall promptly comply, at its sole cost and expense, with such reasonable rules and regulations relating to the use of the Premises and Park as City, from time to time, may promulgate provided that such rules and regulations shall not materially interfere with Concessionaire's business operations related to the Permitted Use. In the event of any conflict between the rules and regulations promulgated by City and the terms of this Concession Agreement, the terms of this Concession Agreement shall control. Concessionaire shall maintain the Premises in a clean and neat fashion and to a standard found at other Parks properties similar in age, level of public use, and public visibility, permitting no objectionable odors to be emitted from the Premises and shall neither commit waste nor permit any waste to be committed thereon. Concessionaire shall not permit any accumulation of trash on or about the Premises.

**8.2 Alcoholic Beverage Sales.** Concessionaire shall not permit intoxicating beverages of any kind to be used, sold, consumed, or dispensed upon the Premises unless the Superintendent has approved such use, sale, consumption or dispensing in advance, in writing, which approval shall not be unreasonably withheld, conditioned or delayed and such approval shall be deemed to have been given if not withheld in writing within forty-five (45) days after delivery of a request for consent. Any such use sale, consumption or dispensing shall comply with applicable laws, ordinances, rules, and regulations then in force.

**8.3 Fees.** Fees that Concessionaire charges the public for court time devoted to singles and doubles play shall be set at no less than seventy-five percent (75%) and no greater than one-hundred fifty (150%) of fees charged for similar time at the Amy Yee Tennis Center. Concessionaire may increase fees above this level based on increases in the Consumer Price Index (CPI), using the formula described in Subsection 4.2, above.

**8.4 High-Capacity Events.** Magnuson Park has limited capacity to handle multiple events with large numbers of attendees. Therefore, if Concessionaire reasonably anticipates that more than one-hundred fifty (150) people will be in attendance at any event on the Premises, Concessionaire shall provide the City with no less than thirty (30) days' advance written notice of the event. If the City determines that the event would conflict with other high-capacity events that have already been scheduled to take place at the same time, the City shall notify Concessionaire within five (5) business days after receipt of Concessionaire's notice. Upon receipt of such notice, Concessionaire shall either reschedule the event or reduce the size of the event to less than fifty (50) attendees.

**8.5 Management and Operations Plan.** Concessionaire shall prepare and submit to the Superintendent, for his or her approval (which shall not be unreasonably withheld, conditioned, or delayed), an annual plan for the management and operation of the Premises. The first plan shall be due on or before the date that is thirty (30) days prior to Concessionaire's occupancy of the Premises for operational purposes, and subsequent plans shall be due on or before October 1st of each year thereafter. The Management and Operations Plan shall include such information as the Superintendent may reasonably specify from time to time for comparable Parks facilities, but at a minimum shall include a description of Concessionaire's proposed capital improvements to the Premises (other than the Initial Improvements and the Roadway Improvement Project); the anticipated programming for the upcoming year; the number of people served, by

age group, during the preceding year and projected for the upcoming year; the dollar amount of scholarships given for the past year and anticipated to be given for the upcoming year; criteria for scholarship awards; and information concerning Third-Party usage. The Management and Operations Plan shall also set forth how the Concessionaire shall ensure that the use of the Premises shall conform to the requirement set forth in the USA Deed that the Premises be used for public park and public recreation purposes. The City shall be deemed to have approved the Management and Operations Plan (and all uses and events noted therein) unless the Superintendent delivers to Concessionaire written objections thereto within sixty (60) days after submission of the Management and Operations Plan to City. If the Superintendent delivers written comments on the Management and Operations Plan within the sixty (60) day period, City and Concessionaire shall negotiate in good faith such revisions to the Management and Operations Plan as will satisfy the Superintendent's concerns. Concessionaire may amend or modify the plan from time to time with the prior approval of the Superintendent, which approval shall not be unreasonably withheld, conditioned, or delayed. City shall be deemed to have approved the amended plan (and all uses and events noted therein) unless it rejects the amended plan in writing within twenty (20) days.

#### 8.6 Compliance with Laws; Nondiscrimination.

8.6.1 General Obligation. Concessionaire shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or any term or condition contained in the USA Deed, or for any purpose offensive to the standards of the community. Concessionaire shall promptly comply, at its sole cost and expense, and ensure that its contractors and agents comply, with all terms and conditions in the USA Deed, and with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the renovation or improvement of the Premises or condition or use or occupancy of the Premises during the term of this Concession Agreement.

8.6.2 Nondiscrimination. Without limiting the generality of Section 8.6.1, Concessionaire shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to those laws set forth in conditions 5 and 6 of the USA Deed and Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative

agencies and their officers.

**8.7 Liens and Encumbrances.** Concessionaire shall keep the Premises free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Concession Agreement or its use, improvement or occupancy of the Premises by Concessionaire or any of its principals, officers, employees or agents or subtenants. Concessionaire shall inform the City in writing of any lien filed against the Premises within ten (10) days of the filing date of the lien. If any lien is so filed against the Premises, Concessionaire shall either cause the same to be fully discharged and released of record within ten (10) days after City's written demand therefor or, within such period, provide City with cash or other security acceptable to City in an amount equal to one and one-half (1 1/2) times the amount of the claimed lien as security for its prompt removal. City shall have the right to disburse such security to cause the removal of the lien if City deems such necessary, in City's sole discretion. The indemnification and defense obligation of this Section shall survive the expiration or earlier termination of this Concession Agreement.

**8.8 Hazardous Substances.** As used in this Concession Agreement, "Hazardous Substances" means any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance.

**8.8.1 Use and Disposal of Hazardous Substances.** Concessionaire shall not, without City's prior written consent, keep on or about the Premises any Hazardous Substances except customary office, kitchen, cleaning and other related supplies in normal quantities and handled in compliance with applicable laws. With respect to any Hazardous Substances stored with City's consent, Concessionaire shall promptly, timely and completely comply with all applicable governmental requirements for reporting and record keeping; submit to City true and correct copies of all reports, manifests and identification numbers (if any) at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after City's request therefor, provide evidence satisfactory to City of Concessionaire's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances used at the Premises. Any and all costs incurred by City



and associated with City's inspections of the Premises and City's monitoring of Concessionaire's compliance with this Section 8.8.1, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City within ten (10) days after City's demand therefor, if Concessionaire's violation of this Section 8.8.1 is discovered as a result of such inspection or monitoring. Concessionaire shall be fully and completely liable to City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Concessionaire's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises.

8.8.2 Hazardous Substances Indemnity. Concessionaire covenants and agrees to indemnify, defend and hold the City, its agents and employees, harmless from any and all of the damages, costs, fees, penalties, charges and expenses assessed against, or imposed, upon City (as well as City's attorneys' fees and costs) from (a) any claims for personal injury to the extent caused by exposure, after the date on which Concessionaire took control of the Premises, to lead-based paint, asbestos or other Hazardous Substances; and (b) Concessionaire's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises during the Term. City shall indemnify, defend and hold Concessionaire harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed upon Concessionaire (including Concessionaire's attorneys' fees and costs) as a result of the use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises except for such Hazardous Substances released by Concessionaire. The indemnification and defense obligations of this Section shall survive the expiration or earlier termination of this Concession Agreement.

## 9. Utilities.

9.1 General. To the extent practicable, Concessionaire shall cause all utilities serving the Premises to be separately metered. Concessionaire shall pay when due to the appropriate providers, all charges for utilities for the Premises, including but not limited to, electricity, water and sewer services and data and telecommunications services.

9.2 Refuse Collection; Recycling of Waste Materials. Concessionaire shall provide all necessary housekeeping and janitorial services for the Premises to a level consistent with other similar Parks facilities and operations and to the Superintendent's reasonable satisfaction. Concessionaire shall be responsible for

proper storage and removal of trash, litter pickup and recycling consistent with City standards.

9.3 Interruption. Except as a result of the gross negligence or willful misconduct of City, City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Concessionaire or to relieve Concessionaire from any of Concessionaire's obligations hereunder or to give Concessionaire a right of action against City for damages. City has no obligation to provide emergency or backup power to Concessionaire. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Concessionaire.

#### 10. Licenses and Taxes.

10.1 Payment of Licenses and Taxes. Without any deduction or offset whatsoever, Concessionaire shall be liable for, and shall pay prior to delinquency, all taxes, license and excise fees and occupation taxes applicable to Concessionaire's business activities conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises and owned by Concessionaire. Concessionaire shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to Concessionaire's use and occupancy of the Premises, and pay all taxes on the leasehold interest created by this Concession Agreement (e.g., leasehold excise taxes).

10.2 Contests. Concessionaire shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving Concessionaire of its covenant to pay any such taxes. City shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Concessionaire, and Concessionaire hereby covenants to indemnify and hold City harmless from any such costs or expenses. The indemnification obligation contained in this Section shall survive the expiration or earlier termination of this Concession Agreement.

## 11. Alterations by Concessionaire.

11.1 Superintendent's Approval. Concessionaire shall not make any alterations, additions or improvements in or to the Premises without first submitting to the Superintendent professionally-prepared and stamped plans and specifications and a construction schedule for such work and obtaining the Superintendent's prior written approval thereof.

11.2 Alteration Standards and Requirements. Concessionaire covenants that it will cause all alterations, additions and improvements to the Premises to be completed at Concessionaire's sole cost and expense by a licensed contractor approved by the City and in a manner that (a) is built in accordance with the Superintendent-approved plans and specifications and any conditions imposed by the Superintendent in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage and bonding, for City's benefit; (d) does not negatively affect the structural integrity of the Premises or any of the Premises' systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises. In addition, Concessionaire shall meet with the City's Green Building Team and shall use good faith efforts to incorporate green building practices and sustainable design into its design for the any alterations, additions and improvements to the Premises. Concessionaire shall secure all governmental permits and approvals required for the work; and shall comply or cause its contractors to comply with all other applicable governmental requirements and restrictions, including RCW 39.12 pertaining to prevailing wages.

11.3 Ownership of Alterations. All alterations, additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), shall become the property of City at the expiration or termination of this Concession Agreement without any obligation on its part to pay for any of the same. At the Superintendent's request, Concessionaire shall execute a deed or bill of sale in favor of City with respect to such alterations and/or improvements. Notwithstanding the foregoing, Concessionaire shall remove all or any portion of such alterations and/or improvements on the expiration or termination of this Concession Agreement if the Superintendent specifically so directs, in writing, at the time the Superintendent issues his or her approval thereof. Notwithstanding the foregoing,

in no event shall Concessionaire be required to remove the underlying site and foundation work performed in constructing the Initial Improvements, or any of the Roadway Improvements.

11.4 As-built Drawings. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Concessionaire shall deliver to the Superintendent a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Concessionaire, if typically produced for alterations and improvement of like character.

## 12. Care of Premises.

12.1 General Obligation. Concessionaire shall take good care of the Premises and shall reimburse City for all damage done to the Premises that results from any act or omission of Concessionaire or any of Concessionaire's officers, contractors, subtenants, agents, invitees, licensees or employees, normal wear and tear excluded.

12.2 Minor and Major Maintenance Obligation. Concessionaire shall be responsible for all minor and major maintenance of the Premises and structures erected on the Premises during the Term of this Concession Agreement including, but not limited to, repairs of cracked or broken glass, regular exterior painting and masonry maintenance, roof repairs and replacement, and HVAC repair and replacement. The foregoing sentence does not extend to maintenance occasioned by an act or omission of City or its officers, agents, employees, or contractors, for which City shall be responsible. Except in the event of City's gross negligence or intentional misconduct, there shall be no abatement or reduction of the Concession Fee arising by reason of City's making of repairs, alterations or improvements to the Premises. The City shall maintain the parking areas and Park common areas to the standard typical of other, similar park properties.

12.3 Joint Annual Inspection of Premises; Remedial Action Obligation. Concessionaire shall participate in an annual inspection of the Premises with the City and shall take any and all action that is consistent with the terms of this Concession Agreement that the City may specify as necessary to maintain and operate the Premises in a clean and safe manner.

12.4 City Remedy Upon Concessionaire's Failure to Maintain Premises. If Concessionaire fails to maintain the Premises in good order, condition, and repair, the City shall give Concessionaire

notice to undertake such work as is reasonably required to so maintain the Premises. If Concessionaire fails to commence such work within thirty (30) calendar days after the effective date of the City's notice and to diligently prosecute it to completion, then the City shall have the right, at its option and in addition to all other remedies, to undertake such work and to invoice Concessionaire for the costs reasonably incurred by the City in connection therewith and Concessionaire shall promptly pay the same as Additional Charges. The City shall have no liability to Concessionaire for any damage, inconvenience, or interference with Concessionaire's use of the Premises as a result of the City's performing any such work, except to the extent it is the City's, or its agents' or contractors' gross negligence or intentional misconduct.

12.5 Custodial Service for Premises. Concessionaire shall, at its own expense, at all times, keep the Premises, the entrance to the Premises and areas within ten (10) feet of the exterior Premises' walls in a neat, clean, safe, and sanitary condition; and keep the glass of all windows and doors serving the Premises clean and presentable. Concessionaire shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this Concession Agreement and all necessary janitorial service to adequately maintain the inside of such areas using a company reasonably approved by City. To the maximum extent practicable, Concessionaire shall comply with any recycling program that the City establishes for the Premises and/or Park.

If, after the City provides written notice to Concessionaire of Concessionaire's failure to comply with this Section, Concessionaire fails to take good care of such areas, City, at its option, may do so, and in such event, upon receipt of written statements from City, Concessionaire shall promptly pay the entire actual and reasonable cost thereof as an Additional Charge. City shall have the right to enter the Premises for such purposes. City shall not be liable for interference with light, air or view.

12.6 Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent. The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Concessionaire shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the

City's prior, express, written consent. The City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the City's discretion.

12.7 Concessionaire's Indemnification of City Against Liability under Visual Artists Rights Act of 1990. Concessionaire shall protect, defend, and hold the City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Section 12.6 of this Agreement; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Concessionaire or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether the City or any other person employed by the City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification and defense obligation contained in this Section shall survive the expiration or earlier termination of this Concession Agreement.

### 13. Signs and Advertising.

13.1 Signs, Generally. Except for those signs authorized by the Superintendent in connection with the approval of Concessionaire's signage plan described in Section 7.5, temporary signs permitted under Section 13.2, and the sign described in Section 13.3, Concessionaire shall not inscribe, post, place, or in any manner display any sign, notice, picture, poster, or any advertising matter whatsoever placed or installed the exterior of the Premises, without the Superintendent's prior written consent, which consent may be granted, withheld or conditioned in the Superintendent's reasonable discretion. Concessionaire shall remove all signage at the expiration or earlier termination of this Concession Agreement and repair any damage or injury to the Premises caused by such removal.

13.2 Temporary Signs. Temporary signs or banners not more than twenty-four (24) square feet in size may be displayed on or about the Premises to advertise a special event beginning two weeks immediately before the event advertised, through the conclusion of such event.

13.3 Recognition. Concessionaire shall install one sign on or about the exterior of the Premises with the Seattle Parks Department

logo and a statement recognizing Seattle Parks and Recreation's ownership of the building and memorializing the history of the building as part of the Sand Point Naval Air Station. Concessionaire shall also ensure that it does nothing to interfere or conflict with the City's obligation to provide signage as described in provision 2 of the USA Deed.

14. Surrender of Premises. At the expiration or sooner termination of the Concession Agreement Term, Concessionaire shall return the Premises to City in the same condition in which received on the Possession Date (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed by City pursuant to Section 11), excluding normal wear and tear. Prior to such return, Concessionaire shall remove its moveable trade fixtures and appliances and equipment that have not been attached to the Premises, and shall repair any damage resulting from their removal. Concessionaire's obligations under this Section 14 shall survive the expiration or termination of this Concession Agreement.

15. Waiver; Indemnification.

15.1 Concessionaire's Indemnification. Except as otherwise provided in this Section, Concessionaire shall indemnify, defend (using legal counsel reasonably acceptable to City) and save City, City's officers, agents, employees and contractors, harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including City's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with (a) Concessionaire's occupation, use or improvement of the Premises, or that of any of its employees, agents or contractors, (b) Concessionaire's breach of its obligations hereunder, or (c) any act or omission of Concessionaire or any licensee or assignee of Concessionaire, or of any officer, agent, employee, guest or invitee of any of the same in or about the Premises. Concessionaire agrees that the foregoing indemnity specifically covers actions brought by its own employees. The indemnification and defense obligations contained in this Section shall survive termination or expiration of this Concession Agreement. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Concessionaire's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity from claims made by Concessionaire and its employees, to

the extent of their negligence. Concessionaire shall promptly notify City of casualties or accidents occurring in or about the Premises.

**15.2 Concessionaire's Release of Claims.** Concessionaire hereby fully and completely waives and releases all claims against City to the extent a loss or damage is covered by insurance, for any losses or other damages sustained by Concessionaire or any person claiming through Concessionaire, resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of equipment; any failure to make repairs; any defect, failure, surge in, or interruption of building facilities or services; broken glass; water leakage; the collapse of any building component.

**15.3 Limitation of Concessionaire's Indemnification.** In compliance with RCW 4.24.115, if and as the same is in effect on the Effective Date of this Concession Agreement, all provisions of this Concession Agreement pursuant to which City or Concessionaire (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the Premises, (a) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (b) to the extent caused by or resulting from the concurrent negligence of (i) the Indemnitee or the Indemnitee's agents or employees, and (ii) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence.

CITY AND CONCESSIONAIRE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION 15.

**16. Insurance.** At all times throughout the Term of this Agreement, Concessionaire shall comply with the requirements of Exhibit E with respect to insurance.

**17. Assignment or Sublease by Concessionaire.**

**17.1 Assignment or Sublease.** Concessionaire shall not sublet or encumber the whole or any part of the Premises, nor shall this Agreement or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of both the



Superintendent and the National Park Service, whose consent shall be given or withheld in his, her, or its sole discretion. An assignment of this Agreement to a lender for security purposes shall constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. If Concessionaire is a corporation, then any transfer of this Agreement by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Concessionaire's outstanding voting stock, shall constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. If Concessionaire is a partnership, then a change in general partners in or voting or decision-making control of the partnership shall also constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. The granting of consent to a given transfer shall not constitute a waiver of the consent requirement as to future transfers. Any assignment or sublease without the Superintendent's or the National Park Service's prior written consent, at the Superintendent's or the National Park Service's option, shall be void. No assignment or sublease shall release Concessionaire from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to the Superintendent and the National Park Service.

17.2 Fees Due to City upon Transfer. If this Agreement is assigned, the Superintendent's consent shall not constitute the recognition of such assignee or other party as a tenant or act as a release of Concessionaire from the further performance of all of Concessionaire's covenants and obligations under this Agreement. If the Superintendent consents to any assignment or subletting (other than short term rentals), Concessionaire shall pay the Superintendent a fee not to exceed twenty-three and one-half percent (23.5%) of one month's installment of the Base Concession Fee due (before any offset) to the City, for expenses incurred in connection with processing of documents necessary to the giving of such consent and the additional monitoring and administration related to the same.

17.3 City's Rights Upon Proposed Sale of Concessionaire's Business. Before entering into a contract with anyone else during the Term hereof respecting any potential sale of the assets and business of Concessionaire as conducted on the Premises ("Concessionaire's Business"), Concessionaire shall notify the City of such potential sale. Provided the City gives Concessionaire written notice of its desire to acquire Concessionaire's Business within five (5) business days after receipt of said notice, the City shall, thereafter, for a period of thirty (30) days, have the right

to negotiate with Concessionaire for the sale of Concessionaire's Business to the City. Concessionaire and City agree to negotiate for such sale in good faith. If, after giving written notice of its exercise of its right to negotiate, the City and Concessionaire do not enter into an agreement within said thirty (30) day period and Concessionaire thereafter enters into an agreement with a third-party for the sale of Concessionaire's Business, Concessionaire shall give notice to the City of the proposed transaction together with a copy of the contract and such other information as the City may reasonably request, and the City shall have the right, to be exercised not later than ten (10) business days following the City's receipt of the requested information and the contract of sale, to purchase Concessionaire's Business on the same terms and conditions as set forth in the contract except that if the contract calls for the payment of the purchase price other than in full at the closing, the City shall have the right to pay the purchase price in full in an amount which shall be discounted to present value based on the current Prime Interest Rate as published in the Wall Street Journal at the time of close. It is understood that if the City does not exercise its rights hereunder in any particular instance, this provision shall nevertheless be applicable to any further or future potential transfer. The City agrees to not unreasonably withhold its consent to an assignment of the Concession Agreement pursuant to a sale of the business if the City has forgone its option to purchase the business. The City shall not be responsible for payment of any commission associated with the transaction.

18. Assignment by the City. If the City sells or otherwise transfers the Premises, or if the City assigns its interest in this Concession Agreement, such purchaser, transferee, or assignee thereof shall be deemed to have assumed the City's obligations under this Concession Agreement arising after the date of such transfer, and the City shall thereupon be relieved of all liabilities under this Concession Agreement arising thereafter, but this Concession Agreement shall otherwise remain in full force and effect. Concessionaire shall attorn to the City's successor, which assumes and agrees to perform all of the City's obligations under this Concession Agreement.

19. Destruction. If the improvements to the Premises are rendered partially or totally untenantable by fire or other casualty, and if the damage is repairable within twenty-four (24) months from the date of the occurrence, then, if insurance proceeds or self-insurance coverages are available to pay the full cost of the repairs (except for the deductible amounts), Concessionaire shall repair the Premises with due diligence and in addition, shall promptly repair, at its sole cost and expense, all damage to its personal and business

property. If the improvements to the Premises are repaired, the Concession Fee and Additional Charges shall be abated in the proportion that the untenable portion of the Premises bears to the whole thereof, as the City determines, for the period from the date of the casualty to the completion of the repairs. If the damage to the improvements to the Premises is uninsured or cannot be repaired within twenty-four (24) months from the date of the occurrence, Concessionaire may terminate this Concession Agreement upon sixty (60) days' written notice to the City. If this Concession Agreement is terminated due to casualty, the City shall be entitled to all insurance proceeds payable on account of the loss to the improvements to the Premises.

## 20. Eminent Domain.

20.1 Taking. If all of the Premises are taken by Eminent Domain, this Concession Agreement shall terminate as of the date Concessionaire is required to vacate the Premises and all Concession Fees and Additional Charges shall be paid to that date. Exercise by the United States of America of its right to revert the property under the terms and conditions of the USA Deed shall not be construed as an exercise of Eminent Domain by the United States of America. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for Concessionaire's business, in the reasonable judgment of Concessionaire, Concessionaire may terminate this Concession Agreement by written notice given to the City not more than thirty (30) days after City gives Concessionaire written notice of the taking, and such termination shall be effective as of the date when Concessionaire is required to vacate the portion of the Premises so taken. If this Concession Agreement is so terminated, all Concession Fees and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Concession Agreement is not terminated, the City, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Concessionaire, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking, to the extent award is available therefor. The Base Concession Fee and Additional Charges payable hereunder shall be

reduced from the date Concessionaire is required to partially vacate the Premises in the same proportion that the usable area of the Premises taken bears to the total usable area of the Premises prior to taking.

**20.2 Award.** Except as otherwise provided below, the City reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Concessionaire waives all claim whatsoever against the City for damages for termination of its Concession leasehold interest in the Premises or for interference with its business. Concessionaire hereby grants and assigns to the City any right Concessionaire may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as the City, from time to time, may request. Concessionaire, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Concessionaire on account of any loss incurred by Concessionaire in moving Concessionaire's merchandise, furniture, trade fixtures and equipment and the cost of restoring its personal property and improvements made by it to the Premises.

**21. Default by Concessionaire.**

**21.1 Definition.** If Concessionaire violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of this Concession Agreement; or if Concessionaire files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Concessionaire's assets or if Concessionaire makes an assignment for the benefit of creditors, or if Concessionaire is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; then Concessionaire shall be deemed in default ("Default").

**21.2 City Remedies.** If Concessionaire has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within thirty (30) days after written notice thereof has been provided to Concessionaire, then the City shall have the following nonexclusive rights and remedies at its option: (a) to cure such default on Concessionaire's behalf and at Concessionaire's sole expense and to charge Concessionaire for all actual and reasonable costs and expenses incurred by the City in effecting such cure as an Additional Charge; (b) to terminate this Concession Agreement; provided, however, that if the nature of Concessionaire's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more

than thirty (30) days is required for performance, then Concessionaire shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

21.3 Reentry by City Upon Termination. Upon the termination of this Concession Agreement, the City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Concessionaire shall have no claim thereon or hereunder. Concessionaire shall be liable and shall reimburse the City upon demand for all actual and reasonable costs and expenses of every kind and nature incurred in retaking possession of the Premises. If the City retakes the Premises, the City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at any place selected by the City, including a public warehouse, at the expense and risk of Concessionaire. The City shall have the right to sell such stored property, after reasonable prior notice to Concessionaire or such owner(s) after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied, first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from Concessionaire to the City; the balance, if any, shall be paid to Concessionaire.

21.4 Vacation or Abandonment. If Concessionaire vacates or abandons the Premises in their entirety and fails to reoccupy them within thirty (30) days after the City (a) delivers a notice to Concessionaire's notice address set forth in Section 1.7, above, demanding such reoccupancy and (b) mails by certified or registered mail a copy of the notice to any forwarding address given by Concessionaire to the City in writing, Concessionaire shall be in default under this Concession Agreement.

21.5 City's Non-exclusive Remedies upon Termination due to Default of Concessionaire. Notwithstanding any reentry by the City and anything to the contrary in this Concession Agreement, in the event of the termination of this Concession Agreement due to the Default of Concessionaire, the liability of Concessionaire for all sums due under this Concession Agreement provided herein shall not be extinguished for the balance of the Term of this Concession Agreement. Concessionaire shall also be liable to the City for any other amount (excluding consequential or specific damages) necessary to compensate the City for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this Concession Agreement or that in the ordinary course of things would

be likely to result therefrom, including but not limited to, any costs or expenses incurred in maintaining or preserving the Premises after such Default, and any costs incurred in authorizing others the use and occupancy of the Premises and in preparing the Premises for such use and occupancy, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. The provisions of Section 21.5 shall survive the expiration or earlier termination of this Concession Agreement.

22. City's Remedies Cumulative; Waiver. The City's rights and remedies hereunder are not exclusive, but cumulative, and the City's exercise of any right or remedy due to a default or breach by Concessionaire shall not be deemed a waiver of, or alter, affect or prejudice any other right or remedy that the City may have under this Concession Agreement or by law or in equity. Neither the acceptance of rent nor any other act or omission of the City at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Concession Agreement shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive the City of its right to cancel or forfeit this Concession Agreement, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to estop the City at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Concession Agreement.

23. Default by City. The City shall be in default if the City fails to perform its obligations under this Concession Agreement within thirty (30) days after its receipt of notice of nonperformance from Concessionaire; provided, that if the default cannot reasonably be cured within the thirty (30) day period, the City shall not be in default if the City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon the City's default, Concessionaire may pursue any remedies at law or in equity that may be permitted from time to time by the laws of the State of Washington.

24. Attorneys' Fees. If either party retains the services of an attorney in connection with enforcing the terms of this Concession Agreement, each party agrees to bear its own attorneys' fees and costs.

25. Access by City and National Park Service. The City and its agents shall have the right to enter the Premises at any reasonable

time to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises as the City may deem necessary or desirable. In addition, the National Park Service shall have the right to enter the Premises at any reasonable time to examine the same. If Concessionaire is not personally present to permit entry and an entry is necessary in an emergency, the City may enter the same by master key or may forcibly enter the same, without rendering the City liable therefor, except in the event of the City's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon the City any duty of repair or other obligation not specifically stated in this Agreement. Concessionaire shall change the locks to the Premises only through the City and upon paying the City for all actual and reasonable costs related thereto.

26. Holding Over. Unless otherwise agreed in writing by the parties hereto, any holding over by Concessionaire after the expiration of the Concession Agreement Term, whether or not consented to by the City, shall be construed as a tenancy from month-to-month on the terms and conditions set forth herein. Either party may terminate any holdover tenancy by written notice delivered to the other party not later than twenty (20) days prior to the end of the final month. If Concessionaire fails to surrender the Premises upon the expiration or termination of this Concession Agreement without the City's written consent, Concessionaire shall indemnify, defend and hold harmless the City from all losses, damages, liabilities and expenses resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure. Concessionaire's obligations under this Section shall survive expiration or termination of this Concession Agreement.

27. Notices. Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Section 1.8 hereof by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be

deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to Subsection (c), forty-eight (48) hours following deposit in the U.S. mail.

28. Successors or Assigns. All of the terms, conditions, covenants and agreements of this Concession Agreement shall extend to and be binding upon the City, Concessionaire and, subject to the terms of Sections 17 and 18, their respective heirs, administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

29. Authority and Liability. Concessionaire warrants that this Concession Agreement has been duly authorized, executed and delivered by Concessionaire, and that Concessionaire has the requisite power and authority to enter into this Concession Agreement and perform its obligations hereunder. Concessionaire covenants to provide the City with evidence of its authority and the authorization of this Concession Agreement upon request.

30. Partial Invalidity. If any court determines that any provision of this Concession Agreement or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Concession Agreement, or application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Concession Agreement shall be valid and be enforced to the fullest extent permitted by law.

31. Force Majeure. Neither the City nor Concessionaire shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war; provided, however, that the foregoing shall not excuse Concessionaire from the timely payment of the Concession Fee and Additional Charges due hereunder, when due.

32. Counterparts. The parties may execute this Concession Agreement



in counterparts, which, taken together, constitute the entire Concession Agreement.

33. Headings. The section headings used in this Concession Agreement are used for purposes of convenience and do not alter in any manner the content of the sections.

34. Context. Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular. The use of the term National Park Service shall be deemed to include any delegated representative of the United States of America and/or the Department of the Interior under the USA Deed.

35. Execution by City and Concessionaire; Effective Date. Neither the City nor Concessionaire shall be deemed to have made an offer to the other party by furnishing the other party with a copy of this Concession Agreement with particulars inserted. No contractual or other rights shall exist or be created between the City and Concessionaire until all parties hereto have executed this Concession Agreement and the appropriate legislative authority approves it. This Concession Agreement shall become effective on the date (the "Effective Date") on which this Concession Agreement is executed by City and Concessionaire and approved by the Seattle City Council. The City shall have no liability to Concessionaire and shall have the right to terminate this Concession Agreement upon written notice to Concessionaire if this Concession Agreement is legislatively disapproved.

36. Time of Essence; Time Calculation Method. Time is of the essence with respect to this Concession Agreement. Except as otherwise specifically provided, any reference in this Concession Agreement to the word "day" means a "calendar day"; provided, however, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Concession Agreement to the word "month" means "calendar month."

37. Standards. Concessionaire recognizes that, although it is operating its facilities as an independent operator, Seattle Parks and Recreation is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. Concessionaire, its agents and employees, will devote their efforts toward rendering courteous service to the public as though they were employees of the City, with a view of adding to

the enjoyment of the patrons of this recreational facility.

38. City's Control of Premises and Vicinity. All common and other facilities provided by the City are subject to the City's exclusive control and management by the City. Accordingly, provided that the City acts reasonably to minimize the impacts on use of and access to the Premises, the City may do any and all of the following (among other activities in support of Parks or other municipal objectives), all without incurring any liability whatsoever to Concessionaire:

38.1 Change of Vicinity. The City may increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, buildings, landscaping, exhibit, service area, and parking areas in the vicinity of the Premises;

38.2 Traffic Regulation. The City may regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of Concessionaire and its invitees, employees, and patrons.

38.3 Display of Promotional Materials. The City may erect, display, and remove promotional exhibits and materials and permit special events on property adjacent to and nearby the Premises.

38.4 Change of Businesses. The City may change the size, number, and type and identity of concessions, stores, businesses and operations being conducted or undertaken in the vicinity of the Premises.

39. Dispute Resolution. In the event of a dispute or misunderstanding between the parties regarding any term of this Agreement, the parties shall first attempt to resolve the dispute through amicable negotiations, if possible. If the parties are unable to resolve the dispute informally, either party may request mediation of the dispute. The parties shall agree on a mediator who shall conduct the mediation within sixty (60) days of the request, unless extended by agreement of the parties. The mediation shall be conducted under such terms and procedures as determined by the mediator. Any positions expressed by the parties and recommendations of the mediator shall not be admissible as evidence in any subsequent legal or alternative dispute resolution proceeding. Unless waived by the parties, an attempt to mediate the dispute is a condition precedent to pursuing any other legal remedy. If the dispute is not resolved by the mediation, either party shall be entitled to pursue any legal remedy available.

40. City's Consent or Approval. Whenever the consent of the City or the Superintendent to any act to be performed by Concessionaire is required under this Concession Agreement (a) Concessionaire must obtain the consent or approval in writing expressly for purposes of this Concession Agreement, regardless of whether a consent or approval shall have been granted by the City in its regulatory, public utility, or other capacity; and (b) unless otherwise expressly stated herein, such consent or approval may be withheld in the City's sole discretion.

No permission, consent, or approval of the City or the Superintendent contained herein or given pursuant to this Concession Agreement is, or shall be construed as, a representation or assurance that the matter consented to or approved complies with applicable laws, regulations, ordinances or codes, nor shall any such consent or approval be construed to authorize any failure to comply with any of the foregoing.

41. Miscellaneous.

41.1 Entire Concession Agreement; Applicable Law. This Concession Agreement and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of the City and Concessionaire concerning the Premises, and there are no other agreements or understanding, oral or written, between the City and Concessionaire concerning the Premises. Any subsequent modification or amendment of this Concession Agreement shall be binding upon the City and Concessionaire only if reduced to writing and signed by them and concurred with in writing by the National Park Service. This Concession Agreement shall be governed by, and construed in accordance with the laws of the State of Washington.

41.2 Negotiated Concession Agreement. The parties to this Concession Agreement acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Concession Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Concession Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.







Exhibit B

Legal Description

PARCEL 6  
Lot B

Parcel Containing Bldg. 41  
Property Description  
(revised 09/16/97)

That portion of the east one-half of the southwest quarter (SW<sup>4</sup>) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 323.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence continuing N 00° 01' 23" W a distance of 410.18 feet, thence N 89° 42' 47" E a distance of 796.53 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence S 00° 02' 51" W on said NOAA boundary a distance of 276.81 feet to a concrete monument marking a boundary corner of Warren G Magnuson Park as established in 1975, thence continuing S 00° 02' 51" W on said Park boundary a distance of 159.18 feet, thence leaving said Park boundary S 89° 44' 09" W a distance of 546.98 feet, N 00° 15' 51" W a distance of 25.49 feet, thence S 89° 44' 09" W a distance of 248.90 feet to the **True Point Of Beginning**.

EXHIBIT C: CONCEPTUAL PLAN FOR INITIAL IMPROVEMENTS  
(INCLUDING REPLACEMENT PARKING) AND ROADWAY IMPROVEMENTS

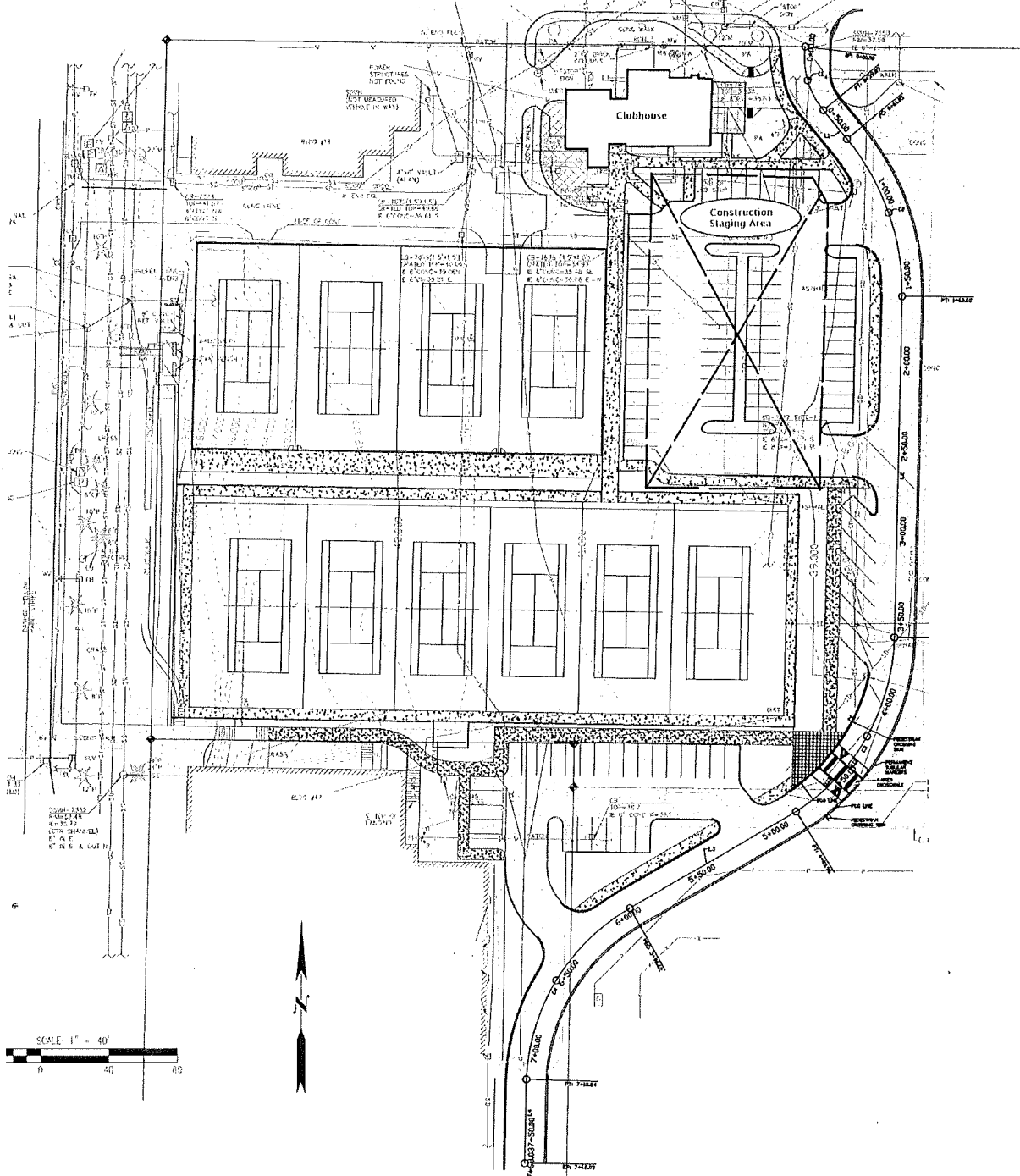




Exhibit D

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Seattle Department of Parks and Recreation  
Property Management  
800 Maynard Avenue South, 3rd Floor  
Seattle, Washington 98134

DOCUMENT TYPE  
COVER SHEET

Document Title: Quit Claim Deed

Reference number of related documents Not Applicable

Grantor:

UNITED STATES OF AMERICA, acting by & through the Department of the Interior

Grantee:

THE CITY OF SEATTLE

Abbreviated Legal Description:

Portions of Section 2, Township 25N, Range 4 E, WM

Assessor's Property Tax Parcel Account Number(s):

Portion of 022504-9001

Portion of 022504-9061

920014-1194 18:21:00 AM KING COUNTY RECORDS 027 715

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Deed

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Portion, Naval Station Puget Sound (Sand Point)  
King County, Washington

QUIT CLAIM DEED

THE UNITED STATES OF AMERICA, acting by and through the Secretary of the Interior, acting by and through the Director, National Park Service, under and pursuant to the power and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 337), as amended, and particularly as amended by Public Law 485, 91st Congress, and regulations and orders promulgated thereunder (hereinafter designated "Grantor"), for and in consideration of the perpetual use of the hereinafter described premises as and for public park and public recreation area purposes, by the City of Seattle, Washington (hereinafter designated "Grantee"), does hereby convey and quit claim to Grantee, and to its successors and assigns, all Grantor's right, title and interest, together with all after-acquired title of the Grantor therein, in and to property containing approximately ninety three and one tenth (93.1) acres, including improvements appurtenant thereto, located in King County, Washington, and identified as Parcel 1 - Lots A, B, C, D, E, Parcel 3 - Lot E, Parcel 6 - Lots A, B, and C, and Parcel 6 - Lots D, E, and F, and Parcel 6B western segment described in Exhibit A attached herein.

The herein described property is conveyed by the Grantor to the Grantee subject to the reservations, exceptions, restrictions, conditions and covenants herein expressed and set forth unto the Grantee, its successors and assigns, forever.

The Grantor expressly excepts and reserves all remaining oil, gas, and mineral rights and deposits in said land to the Grantor, without rights to surface entry from the hereinbefore described property, in accordance with all applicable laws.

Pursuant to CERCLA, 42 U.S.C. Section 9620(h), the United States Department of the Navy prepared an Environmental Baseline Survey (EBS), revised March 1, 1996, for the herein-described property. On May 16, 1996, the State of Washington issued a No Further Action Determination. A *Finding of Suitability to Transfer* (FOST) for Sand Point was approved by the United States Department of the Navy on April 15, 1998, and Addendum One to the FOST was approved by the United States Department of the Navy on August 25, 1998. Grantee acknowledges that it has received copies of the EBS and FOST, together with all documents attached thereto, and has received a copy of Addendum One to the FOST. Remedial action taken by the Navy is set forth in the Base Realignment and Closure Cleanup Plan (BCP), Close Out Version, dated "revised February 28 1996".

Pursuant to CERCLA, 42 U.S.C. Section 9620(i), the United States covenants and warrants to Grantee, its successors and assigns, that all remedial action, response action or corrective action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken prior to the date of said transfer.

Pursuant to CERCLA, 42 U.S.C. Section 9620(j), the Grantor, on behalf of the Department of Navy, covenants and warrants to grantee, its successors and assigns that any additional remedial action found to be necessary to protect human health and the environment with respect to any hazardous substance

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stored, disposed of, or released on the herein described property prior to the date of transfer shall be conducted by the United States.

Pursuant to CERCLA 42 U.S.C. Section 9620(h) the Grantor reserves a right of access to the property in any case in which a response action or corrective action is found to be necessary after the date of this conveyance for the purpose of, but not limited to, monitoring, investigation, sampling, testing, or removal of any hazardous substance(s). The Grantee shall be provided reasonable notice of any action requiring access to the property and the Grantor shall take all reasonable steps to minimize the disruption of the Grantee's use of the property.

For the purposes of this deed, the term "hazardous substance" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any Federal or Washington State environmental or safety law.

The Grantee, by its acceptance of this deed does covenant and agree for itself, and its successors and assigns, forever, as follows:

Recreation Use Covenants

1. This property shall be used and maintained for public park and recreation purposes in perpetuity, as set forth in the program of utilization and plan contained in the December 1996, application submitted by the City of Seattle for the *Acquisition of a Portion of the Naval Station Puget Sound* and subsequent amendments thereto, a copy of which is on file with the Seattle City Clerk. Said program and plan may be amended from time to time at the written request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments will be added to and become a part of the original application.
2. The Grantee shall, within six (6) months of the date of the deed of conveyance, erect and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a park or recreation area and has been acquired from the Federal Government for use by the general public.
3. The property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency without the prior approval of the Secretary of the Interior in writing. Any such disposition shall assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions contained herein. However, nothing in this provision shall preclude the Grantee from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior. The Grantee, its successor or assign shall provide written notice to the State of Washington Department of Ecology or successor agency of any intent to convey any interest in portions of the property identified in Section 8.
4. From the date of this conveyance, the Grantee shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

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5. The Grantee further agrees to comply with the requirements of Public Law 90-480 (82 Stat. 718) the Architectural Barriers Act of 1968 as amended by Public Law 91-205 of 1970 (84 Stat. 49) to assure that facilities developed on this property are accessible to the physically handicapped; and, further assure in accordance with Public Law 93-112 the Rehabilitation Act of 1973 (87 Stat. 394) that no otherwise qualified handicapped individual shall solely by reasons of his handicap be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity in effect on this property; and agrees to comply with the provisions of Title III of the Age Discrimination Act of 1975, as amended (Public Law 94-135; 45 C.F.R. Part 90) prohibiting discrimination on the basis of age in programs and activities conducted on this property.
  6. As part of the consideration for this Deed, the Grantee covenants and agrees that: (1) the program for or in connection with which this Deed is made will be conducted in compliance with, and the Grantee will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior as in effect on the date of this Deed (45 C.F.R. Part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the Grantee will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantee will insure that each other person (any legal entity) who, through contractual or other arrangements with the Grantee is authorized to provide services or benefits under said program complies with the same obligations as those imposed upon the Grantee by this covenant (6) this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantor and enforceable by the Grantor against the Grantee; and (7) the Grantor expressly reserves a right of access to, and entrance upon, the above described property in order to determine compliance with the terms of this conveyance.
  7. As to the obligations in Section 1 through 6, the Grantee shall hold harmless, defend and indemnify the United States, its employees, agents, and representatives from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that arises from the Grantee's or the Grantee's agent's use or occupancy of the property and/or the Grantee's default of the terms of this deed. Nothing in this Section 7 shall be construed in any way to limited the United States obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response action or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed of, or released on the property prior to the date of transfer shall be conducted by the United States.

Hazardous Materials Covenants

8. Portions of the conveyed property have been determined to contain hazardous substances that exceed standards established under the State of Washington Model Toxics Control Act (MTCA). The following restrictive covenants are imposed on the identified portions of the conveyed property. As between Grantee, its successors and assigns, and the United States, a release requiring remediation, including testing and investigations, resulting from the violation of a restriction required by this section by the Grantee or any of its successors or assigns is the responsibility of such Grantee, successor or assign.

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- 8.1. The use of Building 2, a 144,000 s.f. hangar building located on Parcel 1, Lot B as described in Exhibit A, is restricted to uses which do not penetrate the building's concrete slab. Soils sampling under the slab reveal metals above MTCA levels.
- 8.2. A grass landscaping strip located between Building 30, a 80,066 s.f. hangar building located on Parcel 6, Lot A as described in Exhibit A, and a parking area north of Building 30 is restricted to its current landscaped use. Soils sampling of the area revealed metals above MTCA levels.
- 8.3. The use of a paved tarmac east of Building 11, a 62,000 s.f. public works office and shop building located on Parcel 1, Lot A is restricted to uses which do not penetrate the paved tarmac. Petroleum was detected in concentrations exceeding MTCA levels.
- 8.4. Prior to willingly conducting a use inconsistent with a restrictive covenant contained in this Section 8, the Grantee, or its assignee or successors shall notify in writing the Grantor and the State of Washington Department of Ecology, or successor agency and obtain approval of the proposed change in use in accordance with WAC 173-340-440(5) or any amendment thereto. The Grantor shall take any action necessary with regards to this Section 8 to carry out an approval or other decision of the State of Washington Department of Ecology or successor agency.
- 8.5. Grantee, or its successor or assign, shall provide notice to the State of Washington Department of Ecology or successor agency of the party's intent to convey any interest in portions of the property identified in this Section 8.
- 8.6. If the Grantee is in default of the conditions and terms of this Section 8, Grantee shall hold harmless, defend, and indemnify the United States, its employees, agents, and representatives from and against any suit, claim, demand, or action, liability of judgement, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) to the extent caused by such default.
- 8.7. The Grantor for itself and its successors and assigns hereby grants to the Washington State Department of Ecology or successor agency, and its designated representatives, the right to enter the property at reasonable times for the purpose of evaluating compliance with a cleanup action plan and other required plans relating to this Section 8, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records.
9. The Grantee acknowledges that it has received the EBS and the FOST and its attachments. The Grantee acknowledges that it has had the opportunity to inspect the physical condition and current level of environmental hazards on the property and to determine the suitability of the property as to safety for the Grantee's intended use, human health, and the environment in general.
10. The Grantee agrees to indemnify, defend, save, and hold harmless the Grantor, and Grantor employees, officers, representatives, attorneys and agents from and against any and all debts, duties, obligations, liabilities, law suits, claims, demands, causes of action, damages, losses, costs, and expenses (including, without limitation, costs associated with any investigation, monitoring, sampling, testing, or removal of hazardous substance(s), attorney fees and expenses, and court costs) to the extent caused by the release of any hazardous substance(s) brought onto the herein described property after the date of this deed and while the property was in the possession and control of the Grantee. However, nothing in this Section 10 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

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Lead Based Paints and Asbestos Covenants

11. The Grantee is hereby informed and does acknowledge Grantor's representation that certain buildings on the property have been found to contain lead-based paints as indicated in the EBS and FOST and attachments. The scope of this Section 11, and the meaning of "applicable property," is specifically limited to only the building interiors of those portions of the property on which the EBS, or the FOST or its attachments, identified that lead-based paint was present. The presence of lead-based paints within these structures may affect their use for residential purposes in compliance with 24 CFR Part 35, Subpart H. A lead warning statement is attached as Exhibit B. The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paints or lead-based paint hazards prior to the execution of this conveyance. The Grantee covenants that, if required by applicable federal or state law and in compliance with such law, Grantee will provide for an inspection, abatement, and/or elimination of any lead-based paint hazard on a portion of the applicable property (as defined and limited by this Section 11) prior to the occupancy or use of said portion of the property by successors or assigns. The Grantee covenants and agrees to be responsible for any remediation of lead-based paint or lead-based paint hazards on the applicable property (as defined and limited by this Section 11) found to be necessary and required by federal or state law after the date of conveyance. The Grantee covenants and agrees to indemnify and hold harmless the Grantor, its agents and employees against any claims for personal injury to the extent caused by exposure, after the date on which the City took control of the relevant portion of the property, to lead-based paint on the applicable property (as defined and limited by this Section 11). Should, in the future, lead-based paint present in, on, or under the property prior to the date of transfer be considered a CERCLA release, nothing in this Section 11 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

12. The Grantee is hereby informed and does acknowledge Grantor's representation that asbestos and asbestos containing materials have been found on the property as described in the FOST and its attachments. The scope of this Section 11, and the meaning of "applicable property," is specifically limited to only the building interiors of those portions of the property on which the EBS, or the FOST or its attachments, identified that asbestos or asbestos containing material was present. The Grantee covenants and agrees that in its use and occupancy of the applicable property (as defined and limited by this Section 12), it will comply with all Federal, State and local laws relating to asbestos; and that Grantor assumes no liability for damages for personal injury, illness, disability or death, to the Grantee or to any other person, including members of the general public, to the extent caused by the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever, after the date on which the City took control of the relevant portion of the property, with asbestos on the applicable property (as defined and limited by this Section 12), whether Grantee has properly warned or failed properly to warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos found to be necessary and required by federal or state law on the applicable property (as defined and limited by this Section 12). Should, in the future, asbestos present in, on, or under the property prior to the date of transfer be considered a CERCLA release, nothing in this Section 12 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary

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to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

Historic Resource Covenant

13. The following parcels as described in Exhibit A are contained within Sand Point Historic District; Parcel 1, Lots A, B, C, D, and E, Parcel 3, Lot E and Parcel 6, Lots D and E. The described portions of the following parcels, fully described in Exhibit A, are also included within the Sand Point Historic District; the westerly 300 feet of Parcel 6, Lot A, the westerly 410 feet of Parcel 6, Lot B and that portion of the Lot B within 50 feet and containing Building 41, and the southwest corner of Parcel 6, Lot C, containing an area 110.22 feet by 147.34 feet. The Grantee hereby covenants on behalf of itself, heirs, successors, and assigns at all times to the United States to maintain property described within this Section in accordance with the Historic Preservation Covenant, attached hereto as Exhibit C. Incorporation of this Historic Preservation Covenant is made pursuant to the October 1997 Programmatic Agreement among the Department of the Navy, The Advisory Council on Historic Preservation, and The Washington State Historic Preservation Officer Regarding: Base Closure and Disposal of the Naval Station Puget Sound, Sand Point, a copy of which can be located at the Office of Sand Point Operations, 7400 Sand Point Way NE, Seattle, WA 98115.

Reversion and Default

14. The failure of the Grantee, or of its successors and assigns, to comply with any of the conditions and covenants contained in this deed shall constitute a default if such default shall continue, after written notice from the Grantor specifically identifying the nature of the default, for a period of not less than ninety (90) days, or such longer period as may be reasonably required to cure the default, provided the Grantee commences the cure within said ninety (90) days after the Grantor's written notice of default and covenants to diligently complete the cure within such reasonable period. In the event the Grantee is in default of any covenant or condition contained in this deed then upon failure to eliminate, rectify, cure, or commence action to cure said breach within the time agreed upon, all right, title, and interest in and to said premises shall, at the Grantor's option revert to and become the property of the Grantor. In addition to all other remedies for such breach relating to the use of the property for park and recreation purposes, the preservation of identified historic resources, or related to nondiscrimination, the Grantee, its successors and assigns, at the Grantor's option, shall forfeit all right, title, and interest in any and all of the tenements, hereditaments, and appurtenances thereunto belonging. With regard thereto, the Grantee shall execute a deed, as directed by the Grantor, conveying all interest in the premises and improvements thereon to the Grantor. The failure of the grantor to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment or such future performance, but the obligation of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect.
15. The Grantee, by its acceptance of this deed, covenants and agrees that in the event the Grantor exercises its option to revert all right, title, and interest in the property to the Grantor, or the Grantee voluntarily returns title to the property in lieu of a reverter, then the Grantee shall provide protection to and maintenance of said property at all times until such time as the title is actually reverted or returned to and accepted by the Grantor, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in its regulations FPMR 101-42.402 in effect as of the date of this deed.

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IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and on its behalf on this 17 day of MARCH 1999.

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

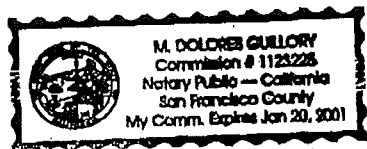
By *John J. Reynolds*  
John J. Reynolds  
Regional Director, Pacific West  
National Park Service

STATE OF CALIFORNIA )  
COUNTY OF SAN FRANCISCO ) ss.

On this 17 day of MARCH 1999, before me, the subscriber, personally appeared John J. Reynolds to be known and personally known to me to be the Regional Director, Pacific West, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director, Pacific West aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

Witness my hand and official seal.

*M. Dolores Guillory*  
NOTARY PUBLIC



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GRANTEE

City of Seattle, Washington

By

*Kenneth R. Bounds*  
Kenneth R. Bounds,  
Superintendent

Department of Parks and Recreation

Date

*MARCH 25, 1999*

STATE OF WASHINGTON)

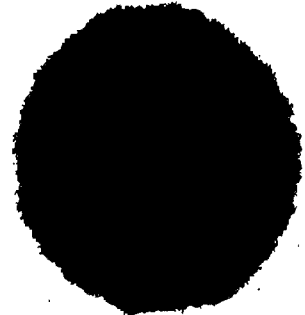
) ss.

COUNTY OF KING )

On this *25th* day of *March*, 1999, before me, the undersigned notary, the subscriber, personally appeared and being the duly authorized official of the City of Seattle, Washington and known to me to be the same person described herein and who executed the foregoing acceptance of said on behalf of the City of Seattle, Washington for the purposes and uses therein described.

Witness my hand and official seal.

*Dianne Hood*  
NOTARY PUBLIC  
*Expiration Oct 16, 2000*  
*State of Washington*



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Exhibit A  
PARCEL 1 - Lot A

Those portions of the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) of Section 2, TWP 25N, RNG 04E and Govt. Lots 1 and 2 in said Section, together with the 1<sup>st</sup> Class Shore Lands adjacent, abutting and attached thereto, as acquired by the U. S. Navy on behalf of the United States of America described as follows:

Commencing at the northwest corner of said Section 2, thence S 89°43'27" E on the north line of said Section a distance of 528.79 feet to the east margin of Sand Point Way NE (formerly referred to as the James K. Kiefer County Rd. No. 1283), and the True Point of Beginning; thence S 30°28'08" E on said east margin a distance of 360.75 feet to a point of curvature in said east margin of which the radial center bears S 59° 31' 52" W at a distance of 2336.20 feet, thence continuing on said east margin on a curve concave to the south and west through a central angle of 16°31'03" an arc distance of 673.49 feet, thence S 13° 57' 05" E on said east margin a distance of 225.43 feet, to a point of intersection with the northerly boundary of a parcel of land under the jurisdiction of the United States Department of Commerce (NOAA) as surveyed and described in a record of survey drawing titled "Boundary Survey for the National Oceanic and Atmospheric Administration N.O.A.A. Western Regional Center Access Road", project No. 96545.00 by Penhallegon Associated Consulting Engineers, Inc., said point being identified by a 5/8" iron rebar with cap marked P.A.C.E., L.S. 11691 and herein referred to as rebar marker thence leaving said east margin and along a line adjoining said N.O.A.A. property the following courses and distances, S 30° 43' 19" E a distance of 199.50 feet to a rebar marker, thence S 85° 28' 44" E a distance of 87.72 feet to a rebar marker, thence S 71° 12' 22" E a distance of 46.87 feet to a rebar marker, thence S 76° 54' 27" E a distance of 20.06 feet to a rebar marker, thence S 62° 39' 42" E a distance of 33.69 feet to a rebar marker, thence N 00° 01' 44" W a distance of 485.07 feet to a rebar marker, thence N 89° 59' 11" E a distance of 252.00 feet to a rebar marker, thence N 25° 28' 42" E a distance of 277.22 feet to the Inner Harbor Line of the Lake Washington Shore Lands as established by the State of Washington Commissioner of Public Lands and according to the Maps thereof on file in Olympia, Washington and a point of departure from the said line adjoining N.O.A.A., thence N 50° 40' 00" W on said Inner Harbor Line a distance of 989.04 feet to the intersection with the north line of said Section 2, thence N 89° 43' 27" W on said north line a distance of 380.23 feet to the True Point of Beginning.

PARCEL 2 - Lot B

That portion of the northeast quarter (NE<sup>4</sup>) of the southwest quarter (SW<sup>4</sup>), the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north

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margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 329.93 feet, thence N 0° 01' 33" W a distance of 945.00 feet to the True Point of Beginning, thence continuing N 0° 01' 33" W a distance of 455.06 feet, thence S 89° 54' 15" W a distance of 382.55 feet, thence S 00° 07' 23" E a distance of 162.10 feet, thence S 89° 28' 49" W a distance of 130.88 feet, thence S 28° 13' 40" E a distance of 300.77 feet to a point of curvature the radial center of which bears N 61° 46' 20" E at a distance of 50.00 feet, thence on said curve concave to the northeast through a central angle of 61° 48' 42" an arc distance of 53.94 feet, thence N 89° 57' 38" E a distance of 326.93 feet to the True Point of Beginning.

PARCEL 1 - Lot C

That portion of the northeast quarter (NE<sup>4</sup>) of the southwest quarter (SW<sup>4</sup>), the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 329.93 feet, thence N 0° 01' 33" W a distance of 1400.00 feet, thence S 89° 54' 15" W a distance of 382.55 feet to the True Point of Beginning, thence S 78° 17' 54" W a distance of 116.65 feet to a point of curvature the radial center of which bears S 11° 42' 06" E at a distance of 118.61 feet, thence on said curve concave to the southeast through a central angle of 39° 41' 40" an arc distance of 72.17 feet to a non-tangent cusp, thence leaving said curve S 28° 13' 40" E, a distance of 110.65 feet, thence N 89° 28' 49" E a distance of 130.88 feet, thence N 00° 07' 23" W a distance of 162.10 feet to the True Point of Beginning.

PARCEL 1 - Lot D

That portion of the northeast quarter (NE<sup>4</sup>) of the southwest quarter (SW<sup>4</sup>), the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point

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Way NE, thence N 00° 48' 49" W on said east margin a distance of 304.41 feet to a point of curvature in said east margin the radial center of which bears S 89° 11' 11" W at a distance of 612.25 feet, thence north and west on said east margin on a curve concave to the south and west through a central angle of 26° 51' 36" an arc distance of 287.02 feet to the True Point of Beginning, thence leaving said east margin N 89° 57' 38" E a distance of 196.07 feet, thence N 00° 01' 33" W a distance of 230.96 feet, thence S 89° 57' 38" W a distance of 24.12 feet to a point of curvature of which the radial center bears N 00° 02' 22" W at a distance of 90.00 feet, thence continuing on the curve concave to the north and east through a central angle of 61° 48' 42" an arc distance of 97.10 feet, thence N 28° 13' 40" W a distance of 38.18 feet to a point of curvature of which the radial center bears S 61° 46' 20" W at a distance of 13.89 feet, thence continuing on the curve concave to the south and east through a central angle of 127° 02' 10" an arc distance of 30.80 feet to a point of compound curvature of which the radial center bears S 65° 15' 50" E at a distance of 221.89 feet, thence continuing on the curve concave to the southeast through a central angle of 27° 40' 59" an arc distance of 80.10 feet to a point of compound curvature of which the radial center bears S 85° 56' 49" E at a distance of 440.08 feet, thence continuing on the curve concave to the east through a central angle of 41° 28' 44" an arc distance of 318.60 feet to a non-tangent cusp, thence N 89° 56' 55" W a distance of 83.74 feet to a point on a curve on the east margin of Sand Point Way NE, the radial center of which bears N 66° 27' 12" E at a distance of 533.90 feet, thence continuing southeasterly on said east margin on the curve concave to the north and east through a central angle of 04° 58' 40" an arc distance of 46.38 feet, thence continuing on said east margin S 28° 31' 28" E a distance of 171.16 feet to a point of curvature in said east margin of which the radial center bears S 61° 28' 32" W at a distance of 612.25 feet, thence continuing on said east margin, on a curve concave to the south and west through a central angle of 00° 51' 03" an arc distance of 9.09 feet to the True Point of Beginning.

PARCEL 1 - Lot E

That portion of the northeast quarter (NE<sup>1</sup>) of the southwest quarter (SW<sup>1</sup>), the southwest quarter (SW<sup>1</sup>) of the northwest quarter (NW<sup>1</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 212.12 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 00° 48' 49" W on said east margin a distance of 274.35 feet to the True Point of Beginning, thence N 89° 57' 38" E a distance of 139.78 feet, thence N 00° 01' 33" W a distance of 187.00 feet, thence S 89° 57' 38" W a distance of 14.53 feet, thence N 00° 01' 33" W a distance of 129.43 feet, thence S 89° 57' 38" W a distance of 196.07 feet to a point on a curve in the east margin of Sand Point Way NE, the radial center of which bears S 62° 19' 35" W at a distance of 612.25 feet, thence south and east on said east margin on a curve concave to the southwest through a central angle of 26°

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51' 34" an arc distance of 287.02 feet, thence continuing on said east margin S 00° 48' 49" E a distance of 70.73 feet to the **True Point of Beginning**.

PARCEL 3 - Lot E

That portion of the northeast quarter (NE<sup>4</sup>) of the southwest quarter (SW<sup>4</sup>), the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE and the **True Point of Beginning**, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence S 89° 42' 47" W a distance of 93.59 feet to the east margin of Sand Point Way NE, thence N 00° 48' 49" W on said east margin a distance of 95.79 feet to the **True Point of Beginning**.

PARCEL 6 - Lot A

That portion of the northeast quarter (NE<sup>4</sup>) of the southwest quarter (SW<sup>4</sup>), the southwest quarter (SW<sup>4</sup>) of the northwest quarter (NW<sup>4</sup>) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 404.93 feet to the **True Point of Beginning**, thence continuing N 89° 42' 47" E a distance of 690.05 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence N 00° 02' 51" E on said NOAA boundary a distance of 460.89 feet to a concrete monument marking an angle point in the NOAA boundary, thence N 89° 57' 32" W on said NOAA boundary a distance of 690.63 feet to a concrete monument with metal disk stamped "U.S. NAVY #10", thence S 00° 01' 33" E a distance of 464.84 feet to the **True Point of Beginning**.

PARCEL 6 - Lot B

That portion of the east one-half of the southwest quarter (SW<sup>4</sup>) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

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Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 328.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence continuing N 00° 01' 23" W a distance of 410.18 feet, thence N 89° 42' 47" E a distance of 796.53 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence S 00° 02' 51" W on said NOAA boundary a distance of 276.81 feet to a concrete monument marking a boundary corner of Warren G Magnuson Park as established in 1978, thence continuing S 00° 02' 51" W on said Park boundary a distance of 159.18 feet, thence leaving said Park boundary S 89° 44' 09" W a distance of 546.98 feet, thence N 00° 15' 51" W a distance of 25.49 feet, thence S 89° 44' 09" W a distance of 248.90 feet to the **True Point Of Beginning**.

PARCEL 6 - Lot C

All those portions of Section 2, TWP 25N, RNG 04E, W.M., acquired the U. S. Navy on behalf of the United States of America described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11; TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet to the **True Point Of Beginning** of this description, thence continuing S 89° 35' 06" E a distance of 1015.52 feet, thence S 01° 17' 22" a distance of 32.30 feet to the north boundary of a parcel of land under the jurisdiction of the United States Department of Interior (BRD), thence N 88° 39' 59" E on said BRD boundary a distance of 938.55 feet to the east boundary of Warren G. Magnuson Park as described in A.O. 105244, thence N 00° 01' 56" E on said Park boundary a distance of 699.25 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 85° 48' 34" W on said Park boundary a distance of 1076.96 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 31° 56' 06" W on said Park boundary a distance of 408.95 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 00° 02' 51" E on said Park boundary a distance of 711.51 feet, thence S 89° 44' 09" W a distance of 546.98 feet, thence S 00° 15' 51" E a distance of 412.92 feet, thence N 89° 46' 57" W a distance of 97.67 feet, thence S 00° 00' 57" W a distance of 210.01 feet, thence S 43° 40' 36" E a distance of 172.10 feet, thence S 00° 00' 41" E a distance

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of 348.04 feet, thence S 67°06'04" W a distance of 180.33 feet, thence S 23° 24' 06" E a distance of 348.19 feet, thence S 01° 04' 46" W a distance of 183.51 feet, thence S 89°41'00" W a distance of 110.22 feet, thence S 00° 19' 00" E a distance of 147.34 feet to the True Point Of Beginning.

PARCEL 6 - Lot D

That portion of the east one-half of the southwest quarter (SW4) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U.S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 328.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the True Point Of Beginning of this description, thence N 89° 44' 09" E a distance of 248.90 feet, thence S 00° 19' 00" E a distance of 438.41 feet, thence N 89° 46' 57" W a distance of 250.75 feet, thence N 00° 01' 23" W a distance of 436.31 feet to the True Point Of Beginning.

PARCEL 6 - Lot E

That portion of the east one-half of the southwest quarter (SW4) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U.S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east marginal boundary of said Sand Point Way NE, and the True Point Of Beginning of this description, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89°35'06" E parallel with said Section line a distance of 429.94 feet, thence N 00°19'00" W a distance of 188.64 feet, thence S 89° 41' 00" W a distance of 267.55 feet to a point of curvature of a curve concave to the north and east of which the radial center bears N 00° 19' 00" W at a distance of 165.00 feet, thence west and north on said curve through a central angle of 89°30'11" an arc distance of 257.75 feet to the east marginal boundary of Sand point Way NE, thence S 00° 48' 49" E on said east marginal boundary a distance of 304.73 feet to the True Point Of Beginning.

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PARCEL 6 - Lot F

That portion of the Evergreen Addition to the City of Seattle as recorded in Vol. 12, pg. 66, of the Records of King Co., said Tract being acquired by the War Department through Civil Action 388, together with those portions of the streets and avenues in said Addition as vacated by V.O. 71498, bounded by the following description:

Commencing at the SE corner of Block 2 of said Evergreen Add., thence N 00° 48' 49" W on the east line of said Block 2, a distance of 239.34 feet to the north line of said Addition, being the same as the Section line common to Sections 2 and 11, Twp 25N, Rng 4E, W.M., thence N 89° 35' 05" W on said Section line a distance of 342.10 feet to the True Point Of Beginning, thence S 00° 41' 00" W a distance of 239.34 feet to the south line of Block 4 in said Addition, thence N 89° 35' 06" W on the south line of said Addition, a distance of 186.71 feet to a point 251.47 east of the SW corner of Block 6 in said Addition, thence N 17° 27' 07" W a distance of 251.47 feet to a point on the north line of said Addition said point being distant 198.15 feet east of the production north of the west line of said Block 6, thence S 89° 35' 06" E on the north line of said Addition, being the same as the Section line common to aforementioned Sections, a distance of 264.98 feet to the True Point Of Beginning; EXCEPT the north 20 feet thereof.

PARCEL 6 - Lot G

Those portions of a Tract of land in Gilmore's Addition to the City of Seattle as recorded in Vol. 32, pg. 10 of the Records of King Co., said Tract being acquired by the War Department through Civil Action 388, together with those portions of vacated NE 65th St. in said Addition as vacated by V.O. 71498, bounded by the following description:

Beginning at the SW corner of Block 1 in said Gilmore's Add., thence N 42° 03' 59" E a distance of 320.31 feet to the north line of said Gilmore's Add., being the same as the Section line common to Sections 2 and 11, Twp 25N, Rng 4E, W.M., thence N 89° 35' 06" W on said Section line a distance of 198.00 to a point on a curve of the east margin of Sand Point Way N.E., the radial center of which bears S 89° 22' 20" W at a distance of 356.64 feet, thence south and west on said curved margin through a central angle of 19° 05' 40" an arc distance of 118.86 feet to a non-tangent cusp on the west line of said Block 1, thence S 00° 48' 49" E feet on said west line a distance of 122.36 feet to the point of beginning. EXCEPT the north 20.00 feet thereof.

PARCEL 6B western segment

That portion of the east one-half of the southwest quarter (SW<sup>1</sup>/<sub>4</sub>) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 60.01 feet to a point on the east marginal

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Exhibit B  
Lead Based Paint Warning

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a risk to pregnant women. The seller of any interest in residential property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

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Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a risk to pregnant women. The seller of any interest in residential property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

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Exhibit C  
**HISTORIC PRESERVATION COVENANT  
NATIONAL PARKS SERVICE PUBLIC BENEFIT CONVEYANCE**

A portion of the property conveyed herein is within the Naval Station Puget Sound (NSPS) Sand Point Historic District. A location map depicting the parcel in relation to the Historic District and a list of buildings and other site features that are considered contributing elements to the Historic District are described on Attachment 1 to this Exhibit. All structures and site features identified as contributing elements to the NSPS Sand Point Historic District have been determined by the Washington State Historic Preservation Office (SHPO) to be eligible for inclusion in the National Register of Historic Places and shall therefore be preserved, protected, and maintained in accordance with plans approved by the National Park Service (NPS) and prior agreements between the Department of the Navy and the State of Washington Historic Preservation Officer (SHPO), herein incorporated by reference.

1. Prior to the initiation of any construction, alteration, remodeling, demolition, disturbance of the ground surface, irrevocable disturbance of landscape settings, or other action which would materially affect the integrity, appearance, or historic value of structures or settings, the grantee or successors and assigns shall obtain the approval of the National Park Service and/or a designee (SHPO). Actions considered to materially affect the property would affect the exterior surfaces, or change the height, or alter the exterior facade (including without limitation exterior walls, windows and roofs, design, color and materials), or adversely effect the structural soundness of the property or alter a significant interior feature. Actions that would affect views within the historic district, landscaping, open space, add new structures or paved areas or site elements such as towers, fences, signs would also be considered to materially affect the property. Plans which are submitted in accordance with this section shall be prepared to conform, to the maximum extent possible, with the Secretary of Interior's "Standards and Guidelines for Historic Preservation Projects" as supplemented or amended.
2. Projects identified within and in full conformance with a Historic Property Reuse and Protection Plan, approved by the National Park Service and/or a designee shall be considered to be pre-approved and are not subject to the requirements of item 1 of this section.
3. Grantee will make every effort to retain and reuse, to the extent practicable, the historic structures.
4. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the United States Government may, following reasonable notice to the Grantee, institute any action to enjoin said violation or to recover the restoration of the property. The successful party shall be entitled to recover all costs or expenses incurred in connection with such action, including all court costs and attorney's fees.
5. The failure of the United States Government to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
6. This historic preservation covenant is a binding servitude on the grantee and its successors, and assigns in perpetuity. Restrictions, stipulations and covenants contained herein shall be inserted by the grantee verbatim or by explicit reference in any deed or other legal instrument by which it divests

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itself of either fee simple or any lessor estate of all or any part of the real estate that is associated with  
the NSPS Sand Point Historic District.

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ATTACHMENT 1 to Exhibit C  
SAND POINT HISTORIC DISTRICT CONTRIBUTING ELEMENTS  
AND THEIR CHARACTER DEFINING FEATURES  
CONTAINED WITHIN THE NATIONAL PARK SERVICE'S  
PUBLIC BENEFIT CONVEYANCE TO THE CITY OF SEATTLE

The following features of the various historic district elements were determined to be character defining by the representatives of the Washington State Office of Archeology and Historic Preservation, the Navy and the City of Seattle during site inspections conducted in September, 1996, March, June, July, and August of 1997.

**BUILDINGS**

In general the character defining exterior features of contributing buildings are wall surfaces, rooflines, window openings and divided light windows, specialized doors, art deco architectural ornamentation and lighting fixtures. Most of the buildings retain their original style. There have been additions to many of the buildings but most were completed prior to W.W. II and used similar materials in the same style to mimic the original structure. Original windows and doors have been replaced in several instances with non-original material but the placement and style have been retained. There is sufficient integrity in the floor plans, space volumes, exposed structural elements, and industrial finishes in the hangars and other shop spaces to make these interior features contributing elements. In the case of the other types of buildings most have been substantially modified during numerous renovations and use changes and exhibit a limited amount of details or fabric worthy of retention.

It is important to note that the building specific character defining features listed below are intended to provide a baseline reference point for consideration during development of alteration and maintenance projects. Preservation of the listed features should be the goal during project planning. In addition it should not be assumed that projects, especially large scale interior remodel projects, will not have an adverse effect on historic character even if none of the listed features is affected. Such projects will still require review by a historic preservation specialist.

**Building Specific Features**

**Building 2** (Parcel 1, Lot B - constructed 1922) This building is 144,000 SF and contains two large hangar bays and numerous smaller rooms. The exteriors of the hangar bays have somewhat different styles with brick exterior walls on the north section and corrugated transite on the south section. This building is the oldest surviving structure at Sand Point and relates directly to the historic aviation mission and exhibits strong art deco influence in its finishes and details.

Building 2 Specific Exterior Features

1. Original multi-story rolling metal framed hangar doors on the east facade on north and south hangar bays and also on the west side of the south hangar bay. These doors are solid at the bottom with window lights in a band the remainder of the door height.
2. Original steel framed divided light doors and windows on end and back walls.
3. Emblem above southeast hangar doors.
4. Overhead beam for loading and lifting on south end of west side.

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Building 2 Specific Interior Features

1. Interior space volume in both hangar bays. The mezzanine in the north hangar is not a character defining feature.

**Building 11** (Parcel 1, Lot A - constructed 1940) Contains 62,000 SF and was public works office and shop complex. The facade combines brick veneer and corrugated exterior wall material.

Building 11 Specific Exterior Features

1. Original steel frame divided light windows.

Building 11 Specific Interior Features

1. Exposed structural system in shop area especially post and beam connections.
2. Entry lobby to office portion detailing consisting of ceiling cornice of stars and hebron pilasters flanking interior door.

**Building 12** (Parcel 1, Lot C - constructed 1934) Central Steam Plant houses three large boilers and associated equipment.

Building 12 Specific Exterior Features

1. Original double height, divided light industrial windows with operable center panels.
2. Large door openings with side by side original side by side shop doors with divide light industrial windows in top 2/3.
3. Emission stacks and vents on roof.

Building 12 Specific Interior Features

None

**Building 15** (Parcel 6, Lot E - constructed 1938) Recreation Facility originally a green house later converted to a golf club house and last used as arts and crafts center. Does not have specific exterior or interior features.

**Building 18** (Parcel 6, Lot B - constructed 1936) Brick building first used as motor vehicle shop and then a fire station. The hose-drying tower is a prominent vertical element in the District, especially looking from north to south.

Building 18 Specific Exterior Features

1. Cast concrete parapet
2. Divided light industrial windows with cast concrete sills
3. Large garage type doors on north facade
4. Hose drying tower

Building 18 Specific Interior Features

None

**Building 30** (Parcel 6, Lot A - constructed 1938) Consists of large central hangar space flanked by a three story office wing on the west side and two levels of shop and office spaces on the east side. Another classic hangar area although smaller in area than Building 2, at 80,066 SF. Non-hangar portion has Art Deco detailing similar to Buildings 25 and 29.

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Building 30 Specific Exterior Features

1. Large rolling hangar doors. Door area above 7 feet is divided lights End panel door have standard 3' wide doors built in for access.
2. Main entrance to office area on the west side. Features include double sided "T" shaped stairway leading to entry, Art Deco lanterns on the railings at the bottom of the staircase, a fluted panel into which double entry doors are recessed that extends the full height of the building, and a flat canopy projects out from the doors forming a weather cover. The cover is wrapped in fluted aluminum with stand up letters in Art Deco style reading Administration.
3. Original windows on two story east wing with dark painted frames on the first floor and pre-cast concrete sills on the second floor. Most windows in the three-floor west wing are replacements.

Building 30 Specific Interior Features

1. Base Commanding Officer's suite located on the third floor of the west wing. Specific details include paneled conference room with fireplace and adjacent Officer's Ward room including built in wall seating, glass block bar and original linoleum floor with pre W.W.II aircraft logo with red star in the center.
2. General configuration of office area on southwest corridor of the first floor of the west wings in particular the interior daylight glass top partitions.
3. High bay and open space volume of the hangar area.

**Building 31 (Parcel 1, Lot A - constructed 1938)** Built on a pier that originally was used to unload fuel barges. The building was used to provide covered slips for boats, including the Admiral's barge and watch standing space for the barge crew.

Building 31 Specific Exterior Features

1. Green patterned asphalt roof shingles (although may not be original).

Building 31 Specific Interior Features

None

**Building 47 (Parcel 6; Lot D - constructed 1941)** Contains 50,060 SF and was used as multi-use recreation complex consisting of gymnasium including bleacher area on one side, weight and exercise rooms, lockers, swimming pool, library, offices and theater. Street facade is brick faced but other sides of building are painted cmu.

Building 47 Specific Exterior Features

1. Cast concrete banding on brick facade
2. Original metal framed windows with divided lights and operable awning center panel
3. Main building entrance on west side consisting of three deep set windows in concrete frame above the entry, and fluted aluminum round edge canopy extending over the entry
4. Lead downspouts

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Building 47 Specific Interior Features

1. Theater area on north side of the building, especially the stage and orchestra pit area, including the wood molding on the front of the stage and wood stairways on either side.

**Building 67** (Parcel 1, Lot D - constructed 1941) Contains 33,720 SF used as vehicle maintenance and parking garage facility. It was built on a hillside to provide vehicle access to service and garage areas on separate levels.

Building 67 Specific Exterior Features

1. Main entrance on upper level with glass block walls on the side and half round cover over the doorway that is edged in stainless steel.
2. Multiple, large garage-style openings on the ground and second level.

Building 67 Specific Interior Features

None

**Building 138** (Parcel 3, Lot E - constructed 1942) Built as Pass and ID office and police station. Two story building on either side of main entrance with continuous second floor forming a bridge over the entrance. High visibility location at the main entry point and close to major public thoroughfare.

Building 138 Specific Exterior Features

1. Original metal frame windows with operable awning center panels.
2. Flat roof line with concrete cornice.

Building 138 Specific Interior Features

1. Stair moldings.
2. Interior walk-in safes.

**MONUMENTS**

There is one monument on the base, located in the center island of the main entry road (in front of Building 138). It is a stone column, approximately 13' high, which is capped by a bronze eagle with outstretched wings. A shield shaped plaque indicates that the monument commemorates the first around the world military flight that originated and returned to the Sand Point aerodrome in 1926. The monument was moved from its original location in 1942.

**LANDSCAPE, SITE FEATURES, VIEWS**

The following landscape and other site features within the area conveyed are considered to be contributing features to the Sand Point Historic District. Any proposed action that might effect these features or proposed direct alteration of them would require consultation with Washington SHPO.

**Location of features is shown on attached map**

Numbering below coincides with the site feature number on the map. Gaps in the numbers relate to site features that contribute to the Historic District but are not within the area covered by this conveyance.

1. Edge effect created by uniform front foundation lines of buildings 224, 47 and 222.

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2. Site of large signboard on southeast corner of intersection of B Street and 4<sup>th</sup> Street. Sign itself is not original or significant but continuous use of this site for this function is significant.
21. Seaplane Ramp.
22. North/ South view corridor down Avenue A from overpass at 1<sup>st</sup> Street to Lake Washington.
23. Stepped aggregate shoreline edging south of Building 31.
24. Remaining example of original street light (to be model for new ones placed on site).

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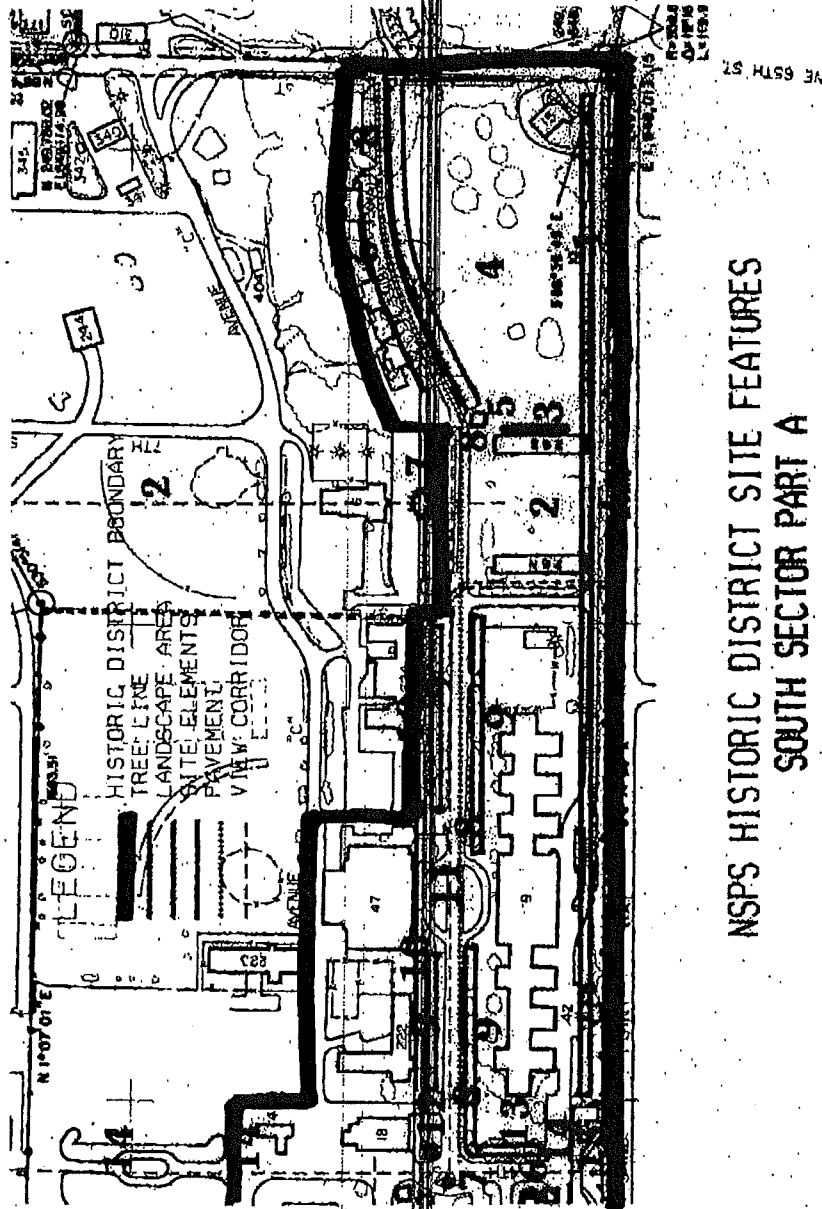
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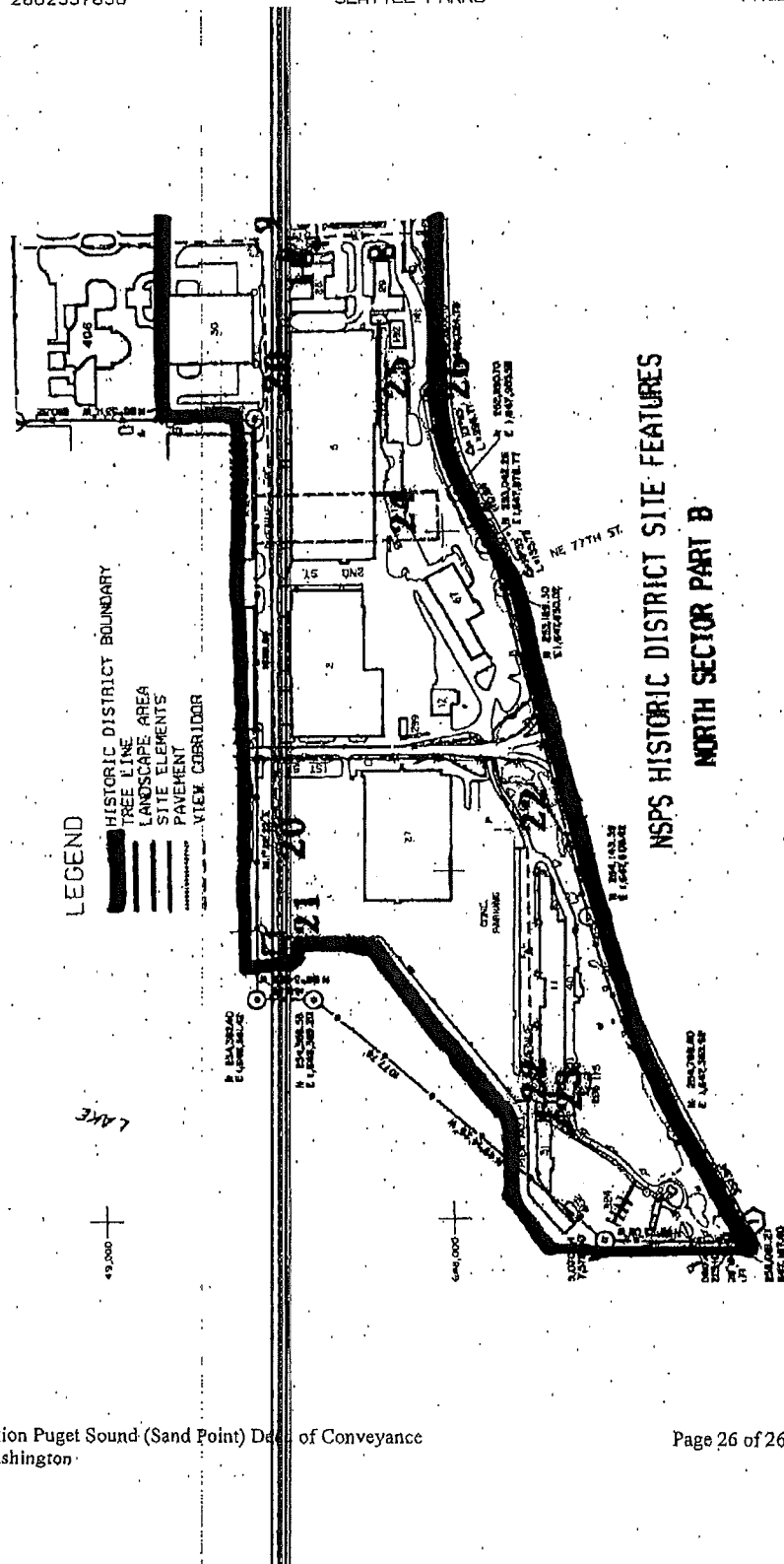
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## **EXHIBIT E**

### **INSURANCE REQUIREMENTS**

1.1 **Minimum Insurance Coverages and Limits to be Maintained by Concessionaire.** Prior to the Possession Date Concessionaire shall secure, and thereafter maintain in full force and effect throughout the entire Term of this Agreement, at no expense to the City, minimum levels of insurance coverage and limits of liability as specified below:

1.1.1 **Commercial General Liability (CGL) insurance including:**

Premises/Operations  
Products/Completed Operations  
Personal/Advertising Injury  
Contractual  
Stop Gap/Employers Liability  
Independent Contractors  
Host Liquor  
Liquor Liability (if alcoholic beverages are sold)

Such insurance must provide the following minimum limits of liability:

\$2,000,000.00	each Occurrence Combined Single Limit Bodily Injury and Property Damage (CSL)
\$2,000,000.00	each Offense Personal/Advertising Injury
\$2,000,000.00	each Common Cause Liquor Liability (if applicable)
\$1,000,000.00	each Accident/ Disease/Employee Stop Gap/Employers Liability

1.1.2 **Automobile Liability Insurance**, including coverage for owned, non-owned, leased or hired vehicles, as applicable, with a minimum limit of \$2,000,000.00 CSL.

1.1.3 **Excess/Umbrella Liability Insurance** as may be required to provide the minimum limits of liability required in Paragraphs 1.1.1. and 1.1.2.

1.1.4 **Workers' Compensation Insurance** securing Concessionaire's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; provided, that if Concessionaire is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Concessionaire shall certify that qualification by a letter signed by a corporate officer of

Concessionaire and delivered to City that sets forth the limits of any excess insurance workers' compensation policy.

1.1.5 **Property Insurance** under which (i) the Building and other major insurable structures on the Premises, including the Initial Improvements and any other insurable improvements thereto that Concessionaire makes to the Premises (the "Structures"), and (ii) Concessionaire's furniture, fixtures, equipment, inventory and trade fixtures and ("Business Property") are insured throughout the Agreement Term. Such property shall be insured in an amount equal to the current replacement cost thereof (with respect to the Structures, as established on or about the Possession Date, and annually thereafter, in consultation with the City) against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (ii) earthquake and flood; (iii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iv) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (v) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of the Concession Fee and other fixed costs during any interruption of Concessionaire's business. The deductible for property insurance as required herein shall not exceed \$10,000.00 each claim, unless otherwise approved by the City.

During the time that the Initial Improvements are being made to the Structures, Concessionaire shall obtain such **Builder's Risk Property Insurance** as may be required by Concessionaire's property insurer. When so required, the amount of Builder's Risk Property Insurance shall be not less than the Structures' then-current replacement value plus all soft and hard costs of construction, and such valuation shall be the new initial replacement cost valuation after completion. Such Builder's Risk Property Insurance may be furnished by either the Concessionaire or its contractor.

1.2 Minimum Insurance Coverages and Limits to be Maintained by Concessionaire's Contractor(s).

1.2.1 Prior to the commencement of any construction activity on the Premises under this Agreement, Concessionaire shall cause its prime contractor(s) to secure and thereafter maintain in full force and effect for the period of construction, minimum levels of liability (and Builder's Risk Property, if applicable) insurance coverages and limits of liability as specified in Paragraphs 1.1.1 through 1.1.4. (excluding host liquor and liquor liability under CGL insurance) that complies with the terms and conditions specified in Paragraph 1.3. In addition, CGL additional insured status shall include and apply to products/completed operations coverage per the ISO CG 20 10 11 85 endorsement or equivalent, and CGL coverage shall be maintained in force for not less than three (3) years following the completion of work.

1.2.2 In addition to the minimum coverages and limits specified in Paragraph 1.2.1, should on or off-site remediation of hazardous materials be necessary under the scope of work, Concessionaire or its contractor shall secure and maintain

General Contractor's Pollution Liability Insurance with a minimum limit of liability of \$1,000,000.00, each claim, and if transport of hazardous materials is required, CA 99 48 and MCS-90 endorsements must be attached to the Automobile Liability Insurance policy, with minimum limits of liability of \$1,000,000.00, CSL.

1.2.3 Proof of insurance required under this Paragraph 1.2 shall be furnished to the City as specified in Paragraph 1.4.

1.3 Terms and Conditions (Not Applicable to Workers' Compensation Insurance). The insurance specified in Paragraphs 1.1 and 1.2 shall be comply with the following:

1.3.1 All insurance shall be issued by an insurer rated A- VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus lines by a Washington State licensed Surplus lines broker.

1.3.2 CGL and Auto Liability Insurance (and, as applicable, Excess/Umbrella Liability Insurance) shall include the City of Seattle as an additional insured on a primary and non-contributory basis with all insurance and self-insurance the City maintains. Such additional insured status shall apply up to the total limits of liability of all such insurance available to Concessionaire, whether such insurance is primary, excess, contingent or otherwise.

1.3.3 Property Insurance (including Builder's Risk Property Insurance) shall include the City of Seattle as either an additional named insured or as an additional insured and shall also waive the insurer's right of subrogation as against the City.

1.3.4 Any deductible or self-insured retention of more than Twenty-five Thousand Dollars (\$25,000.00) is subject to the City's approval. Concessionaire shall be responsible for any claims or payments that fall within the deductible or self-insured retention.

1.3.5 The City may amend the requirements for coverage and/or limits upon ninety (90) days' notice but not more frequently than once every five (5) years and with reasonable justification demonstrating that the changed coverage is consistent with industry practice for comparable facilities.

1.3.6 Insurance shall not be cancelled without written notice of such cancellation being delivered to the City not less than forty-five (45) days prior to the cancellation date, except thirty (30) days as respects insurance procured under the provisions of chapter 48.15 RCW (Surplus Lines) and ten (10) days as respects cancellation for non-payment of premium.

1.3.7 The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Concessionaire.

1.4 Proof of Insurance.

1.4.1 Proof of insurance coverage shall contain sufficient detail to allow the City to assess compliance with the requirements herein and be delivered to the following address prior to the Possession Date:

The City of Seattle  
Department of Parks and Recreation  
Attention: Manager  
Contracts and Business Resources  
6310 NE 74th Street  
Seattle, WA 98105

A copy shall be delivered electronically as an email attachment or by fax to:

The City of Seattle Risk Management Division  
Email: riskmanagement@seattle.gov  
Fax: (206) 470-1279

1.4.2 A true copy of the additional insured policy in the CGL insurance policy must be attached, in order to document the City's additional insured status as required under Subsection 1.3.2.

1.4.3 A true copy of the additional insured policy provision in the Property Insurance (including, if applicable, the same provision from any separate Builder's Risk Property Insurance policy) must be attached, in order to document the City's status as an additional insured and to verify the insurer's waiver of subrogation as required under Subsection 1.3.3.

1.4.4 If either the CGL or Property Insurance policy has not been issued as of the date required, a current binder documenting coverages, limits of liability, additional insured status and the waiver of subrogation as required herein shall be substituted.

**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

**Legislation Title:**

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

**Summary and background of the Legislation:**

Ordinance 122754, adopted in September 2008, authorized the Superintendent to enter into a twenty-year lease, with two five-year extensions, with Seattle Court Sports Unlimited, Inc (SCSU) to develop a tennis facility at Warren G. Magnuson Park. The original agreement was for the construction and management of ten indoor/outdoor tennis courts, to complete roadway alterations and renovate Building 41 as a clubhouse for the tennis center. The Amended and Restated Concession Agreement allows SCSU to demolish Building 41 and construct a new facility in its place.

Consultant reviews and structural analysis of Building 41 concluded that it would cost more per square foot to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

<b>Project Name:</b>	<b>Project I.D.</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date</b>
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

       **This legislation creates, funds, or anticipates a new CIP Project.** *(Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)*

       **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

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



**Appropriations:** N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Spending Plan and Future Appropriations for Capital Projects:** N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Funding source:** N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Bond Financing Required:** N/A

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

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

O&M	2009	2010	2011	2012	2013	2014	Total
<b>Uses</b>							
Start Up							
On-going							
<b>Sources (itemize)</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

***Periodic Major Maintenance costs for the project: N/A***

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

***Notes:***

***Funding sources for replacement of project: N/A***

***Total Regular Positions Created, Modified, Or Abrogated Through This Legislation,  
Including FTE Impact: N/A***

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

***Notes:***

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation?** SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss. However, DPR would be required to maintain the vacant building.
- **Does this legislation affect any departments besides the originating department?** No
- **What are the possible alternatives to the legislation that could achieve the same or similar?** None
- **Is the legislation subject to public hearing requirements?** No

**Other Issues:** Due to the change in the lease to a straight land lease, the minimum yearly base rent would be reduced from \$91,297 to \$79,581. The base rent may be offset by a maximum of \$15,916 per year (20% of the Roadway Improvement Project cost to a maximum of \$200,000 over the term of the contract) and an amount negotiated with the Superintendent for programming benefits to the public. The actual amount received by the City for rent cannot be determined at this time due to the unknown programming benefit offset.

**Please list attachments to the fiscal note below:**

Attachment A: Contract Summary

**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

**Legislation Title:**

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Consultant reviews and structural analysis of Building 41 concluded that it would cost more per square foot to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

<b>Project Name:</b>	<b>Project I.D.</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date</b>
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

       **This legislation creates, funds, or anticipates a new CIP Project.** *(Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)*

       **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

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

**Appropriations:** N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Spending Plan and Future Appropriations for Capital Projects:** N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Notes:**

**Funding source:** N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Bond Financing Required:** N/A

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

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

O&M	2009	2010	2011	2012	2013	2014	Total
Uses							
Start Up							
On-going							
Sources (itemize)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Notes:**

***Periodic Major Maintenance costs for the project: N/A***

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

***Notes:******Funding sources for replacement of project: N/A******Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: N/A***

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

***Notes:***

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation:** SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss. However, DPR would be required to maintain the vacant building.
- **Does this legislation affect any departments besides the originating department?** No
- **What are the possible alternatives to the legislation that could achieve the same or similar?** None
- **Is the legislation subject to public hearing requirements:** No

**Other Issues:** Due to the change in the lease to a straight land lease, the minimum yearly base rent would be reduced from \$91,297 to \$79,581. The base rent may be offset by a maximum of \$15,916 per year (20% of the Roadway Improvement Project cost to a maximum of \$200,000 over the term of the contract) and an amount negotiated with the Superintendent for programming benefits to the public. The actual amount received by the City for rent cannot be determined at this time due to the unknown programming benefit offset.

**Please list attachments to the fiscal note below:**

Attachment A: Contract Summary

Attachment A  
Seattle Department of Parks and Recreation

**CONTRACT SUMMARY**

**Contracting Party/ Lessee/ Concessionaire/Other:** Seattle Court Sports Unlimited, Inc

**Contract Title and Contract Type:** Amended and Restated Lease for a Tennis Facility at Magnuson Park (land and current site of Building 41)

**Non-Profit** \_\_\_\_\_ or **For Profit** X \_\_\_\_\_

**New** \_\_\_\_\_ or **Renewal (or extension of existing Lease)** X \_\_\_\_\_

**Premises:** Land and current site of Building 41 at Magnuson Park

**Term of Lease:** 20 years plus two five-year extensions

**Purpose of Restated and Amended Lease (description of license):** Lessee will construct and operate a tennis facility with ten indoor/outdoor courts and a clubhouse for purposes incidental to the operation of the tennis facility, i.e. storage, offices, food service, locker rooms and meeting rooms. In the restated and amended lease, lessee is given the option of tearing down the existing Building 41 and constructing a new clubhouse facility. Lessee will also complete roadway improvements to allow for the courts to be built over an existing park road. Lessee is planning a phased in construction. The roadway improvements and tennis courts will be built in the first phase. The clubhouse will be constructed in the second phase relying on financing based on revenue from the operation of the tennis courts.

**Rent:** Base rent is \$79,581 (\$1.00 per square foot) per year plus an additional 10% of gross revenue from third party sales and rentals. Rent is subject to CPI adjustment after one year.

**Adjustments to Rent (if any):** Maximum offset of \$200,000 for roadway improvement costs. No maximum set against base and additional rent for public benefits that include scholarships and free classes.

**Public Benefit (e.g., description of permitted use):** Scholarships and free public classes.

**Maintenance:** Lessee is responsible for all minor and major maintenance of the Premises during the term of the lease.

**Other Pertinent Information:** The tearing down and rebuilding on the site of building 41 is conditioned on the cost effectiveness of new construction which will offer an improved and more efficient facility with improved public amenities. The building is a contributing building to the "Historic District." Lessee will mitigate as needed.

**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

**Legislation Title:**

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

**Summary and background of the Legislation:**

Ordinance 122754, adopted in September 2008, authorized the Superintendent to enter into a twenty-year lease, with two five-year extensions, with Seattle Court Sports Unlimited, Inc (SCSU) to develop a tennis facility at Warren G. Magnuson Park. The original agreement was for the construction and management of ten indoor/outdoor tennis courts, to complete roadway alterations and renovate Building 41 as a clubhouse for the tennis center. The Amended and Restated Concession Agreement allows SCSU to demolish Building 41 and construct a new facility in its place.

Consultant reviews and structural analysis of Building 41 concluded that it would cost more to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

<b>Project Name:</b>	<b>Project I.D.</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date</b>
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

       **This legislation creates, funds, or anticipates a new CIP Project.** (Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)

       **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

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

Isabel Hamilton  
DPR Magnuson SCSU Agreement FISC  
8/07/09  
Version #1

**Appropriations:** N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Spending Plan and Future Appropriations for Capital Projects:** N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Notes:**

**Funding source:** N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**

**Bond Financing Required:** N/A

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

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

O&M	2009	2010	2011	2012	2013	2014	Total
<b>Uses</b>							
Start Up							
On-going							
<b>Sources (itemize)</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Notes:**



Isabel Hamilton  
DPR Magnuson SCSU Agreement FISC  
8/07/09  
Version #1

***Periodic Major Maintenance costs for the project: N/A***

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

***Notes:***

***Funding sources for replacement of project: N/A***

***Total Regular Positions Created, Modified, Or Abrogated Through This Legislation,  
Including FTE Impact: N/A***

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

***Notes:***

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation?** SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss.
- **Does this legislation affect any departments besides the originating department?** No
- **What are the possible alternatives to the legislation that could achieve the same or similar?** None
- **Is the legislation subject to public hearing requirements?** No

**Other Issues:** Due to the change in the lease to a straight land lease, the minimum yearly base rent would be reduced from \$91,297 to \$79,581. The base rent may be offset by a maximum of \$15,916 per year (20% of the Roadway Improvement Project cost to a maximum of \$200,000 over the term of the contract) and an amount negotiated with the Superintendent for programming benefits to the public. The actual amount received by the City for rent cannot be determined at this time due to the unknown programming benefit offset.

**Please list attachments to the fiscal note below:**

Attachment A: Contract Summary

Attachment A  
Seattle Department of Parks and Recreation

**CONTRACT SUMMARY**

**Contracting Party/ Lessee/ Concessionaire/Other:** Seattle Court Sports Unlimited, Inc

**Contract Title and Contract Type:** Amended and Restated Lease for a Tennis Facility at Magnuson Park (land and current site of Building 41)

**Non-Profit** \_\_\_\_\_ or **For Profit** X \_\_\_\_\_

**New** \_\_\_\_\_ or **Renewal (or extension of existing Lease)** X \_\_\_\_\_

**Premises:** Land and current site of Building 41 at Magnuson Park

**Term of Lease:** 20 years plus two five-year extensions

**Purpose of Restated and Amended Lease (description of license):** Lessee will construct and operate a tennis facility with ten indoor/outdoor courts and a clubhouse for purposes incidental to the operation of the tennis facility, i.e. storage, offices, food service, locker rooms and meeting rooms. In the restated and amended lease, lessee is given the option of tearing down the existing Building 41 and constructing a new clubhouse facility. Lessee will also complete roadway improvements to allow for the courts to be built over an existing park road.

**Rent:** Base rent is \$79,581 (\$1.00 per square foot) per year plus an additional 10% of gross revenue from third party sales and rentals. Rent is subject to CPI adjustment after one year.

**Adjustments to Rent (if any):** Maximum offset of \$200,000 for roadway improvement costs. No maximum set against base and additional rent for public benefits that include scholarships and free classes.

**Public Benefit (e.g., description of permitted use):** Scholarships and free public classes.

**Maintenance:** Lessee is responsible for all minor and major maintenance of the Premises during the term of the lease.

**Other Pertinent Information:** The tearing down and rebuilding on the site of building 41 is conditioned on the cost effectiveness of new construction which will offer an improved and more efficient facility. The building is a contributing building to the "Historic District." Lessee will mitigate as needed.



# City of Seattle

Michael McGinn, Mayor

## Office of the Mayor

February 2, 2010

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor


Dear Council President Conlin:

I am transmitting the attached proposed Council Bill authorizing the Superintendent of Parks and Recreation to revise the agreement between the City and Seattle Court Sports Unlimited (SCSU) to further development of a tennis center at Magnuson Park.

The original 2008 agreement granted a concession to SCSU to develop a tennis facility at Magnuson Park that would include construction of ten new indoor/outdoor tennis courts, the renovation of Building 41 into a tennis support facility, and roadway improvements. It was anticipated that Building 41 could be renovated in a cost-efficient manner and result in a support building for the ten new tennis courts. However, engineering and architectural studies demonstrated that building renovation costs would exceed the demolition and construction costs of an entirely new building. The revised agreement leases SCSU the land to construct the tennis courts and a support building with no requirement to renovate the existing building.

Thank you for your consideration of this legislation. Should you have questions, please contact Rebecca Salinas at 684-7279.

Sincerely,



Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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257178  
CITY OF SEATTLE, CLERKS OFFICE

No.

**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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

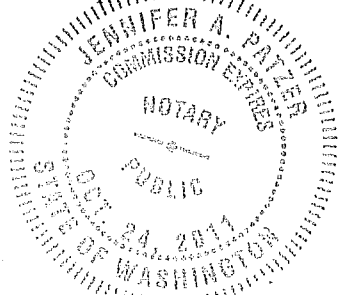
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123330-331 TITLE ONLY

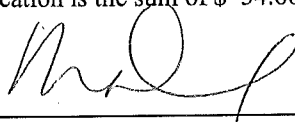
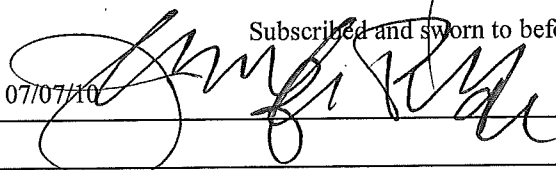
was published on

07/07/10

The amount of the fee charged for the foregoing publication is the sum of \$ 54.60, which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
07/07/10   
\_\_\_\_\_  
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 June 21, 2010, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 123331

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

#### ORDINANCE NO. 123332

AN ORDINANCE accepting Enron Corporation legal settlement revenues from the State of Washington and Puget Sound Energy; authorizing related agreements; amending the 2010 Adopted Budget to increase appropriations for the Office of Housing and the City Light Department; and ratifying and confirming prior acts; all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 123330

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

Publication ordered by the City Clerk

Date of publication in the Seattle Daily Journal of Commerce, July 7, 2010.

7/7(257178)

CEK/SLC: gh  
January 21, 1997  
42-ORD.DOC  
(Ver. 1)

ORDINANCE 118477

AN ORDINANCE adopting Initiative 42, enacting it as an ordinance of the City of Seattle.

WHEREAS, citizens of the City of Seattle circulated petitions seeking the enactment of Initiative 42 into law; and

WHEREAS, King County certified to the City of Seattle that Initiative 42 bore a sufficient number of validated signatures to qualify for transmittal to the City Council; and

WHEREAS, the City Council received Initiative 42 on December 16, 1996; and

WHEREAS, City Charter Article IV provides that the City Council may enact or reject such an initiative; and

WHEREAS, the City Council has, in Resolution 29521, stated it agrees with the general principles reflected in Initiative 42; and

WHEREAS, the City Council has, in Resolution 29521, directed the Department of Parks and Recreation to develop appropriate rules, policies, procedures, and guidelines to effectively implement Initiative 42; and

WHEREAS, section 4 of Initiative 42 states the initiated ordinance is to take effect "as provided by Article IV, Section 1 of the City Charter" but neither that nor any other part of the City Charter provides for the effective date of an ordinance adopted by the City Council, whether or not initiated by petition, and so to ensure that the Initiative takes effect the City Council has added section 5 to this ordinance to provide the normal and customary 30-day effective date; Now Therefore

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. All lands and facilities held now or in the future by The City of Seattle for park and recreation purposes, whether designated as park, park boulevard, or open space, shall be preserved for

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

GEK/SLC: gh  
January 21, 1997  
42-ORD.DOC  
(Ver. 1)

1 such use; and no such land or facility shall be sold, transferred, or changed from park use to another  
2 usage, unless the City shall first hold a public hearing regarding the necessity of such a transaction and  
3 than enact an ordinance finding that the transaction is necessary because there is no reasonable and  
4 practical alternative and the City shall at the same time or before receive in exchange land or a facility of  
5 equivalent or better size, value, location and usefulness in the vicinity, serving the same community and  
6 the same park purposes.

7 Section 2. Within thirty days of the effective date of such an ordinance, any person may seek  
8 review in the Superior Court. The Superior Court shall set aside the proposed transaction if it is not  
9 necessary or the proposed substitution is not equivalent or better than the park exchanged. The Superior  
10 Court shall make its decision on the evidence as an issue of fact.

11 Section 3. Section 1 permits by duly enacted ordinance after a public hearing: a boundary  
12 adjustment of equivalents with an adjoining owner; or the transfer of a joint use agreement with Seattle  
13 School District No. 1 to another school site. Section 1 also permits by duly enacted ordinance after a  
14 public hearing and without providing replacement property: a transfer to the federal, state, or county  
15 governments for park and recreation uses; the reversion of right-of-way continuously owned by a City  
16 utility; the opening of an unimproved street for street use; a sub-surface or utility easement compatible  
17 with park use; and franchises or concessions that further the public use and enjoyment of a park.

18 Section 4. This ordinance shall take effect as provided by Article IV, Section 1 of the City  
19 Charter. However, if the City should sell, transfer, or change the use to a non-park use of any park  
20 property held on or after May 17, 1996 (including Bradner Playfield), the City shall replace it in kind  
21 with equivalent or better property or facilities in the same vicinity, serving the same community, unless  
22  
23  
24

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GEK/SLC: gh  
January 21, 1997  
42-ORD.DOC  
(Ver. 1)

1 the City has already received as good or better land and facilities for park use in the same vicinity,  
2 serving the same community, in exchange for that transaction.

3 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its  
4 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
5 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

6 Passed by the City Council the 27 day of January, 1997, and signed by me in open  
7 session in authentication of its passage this 27 day of January, 1997.

8  
9 Jan Prago  
President of the City Council

10 Approved by me this 4 day of February, 1997.

11  
12 Norman B. Rice  
Mayor

13  
14 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 1997.

15  
16 Janet E. Papp  
City Clerk

17 (Seal)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.



## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Parks and Recreation	Brian Judd/206-615-0381	Anna Hurst / 733-9317

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE relating to Seattle Parks and Recreation (SPR); authorizing the Superintendent of Parks and Recreation to execute an amendment to the amended and restated Concession Agreement with Tennis Center at Sand Point, LLC at Warren G. Magnuson Park.

**Summary and background of the Legislation:** The proposed Council Bill authorizes the Superintendent of Parks and Recreation to execute for and on behalf of the City an amendment to an existing Concession Agreement with Tennis Center at Sand Point (TCSP), LLC to:

- Remove Building 41 (“Building 41”) from the definition of the Premises and all references thereof from the Concession Agreement;
- Update mailing addresses;
- Update facility descriptions;
- Add an additional 5-year term extension option to the Concession Agreement;
- Redefine Public Benefits, Processes, Requirements and Offsets; and
- Amend fee payment due dates.

In the previous executed Agreement, the Base Concession Fee is referred to as Rent. The language is now consistent in the Amended and Restated Agreement and the Summary and Fiscal Note.

This Legislation will not generate any additional revenue over the initial Term of the Concession Agreement.

#### **Background**

SPR and TCSP entered into a 20-year Amended and Restated Concession Agreement (“Concession Agreement”), Ordinance #123331, on August 2, 2010, for TCSP to build, operate, and manage a tennis facility on a portion of Magnuson Park for the use and benefit of the public. TCSP invested \$6.2 million to build the facility and opened for business in September 2013. SPR and TCSP desire to clarify expectations and definitions of Public Benefits in the Concession Agreement. Additionally, at the commencement of the Concession Agreement, TCSP intended to demolish Building 41, the former Naval gas station, and build a new structure to use as a pro-shop and welcome center. After commencement of the Concession Agreement, SPR and TCSP discovered conditions present in and around Building 41 that make demolition or renovation of the building cost prohibitive. SPR and TCSP mutually desire to remove Building 41 from the Concession Agreement, releasing TCSP from obligations to improve or operate the space and allowing SPR to acquire funding elsewhere to renovate and activate Building 41. SPR also wishes

to grant TCSP an additional 5-year Term extension option and expressly cap public benefit offsets to 16% of concession fees due per year. SPR is satisfied that the removal of Building 41 from the Concession Agreement, and the provision of these additional facilities at Magnuson Park is in the City's and public's best interest.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?  
No

**Is there financial cost or other impacts of *not* implementing the legislation?**

SPR is the owner of Building 41 and ultimately is responsible for addressing its condition and developing the facility. If this legislation is not passed, then SPR will be less likely to obtain funding to renovate and activate the building during the term of the concession agreement. If funding is obtained to renovate and activate the building, it would result in decreased long-term maintenance and upkeep costs to the City and will provide additional rental revenue opportunities.

## 4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

No

b. Is a public hearing required for this legislation?

No

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

No. As a matter of SPR best practice in this proprietary transaction, available information about the premises and property has been supplied to TCSP, including hazardous materials report from the U.S. Navy, the former owner of the property.

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

No

**e. Does this legislation affect a piece of property?**

Yes – this legislation concerns Building 41, located at 6327 NE 74th St., Seattle, WA 98115 in Warren G. Magnuson Park. A site map of the building is attached as Exhibit A.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

The proposed legislation updates public benefit requirements and language to clarify delivery of services to underserved populations within Magnuson Park and the greater Seattle community.

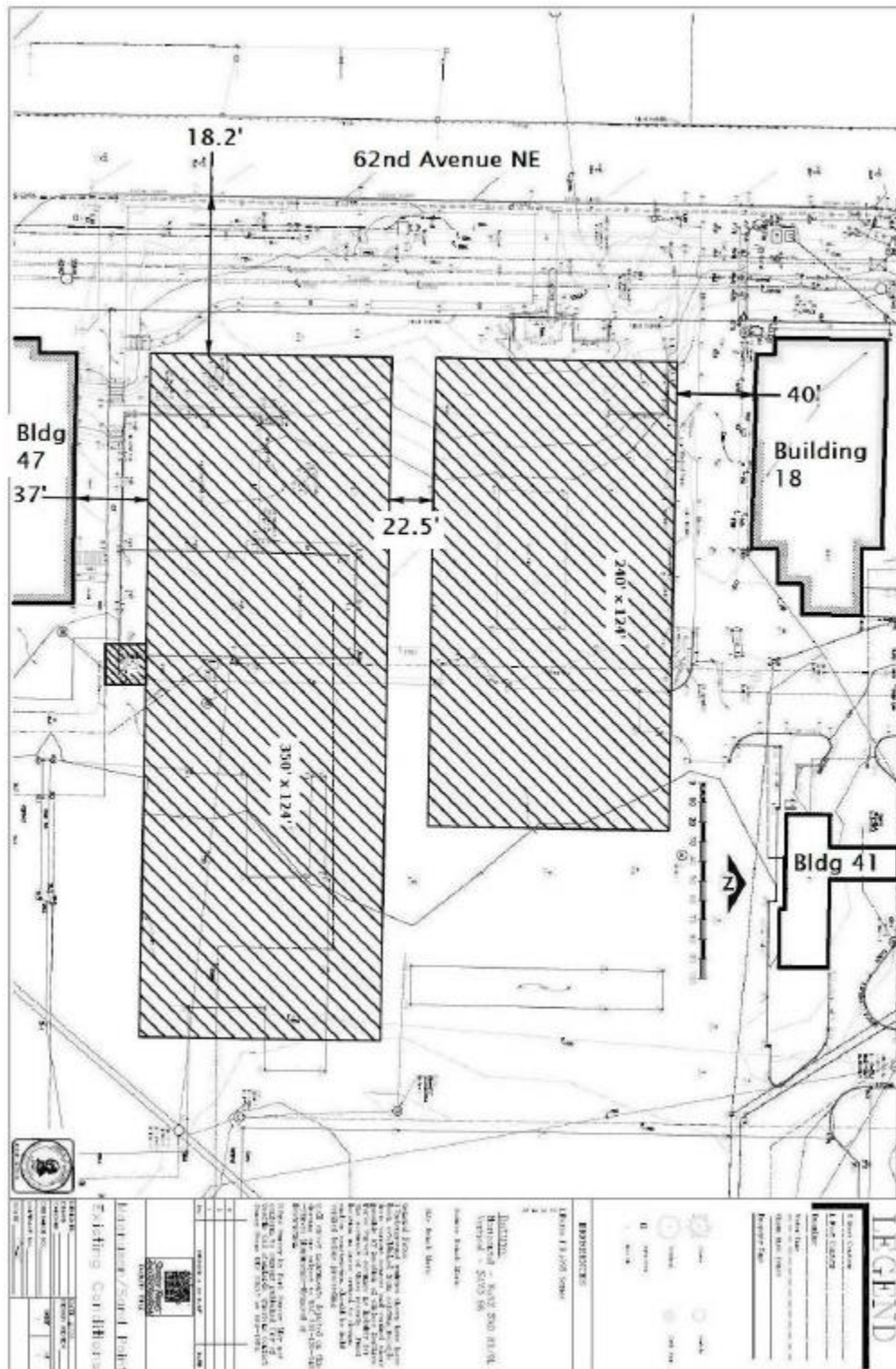
**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

The purpose of this legislation is to remove Building 41 from the Concession Agreement and to define Public Benefits and the associated processes.

**List attachments/exhibits below:**

Summary Exhibit A – Building 41 Site Map

# Exhibit A Building 41 Site Map





## Legislation Text

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**File #:** Appt 01574, **Version:** 1

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Reappointment of Michael L. Reichert as member, Seattle Indian Services Commission Governing Council, for a term to November 30, 2022.

The Appointment Packet is provided as an attachment.



# City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <b>Michael L. Reichert</b>		
<b>Board/Commission Name:</b> Seattle Indian Services Commission		<b>Position Title:</b> Member, Governing Council
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> Council <input type="checkbox"/> Mayor <input checked="" type="checkbox"/> Other: SISC Governing Council		<b>Term of Office: 3-Year Term</b>  12/1/19 to 11/30/22
<b>Residential Neighborhood:</b> Maple Valley, WA	<b>Zip Code:</b> 98038	<b>Contact Phone No.:</b> [REDACTED]
<b>Legislated Authority:</b> SMC 3.110		
<b>Background:</b>  <p>Mr. Michael L. Reichert was appointed in 1979 as President &amp; CEO of Catholic Community Services of Western Washington and Catholic Housing Services. In 2002, he became President and Trustee of the Catholic Charities Foundation of Western Washington. He also served for three years as a Commissioner to the Washington State Housing Finance Commission.</p> <p>Mr. Reichert, in his current position, is responsible for combined budgets exceeding \$170 million, and manages more than 3,300 employees. He brings an extensive background in housing development, human services, employment/training programs, and financial management.</p> <p>Mr. Reichert's other activities include Board member/Treasurer at the WaHeLut Indian School (Olympia), Senior Fellow with the Wildflowers Institute (San Francisco), Chairperson/Founding Father of the Low Income Housing Institute, Chief Financial Officer for the Puyallup Tribe of Indians, and Development Consultant for the North central Montana Coalition.</p> <p>Michael is a graduate of Central Washington University and is an enrolled member of the Minnesota Chippewa Tribe, White Earth Indian Reservation.</p> <p>This reappointment represents Mr. Reichert's second term.</p>		
<b>Date of Appointment:</b>  9/24/19	<b>Authorizing Signature (original signature):</b>  <i>Claudia Kauffman</i>	<b>Appointing Signatory:</b>  Claudia Kauffman Chair, Seattle Indian Services Commission

Work Phone: 206-328-5702  
 FAX: 206-328-5699  
 E-mail: MichaelR@ccsww.org

## **Michael L. Reichert**

### **Current Position**

President, Catholic Community Services of Western Washington;  
 President, Catholic Housing Services of Western Washington; President,  
 Catholic Charities Foundation

### **Summary of Qualifications**

Visionary experienced leader, locally and nationally. Outstanding communication skills. Extensive management experience in social services, housing and advocacy organizations. Extensive knowledge of government policies. Serves as leader and organizer of the Social Services and Housing arms of the Roman Catholic Church in Western Washington. Demonstrated ability at structuring and transforming complex service organizations into integrated service delivery networks. Combined budgets exceeding \$100 million and 3,100 staff. Enrolled member Minnesota Chippewa Tribe, White Earth Indian Reservation.

### **Professional Experience**

#### **1979 – Present**

Catholic Community Services (CCS) and Catholic Housing Services (CHS), Seattle, WA

#### **President and Chief Executive Officer**

- Directs day to day activities of CCS and CHS, which combined are the largest non-profit social service organization in Washington State with an annual budget of more than \$100 million and a staff of more than 3,100.
- Formulates organizational goals and objectives. Establishes administrative and program systems.
- Approves operational policies and procedures in areas such as personnel, legal, finance, advocacy, public relations, and fund development. Oversees subordinate or affiliated organizations.
- Recruits, appoints and supervises management staff.
- Advocates for CCS/CHS clients, staff and programs. Represents CCS/CHS to the public, media and government.

#### **1995 – 1999**

Puyallup Tribe of Indians/Puyallup International, Inc. Tacoma, WA  
**Finance Committee Member and Advisor**

#### **1975 – 1979**

Puyallup Tribe of Indians, Tacoma, WA

#### **Director of Federal Programs**

- Managed the Tribe's employment and training programs as well as all federally funded support activities.
- Served as Executive Staff to the Tribal Council.
- Represented the Tribe and National Congress of American Indians on employment, training and economic development issues before the US Congress.



Work Phone: 206-328-5702  
 FAX: 206-328-5699  
 E-mail: MichaelR@ccsww.org

#### **1976-1977**

Maple Valley Community Center, Maple Valley, WA

##### **Executive Director**

- Founded and helped fund the Greater Maple Valley Community Center in its first year of operation.
- Co-founded and elected to the Greater Maple Valley Community Council and served as its Vice-Chair for 2 years.

#### **1974-1976**

Small Tribe Organization

##### **Health Study Director, Assistant CETA Director**

- Served as Assistant Director for Employment and Training for 18 reservation and non-reservation Indian Tribes in Western Washington.
- Served as Director of Comprehensive Health Study of off-reservation Indians in Washington State. Reported results of the two-year study to the United States Congress.

#### **Leadership roles and affiliations**

Chairperson, National Catholic Housing Commission 1988-1993  
 Chairperson, Low Income Housing Institute 1992-1993  
 Chairperson, National Indian & Native American Employment & Training Coalition 1976-1979  
 Chairperson, McCauley Institute, Washington D.C. 1985-1991  
 Chairperson and President, Archdiocesan Housing Authority 1991-1999  
 Board member and Treasurer, WA He Lut Indian School  
 Vice-President and Senior Fellow, Wildflowers Institute in San Francisco  
 Board Member and Treasurer, Puyallup International Incorporated  
 Board Member, Catholic Charities USA Washington D.C. 1986-1989  
 Board Member, Northwest Harvest 1986-1993  
 Board Member, Intercommunity Housing 1991-1993  
 Vice-Chairperson, Greater Maple Valley Council 1976-1978

#### **Education**

##### **1970 – 1974**

Central Washington University, Ellensburg, Washington  
**BA/Communication and Native American Studies – Cum Laude**



## Seattle Indian Services Commission

DECEMBER 2019

5 Members: Pursuant to Seattle Ordinance #103387 and Chartered in 1972, All members subject to City Council confirmation, 3-year terms:

- -0- City Council-appointed
- 1 Mayor-appointed
- 4 Other Appointing Authority: Seattle Indian Services Commission Governing Council

### Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
4	F		1.	Chair	Claudia Kauffman	11/1/19	10/31/22	3	Mayor
4	F		2.	Secretary/Treasurer	N. Iris Friday	10/31/17	10/31/20	6	Governing Council
4	F		3.	Member	Colleen Echohawk-Hayashi	1/01/18	12/31/20	2	Governing Council
4	M		4.	Member	Michael Reichert	12/1/19	11/30/22	2	Governing Council
4	M		5.	Member	lisaaksiichaa "Ross" Braine	07/11/17	06/30/20	1	Governing Council

### SELF-IDENTIFIED DIVERSITY CHART

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Men	Women	Transgender	Other/ Unknown	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other (Specification Optional)	Caucasian/ Non- Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor		1						1					
Council													
Other	2	2						4					
Total	2	3						5					

### Key:

\*D List the corresponding *Diversity Chart* number (1 through 9)

\*\*G List *gender*, M = Male, F= Female, T= Transgender, U= Unknown, O= Other

RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01700, **Version:** 1

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Reappointment of Gloria Connors as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Gloria Connors		
<b>Board/Commission Name:</b> Seattle Center Advisory Commission		<b>Position Title:</b> Member
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2018 to 9/28/2021 <input type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> South	<b>Zip Code:</b> 98178	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> For more than 20 years, Gloria Connors has actively produced special events, concerts, and a wide variety of cultural happenings. One of her key strengths is the ability to take a client's initial idea and apply her conceptual development and strategic planning skills to create an unforgettable experience. She strives to actualize innovative ideas tailored to each event while sustaining the uniqueness of a community to build culturally rich experiences for the client and attendees alike. Ms. Connors exudes a passion for producing and driving inspiration starting every event with the simple ask of, "How can I help?"</p> <p>Based in Seattle since 1997, Ms. Connors was originally raised in the entertainment capital of Los Angeles where she got an early start in the music business. Upon graduating from California State University Long Beach with a Bachelor of Arts degree in Communications, she advanced to the role of coordinating technical production for touring acts. These acquired skills led Ms. Connors to serve for over a decade as a sound engineer and production manager for numerous national and international tours. These skills have given her a unique perspective on event production, thus creating a sustainably and reputable business model – and experience for her clients.</p> <p>Ms. Connors has worked closely with the operations and special event teams at the Seattle Center and is enthusiastic about the opportunity at continuing to serve on the Seattle Center Advisory Commission and to expand her engagement with the community. It is her hope to be a part the continual growth of Seattle Center's cultural landscape. Ms. Connors joined the Commission in 2013.</p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> Jenny Durkan Mayor

\*Term begin and end date is fixed and tied to the position and not the appointment date.

# Gloria Connors | Connors and Company Events Inc.

## PROFILE

*Blending 25+ years of high impact public and private events, including community outreach, to successfully manage and deliver critical services within challenging, deadline-oriented environments.*

### KEY STRENGTHS:

- ◆ Creative Design
- ◆ Project Management
- ◆ Strategic Planning
- ◆ Budget Management
- ◆ Conceptual Development
- ◆ Event Management
- ◆ Branding
- ◆ Community Outreach
- ◆ Marketing Plan

## PROFESSIONAL EXPERIENCE

**Seattle Interactive Conference | Producer and Co-Founder**, Seattle, WA 2011 – Current  
*SIC brings together entrepreneurs, developers and online business professionals from throughout the US and beyond for a powerful combination of in-depth presentations, networking opportunities, and uniquely Seattle social events. Attendees have the rare opportunity to explore disruptive technologies and business models with visionary thinkers and peers in areas ranging from online commerce and social media to gaming, interactive advertising, entertainment, and much more.*

**Seattle Tattoo Expo | Producer and Co-Founder**, Seattle, WA 2001 – Current  
*Seattle Tattoo Expo was formed with the primary goal of exposing new talent, showcasing existing fan favorites and providing enthusiasts with a gathering place to share their love for this enduring art form.*

### Public Events | Event Management

*Bringing together thousands of friends, families, and neighbors from across the region to engage in a dynamic and fun environment. Through collaboration with high profile brands, city officials, and leading industry members, we set the stage for monumental events.*

- Sonics Arena Rally
- Meteor Entertainment | PAX East | Comicon | E3
- Red Bull Soapbox Race
- Red Bull Snow Warz
- Hawken Convention Tour
- Elysian Search Party
- Red Bull Music Academy
- Seattle Met COWABUNGA Event
- Amazon Treasure Truck Activations
- Red Bull Battlegrounds
- Amazon Gaming
- International DoTA Championships
- Elysian Great Pumpkin Beer Festival

### Grand Openings | Event Management

*Creating a significant landmark event to last a company a lifetime. Spectacular events kicking off a brand new chapter any company would be proud to announce.*

- Westfield Southcenter
- Northgate Music Theater
- Space Needle Rer Opening
- Outlet Connection Grand Opening Party - Auburn, WA
- Levi's Reopening
- Nordstrom-Michigan Ave, IL
- SpaceX Opening - Seattle

### Fundraisers | Event Management

*Cultivating a network of support through intimate engagements for companies and benefactors to raise donations and promote admirable causes. From auction logistics to minute details in decor, we design the best possible representation of the impact and social value of any organization.*

- STG's DOORS: Opening Doors to the Arts
- Trends for Treehouse Fashion Show
- Treehouse Foundation
- Nordstrom | Michigan Ave Fashion Show | Chicago
- Viva Vera Auction
- Seattle Girls' School Auction

**Private Parties | Event Management**

*Exclusive private executive parties for holidays and special engagements with the upmost degree of confidentiality and execution.*

- Hawken PAX Prime After Party
- Verizon Blackberry Storm
- Gap Inc. Hi-Fi: London, LA, Paris, Tokyo
- Intel Private Events, Long Beach
- Microsoft Zune
- Real Networks Holiday
- Valve GDC After Party
- TI Championship Closing Party

**Concerts | Production Management, Seattle, WA**

*Full concert production from the advance through the end of load-out. On the day of show, overseeing sub- contracted services, admissions, day schedules, backstage hospitality, and troubleshooting.*

**Current clients include:**

- AEG Live Northwest
- Bumbershoot Festival
- Marymoor Summer Concerts Series
- Entercom Annual Radio Shows
- WA State Fair Concert Series

**Past shows include:** Alicia Keys, Allman Brothers, Atmosphere, Beck, Black Eyed Peas, Blink 182, Bruno Mars, Daft Punk, Death Cab for Cutie, Devo, Elvis Costello, Jason Mraz, Joss Stone, Judas Priest, Kanye West, Kelly Clarkson, Luis Miguel, Modest Mouse, Nick Cave & the Bad Seeds, Portishead, Robert Plant, Sheryl Crow, Slayer, Superchunk, The Killers, Tiesto, Weezer, Wu Tang Clan, Yeah Yeah Yeahs, and the list goes on...

**Touring | Production & Artist Management**

1990 - 2000

*Sound Engineer & Touring Management for major recording artist.*

**COMMUNITY INVOLVEMENT**

**Auction Organizer - Volunteer,** Seattle Girls School, Seattle, WA, 2004

**Volunteer,** Treehouse, Seattle, WA, 2010

**Volunteer,** Angeline's Center for Homeless Women, Seattle, WA, 1997

**Auction Organizer | Volunteer,** The Vera Project, Seattle, WA, 2007

**Volunteer Facilitator,** King County Corrections, Seattle, WA, 1997 - Current

**Food Bank Volunteer,** Rainier Valley Food Bank, Seattle, WA, 1997 -Current

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
1	M	7	1.	Member	Koichi Kobayashi	9/29/19	9/28/22	1	Mayor
2	F	3	2.	Member	Donna Moodie	9/29/19	9/28/22	5	Mayor
6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
6	M	7	4.	Vice Chair	Mark Dederer	9/29/19	9/28/22	4	Mayor
6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
6	M	7	6.	Member	John Olensky	9/29/20	9/28/23	1	Mayor
6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
			9.	Member	VACANT	9/29/20	9/28/23		Mayor
6	F	7	10.	Member	Holly Golden	9/29/20	9/28/23	4	Mayor
			11.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	3	12.	Chair	Todd Leber	9/29/18	9/28/21	3	Mayor
			13.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	N/A	14.	Member	Will Ludlam	9/29/18	9/28/21	3	Mayor
3	F	2	15.	Member	Gloria Connors	9/29/18	9/28/21	3	Mayor
			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
Other													
Total	8	5			1	1	1			10			

## Key:

\*D List the corresponding *Diversity Chart* number (1 through 9)

\*\*G List *gender*, M= Male, F= Female, T= Transgender, NB= Non-Binary, O= Other, U= Unknown

RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01701, **Version:** 1

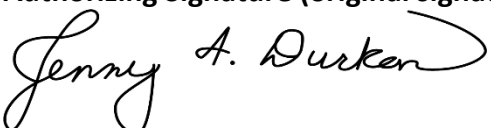
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Reappointment of Todd Leber as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Todd Leber		
<b>Board/Commission Name:</b> Seattle Center Advisory Commission		<b>Position Title:</b> Member
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2018 to 9/28/2021 <input type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> Capitol Hill	<b>Zip Code:</b> 98112	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> Todd Leber is an Associate Principal at the Seneca Group. Todd is committed to sustainability leadership, partnering with local governments, and building long term relationships and high impact teams for transformative real estate projects.</p> <p>Todd has supported Amazon with the master planning and land use approval of its headquarters in Seattle and Arlington, Virginia. Todd supported Amazon in providing two temporary shelters and one permanent family center for Mary's Place. Currently, Todd helps coordinate the land use approvals, community relations and construction labor standards for Amazon's HQ2 project in Arlington. He also volunteers on the Mary's Place site selection real estate committee and is a member of Leadership Tomorrow's class of 2016 and Seattle Chamber of Commerce.</p> <p>Seattle Center's unique campus appeals to his diverse interests in public policy, real estate, the arts and his role as a father of three young children who love visiting the center's many resident organizations. Mr. Leber has served as a member of the Seattle Center Advisory Commission since 2012 and has served as Chair since 2017. In addition, he is a member of the Seattle Center Foundation Board.</p> <p>He studied at Stanford University, earning a Bachelor of Arts in International Relations and a Master of Arts in Sociology; and at the University of Arizona, earning a Master of Business Administration.</p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> Jenny Durkan Mayor

\*Term begin and end date is fixed and tied to the position and not the appointment date.



<b>Summary</b>	Community minded real estate professional committed to sustainable development and principled leadership. Proven skills in project management, partnering with local governments, conflict resolution and building high impact teams.
<b>Experience</b>	<p><b>Seneca Real Estate Group, Inc.   Associate Principal  </b> Seattle, WA   2010 - Present</p> <p>Coordinating the property acquisition, land use approvals, community relations and construction labor standards for a 6-building office development and public park in Arlington, Virginia for Amazon's HQ2 project</p> <ul style="list-style-type: none"><li>• Assisted Amazon with the land use approvals, design and construction of a 3M square foot office development in north downtown Seattle.</li><li>• Supported the decision-making process and opening of two temporary and one permanent Mary's Place family centers on Amazon property</li><li>• Partnered with SDOT and the Seattle City Council in the approval of (3) alley vacations and (2) eco-district related term permits.</li><li>• Previous projects include the Bill and Melinda Gates Foundation headquarters.</li></ul> <p><b>Yudelson Associates   Green Building Consulting  </b> Tucson, AZ   Summer 2009</p> <p><b>M.S. Cavoat Company   Project Manager  </b> Seattle, WA   2007</p> <p><b>Lease Crutcher Lewis   Project Engineer  </b> Seattle, WA   2006</p> <p><b>Office of Senator John McCain   Staff Assistant  </b> Washington, DC   2005</p> <p><b>Education</b></p> <p><b>University of Arizona  </b> Tucson, Arizona   2008 - 2010</p> <p>Master of Business Administration   MBA Student Association President</p> <ul style="list-style-type: none"><li>• Researcher for the Responsible Property Investing Center which advocates the triple bottom line of economic, environmental and social value in real estate investing</li></ul> <p><b>Stanford University  </b> Palo Alto, California   2000-2004</p> <p>MA, Sociology   BA, International Relations   NCAA Soccer Player</p> <p><b>Community Involvement</b></p> <ul style="list-style-type: none"><li>• Seattle Center Advisory Commission, Commissioner 2011-2017, Chair 2017-2020</li><li>• Seattle Center Foundation, Board Member 2016-2020</li><li>• Mary's Place, Site Selection (Real Estate) Committee Volunteer</li><li>• Leadership Tomorrow, Class of 2016</li><li>• Seattle Chamber of Commerce, Member</li><li>• Urban Land Institute, Member</li></ul>

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
1	M	7	1.	Member	Koichi Kobayashi	9/29/19	9/28/22	1	Mayor
2	F	3	2.	Member	Donna Moodie	9/29/19	9/28/22	5	Mayor
6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
6	M	7	4.	Vice Chair	Mark Dederer	9/29/19	9/28/22	4	Mayor
6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
6	M	7	6.	Member	John Olensky	9/29/20	9/28/23	1	Mayor
6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
			9.	Member	VACANT	9/29/20	9/28/23		Mayor
6	F	7	10.	Member	Holly Golden	9/29/20	9/28/23	4	Mayor
			11.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	3	12.	Chair	Todd Leber	9/29/18	9/28/21	3	Mayor
			13.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	N/A	14.	Member	Will Ludlam	9/29/18	9/28/21	3	Mayor
3	F	2	15.	Member	Gloria Connors	9/29/18	9/28/21	3	Mayor
			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
Other													
Total	8	5			1	1	1			10			

## Key:

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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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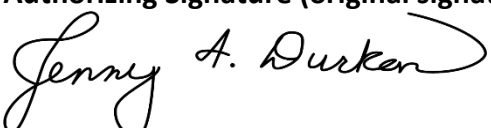
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Reappointment of Will Ludlam as member, Seattle Center Advisory Commission, for a term to September 28, 2021.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Will Ludlam		
<b>Board/Commission Name:</b> Seattle Center Advisory Commission		<b>Position Title:</b> Member
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2018 to 9/28/2021  <input type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> Kirkland	<b>Zip Code:</b> 98033	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> With 30 years of experience in communications, Ludlam has advised a wide variety of global and regional brands. He currently serves as the president of Weber Shandwick West with offices in Los Angeles, San Francisco/Silicon Valley and Seattle. With a strong background in corporate and technology public relations, he has supported a diverse group of blue-chip and emerging companies in previous roles and brings deep expertise in strategic counsel and crisis communications.</p> <p>Over the course of his career, Will has worked with a variety of clients like Seattle Children's Hospital, Starbucks, Savers, Microsoft, HP, Samsung, Treetop, The University of Washington, and many others. At Weber Shandwick, he is responsible for delivering best-in-class client services/solutions across Weber Shandwick West by leveraging the firm's deep roster of talent across the region.</p> <p>Will holds a Bachelor of Arts degree from Washington State University (WSU). Current and past board positions include, the Seattle Metropolitan Chamber of Commerce, the Seattle Center Advisory Commission, the advisory board for WSU's Edward R Murrow College of Communications, Intiman Theatre, City Club, and Big Brothers Big Sisters of Puget Sound.</p> <p>Outside of work, Will enjoys spending time on or near the water with his spouse and three adult children.</p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed): 9/3/20</b>		<b>Appointing Signatory:</b> Jenny Durkan Mayor

\*Term begin and end date is fixed and tied to the position and not the appointment date.

## WILL LUDLAM (HE/HIM) PRESIDENT, WEST GEO



With 30 years of experience in communications, Ludlam has advised a wide variety of global and regional brands. He currently serves as the president of Weber Shandwick West with offices in Los Angeles, San Francisco/Silicon Valley and Seattle. With a strong background in corporate and technology public relations, he has supported a diverse group of blue-chip and emerging companies in previous roles and brings deep expertise in strategic counsel and crisis communications.

Over the course of his career, Will has worked with a variety of clients like Seattle Children's Hospital, Starbucks, Savers, Microsoft, HP, Samsung, Treetop, The University of Washington and many others.

At Weber Shandwick, he is responsible for delivering best-in-class client services/solutions across Weber Shandwick West by leveraging the firm's deep roster of talent across the region.

Will holds a Bachelor of Arts degree from Washington State University (WSU). Current and past board positions include, the Seattle Metropolitan Chamber of Commerce, the Seattle Center Advisory Commission, the advisory board for WSU's Edward R Murrow College of Communications, Intiman Theatre, City Club, and Big Brothers Big Sisters of Puget Sound.

Outside of work, Will enjoys spending time on or near the water with his spouse and three adult children.

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

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## Roster:

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6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
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6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
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			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
Other													
Total	8	5			1	1	1			10			

## Key:

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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01703, **Version:** 1

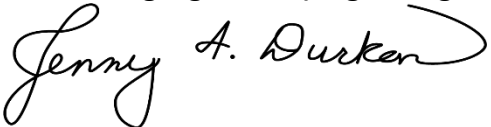
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Appointment of Michael George as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Michael George		
<b>Board/Commission Name:</b> Seattle Center Advisory Committee		<b>Position Title:</b> Member
<input checked="" type="checkbox"/> <b>Appointment</b> OR <input type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2019 to 9/28/2022  <input checked="" type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> Downtown	<b>Zip Code:</b> 98101	<b>Contact Phone No.:</b> [REDACTED]
<b>Background:</b>  <i>Mr. George leads a wide range of complex commercial real estate consulting projects at Kidder Mathews. He has specialized expertise in transit-oriented development, transportation projects, public-sector land acquisition and disposition, and affordable housing.</i>  <i>Mr. George lives Downtown with his wife and two young children. Outside of work he has actively dedicated himself to making Seattle a place where people of all ages and incomes can live full lives. His most recent civic involvement includes serving on the Seattle Public School's Capacity Task Force, the Facilities Master Plan Task Force, chairing the Downtown Seattle Association's Downtown Schools Committee and serving on the Urban Land Institute's Tacoma Dome Technical Advisory Panel. Michael also co-founded Parents for a Better Downtown Seattle, a non-profit dedicated to making Downtown a better neighborhood for children.</i>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed): 9/3/20</b>		<b>Appointing Signatory:</b> Jenny Durkan Mayor

\*Term begin and end date is fixed and tied to the position and not the appointment date.



# MICHAEL GEORGE

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## PROFESSIONAL EXPERIENCE

### *Senior Consultant, Kidder Mathews*

Seattle, WA — 2009-present

- Leads consulting teams and provides strategic real estate advisory services.
- Specialized expertise in transit-oriented development, public-sector land acquisition and disposition, mixed-use development, and affordable housing.
- Current projects include the Ballard to West Seattle Link and King County's Northgate TOD.

### *Partner, TODMarkets.com*

Seattle, WA — 2014 - present

- Co-founded TODMarkets.com, a market-based approach to identifying transit-oriented real estate opportunities across the nation.

### *Owner, Williamson-George Inc.*

Missoula, MT — 2003 -2009

- Purchased, managed, repositioned, and sold investment properties.
- Directed land development projects.
- Ran day-to-day business operations.

## CIVIC EXPERIENCE

### *Co-Founder, Parents for a Better Downtown Seattle (2013 to present)*

- Co-founded and co-lead Parents for a Better Downtown Seattle (PBDS), a 501-3c dedicated to making Downtown Seattle's neighborhoods more family friendly.
- Current projects include a Public K-8 school in Seattle's Belltown neighborhood and a playground at Waterfront Park in Downtown Seattle.

### *Recent Volunteer Activity (2017 to present)*

- Chair, Downtown Public School Committee/ Downtown Seattle Association / 2019 - Present
- Panelist, Tacoma Dome Technical Advisory Panel / Urban Land Institute / 2019
- Member, Facilities Master Plan Task Force / Seattle Public Schools / 2019
- Member, Public Space Committee /Downtown Seattle Association / 2018
- Member, Capacity Task Force / Seattle Public Schools / 2017
- Chair, Family Friendly Task Force / Downtown Seattle Association / 2017

### *Seattle City Council Candidate (2019)*

- Former District 7 Seattle City Council Candidate. Selected early endorsements include the Sierra Club, CASE, Downtown Seattle Association, Urbanist, Seattle Transit Blog, WTIA and many more.

## EDUCATION

### *MBA*

Presidio, 2012

### *Cert Commercial Real Estate*

University of Washington, 2008

### *BS Business Administration*

University of Montana, 2003

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
1	M	7	1.	Member	Koichi Kobayashi	9/29/19	9/28/22	1	Mayor
2	F	3	2.	Member	Donna Moodie	9/29/19	9/28/22	5	Mayor
6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
6	M	7	4.	Vice Chair	Mark Dederer	9/29/19	9/28/22	4	Mayor
6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
6	M	7	6.	Member	John Olensky	9/29/20	9/28/23	1	Mayor
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6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
			9.	Member	VACANT	9/29/20	9/28/23		Mayor
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			11.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	3	12.	Chair	Todd Leber	9/29/18	9/28/21	3	Mayor
			13.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	N/A	14.	Member	Will Ludlam	9/29/18	9/28/21	3	Mayor
3	F	2	15.	Member	Gloria Connors	9/29/18	9/28/21	3	Mayor
			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
Other													
Total	8	5			1	1	1			10			

## Key:

\*D List the corresponding *Diversity Chart* number (1 through 9)

\*\*G List *gender*, M= Male, F= Female, T= Transgender, NB= Non-Binary, O= Other, U= Unknown

RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01704, **Version:** 1

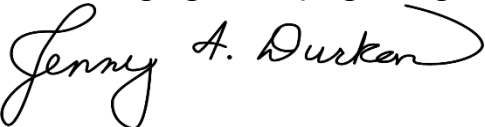
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Appointment of Koichi Kobayashi as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>Koichi Kobayashi</i>		
<b>Board/Commission Name:</b> <i>Seattle Center Advisory Commission</i>		<b>Position Title:</b> <i>Member</i>
<input checked="" type="checkbox"/> <b>Appointment</b> OR <input type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>		<b>Term of Position: *</b> 9/29/2019 to 9/28/2022 <input checked="" type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Queen Anne</i>	<b>Zip Code:</b> <i>98119</i>	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> <i>Mr. Kobayashi is an Urban Designer and Landscape Architect with over 40 years of experience currently based in the state of Washington, USA. In his prior practice, he spent over five years in China working with EDAW and AOYA, IDU and SED Group in SuZhou , Shanghai and ShenZhen as Director of Planning and Design and on my own consultancy. I also completed a similar position with the BurtHill Company based in Dubai where I concentrated master planning, branding and project programming for large scale development projects around middle east countries and India.</i></p> <p><i>This position required to be the leader for projects and mentor for the 20 plus young professionals from around the world. Currently he is the principal of Kobayashi Global based in Seattle. Throughout his career, Mr. Kobayashi has been involved in project management, participation in staff allocation and management, coordination of project deadlines and budgets, proposal writing, contract administration, coordination with management in other office, coordination with high profile consultant teams, and presentations to national and international clients. I have managed and designed a number of notable projects in USA, CANADA, AUSTRALIA, NEW ZEALAND, CHINA, HONG KONG, DUBAI and JAPAN.</i></p> <p><i>His past employment has covered a diverse field of planning and landscape architecture: new town, mixed use development, education, public service, private offices in architecture and landscape architecture and urban design.</i></p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> <i>Jenny Durkan</i> <i>Mayor</i>

\*Term begin and end date is fixed and tied to the position and not the appointment date.

# **KOICHI KOBAYASHI**

**November 01, 2012**

I am an Urban Designer and Landscape Architect with over 40 years of experience currently based in the state of Washington, USA. Prior to my current practice, I spent over five years in China working with EDAW and AOYA, IDU and SED Group in SuZhou , Shanghai and ShenZhen as Director of Planning and Design and on my own consultancy. I also completed a similar position with the BurtHill Company based in Dubai where I concentrated master planning, branding and project programming for large scale development projects around middle east countries and India. This position required to be the leader for projects and mentor for the 20 plus young professionals from around the world. Currently I am the principal of Kobayashi Global based in Seattle, Washington.

Throughout my career, I have been involved in project management, participation in staff allocation and management, coordination of project deadlines and budgets, proposal writing, contract administration, coordination with management in other office, coordination with high profile consultant teams, and presentations to national and international clients. I have managed and designed a number of notable projects in USA, CANADA, AUSTRALIA, NEW ZEALAND, CHINA, HONG KONG, DUBAI and JAPAN.

My past employment has covered a diverse field of planning and landscape architecture: new town, mixed use development, education, public service, private offices in architecture and landscape architecture and urban design.

## **A. DEGREE:**

University of California, Berkeley  
Master of Landscape Architecture, 1972

Kyoto University, Kyoto, Japan  
B.S. in Landscape Architecture, 1968

## **B.PROFESSIONAL PRACTICE:**

Kobayashi Global., Shanghai, China and Seattle, Washington  
2012  
Principal: Urban Designer, Planner, Landscape Architect

SKUP International, Shanghai, China  
2010-2012

Principal: Urban Designer, Planner, Landscape Architect

SED Group

2010, Shenzhen, China

Manager of Planning and Design

IDU

2009-2010, Shenzhen, China

Manager of Planning and Design

Burt Hill Company

2006-7, Dubai, UAE

Manager of Planning and Design

AOYA Landscape and Urban Planning

2005-7, Shanghai, China

Manager of Planning and Design

EDAW : Seattle (Contract) and Suzou

2004-5, Suzou, China

Manager of Planning and Design in Suzou

Kobayashi & Associates Inc., Seattle, Washington

1989-2004

*Principal: Urban Designer, Planner, Landscape Architect*

Sugio, Kobayashi, Ullman Inc.

1981-1989

*Principal: Urban Designer, Planner, Landscape Architect*

City of Bellevue, Planning Department, Bellevue, Washington

1979-81

*Urban Design Planner*

Cummings & Schlatter Architects, Kirkland, Washington

1977-79

*Site Planner & Landscape Architect*

Jones & Jones Landscape Architect, Seattle, Washington

1976-77

*Landscape Architect*

### **C.PROFESSIONAL EXPERIENCE AT EDUCATIONAL INSTITUTION:**

Special Lecturer

TsingHua University, Peking, China, 2012

Special Lecturer  
Tokyo Agricultural University, Japan, 2012

Special Lecturer  
Osaka University of Art, Japan, 2012

Special Lecturer  
Kyoto University of Art, Japan, 2012

Special Lecturer  
KwanSai Gakuin University, Japan, 2012

Special Lecturer  
Peking University, 2007

Special Lecturer  
TongJi University, 2006 & 2008

Awaji Landscape & Horticultural Academy, Hyogo, Japan  
*Visiting Professor, 2002*

University of Washington, College of Natural Resources  
Center for Urban Horticulture, Affiliate Professor, 2001—2006  
*Affiliate Assistant Professor*

University of Washington, College of Architecture  
Department of Landscape Architecture, Lecturer, 1976—77  
*Lecturer*

Kyushu Women's University  
Kita Kyushu, Japan 1995-98  
*Special Visiting Professor*

The Ohio State University, College of Engineering  
Department of Landscape Architecture,  
*Assistant Professor, 1972—76*

Kyoto University, Kyoto, Japan  
1968-69  
*Research Assistant*

#### **D. Awards and Honors:**

Japanese Institute of Landscape Architecture Award

American Presidential Design Award

American Society of Landscape Architectural Award, Washington Chapter

## **E. RELEVANT PROFESSIONAL PROJECTS:**

- Qindao Small Hill Community Development 2011  
*Conceptual landscape plan development plan for over 300 hector residential and resort*
- Al Awir New Town Conceptual Development Plan, Dubai, UA 2008  
*Conceptual plan development for 50,000 residents outside of Dubai, focusing on sustainability*
- Al Bloom Residential Community Site Plan, Abu Dhabi, UAE 2008  
*Development for 350 units residential community*
- Adoni Resort Community, Ahmedabad, India 2008  
*Planning a medium scale resort community for tourism*
- Tatweer Tower Planning and Design, Dubai 2008  
*Planning for the world second highest twin tower mixed use development with linkage to the Mall of Arabia at DubaiLand8*
- Master Plan for Golf Community at Shinaz, Oman 2007  
*Master Planning and branding for Residential community and five resort hotel development on 400 hector site*
- Jebel Ali Village Master Plan Update , Dubai, UAE 2007  
*Master Planning and branding for Residential community development for 30,000 people on 100 hector site*
- Master Plan for Golf Community Marrakeshe, Morocco 2007  
*Master Planning and branding for Residential community and five resort hotel development on 400 hector site*
- Master Plan for Lusail Golf Community Development, Doha, Qatar 2006  
*Master Planning and branding for Residential community development on 300 hector site in the center of Lusail development*
- Tatweer Tower Planning and Design, Dubai 2007  
*Planning for the world second highest twin tower mixed use development with linkage to the Mall of Arabia at DubaiLand*
- Master Plan for Golf Community at Shinaz, Oman 2007  
*Master Planning and branding for Residential community and five resort hotel development on 400 hector site*
- Jebel Ali Village Master Plan Update , Dubai, UAE 2007  
*Master Planning and branding for Residential community development for 30,000 people on 100 hector site*
- Master Plan for Golf Community Marrakeshe, Morocco 2007  
*Master Planning and branding for Residential community and five resort hotel development on 400 hector site*
- Master Plan for Lusail Golf Community Development, Doha, Qatar 2006  
*Master Planning and branding for Residential community development on 300 hector site in the center of Lusail development*
- Jumeira Town Center and Community Development, Dubai, UAE 2006  
*Master Planning and branding for Residential community for 15,000 people on 100 hector site*
- Fukuhara University Landscape Master Plan 1997  
*Project site covers over 150 acre containing campuses for two universities and a regional park*
- Downtown Seattle Plan EIS, Urban Design and Pedestrian Analysis; Seattle, Washington 1983



- South Bay office & Residential Park, Kirkland, Washington 1977  
*Land use/project feasibility study, applications for planned unit development, substantial development permit and land use policy plan amendment*
- Steilacoom Northshore Residential Development Master Plan, Tacoma, Washington 1990  
*Master plan for a 600 acre residential development along Puget Sound shoreline*
- Ibaraki Development Master Plan; Ibaraki, Osaka, Japan 1991  
*High intensity mixed use development master plan for a 200-acre, 5000-person community*
- Old Bellevue Special Design Review District, Background Study and Analysis, Recommendations 1979
- Design Review Guidebook and Administrative Procedure; Bellevue, Washington 1980
- Design Guidelines Multi-Family Development for Sector Six; Mill Creek, Washington 1981
- Boeing Duwamish Corridor Redevelopment Master Plan Design Guide, Seattle WA 1993
- Bellevue Square Shopping Center, Landscape Master plan & Implementation 1982

Contact:

Koichi Kobayashi

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
1	M	7	1.	Member	Koichi Kobayashi	9/29/19	9/28/22	1	Mayor
2	F	3	2.	Member	Donna Moodie	9/29/19	9/28/22	5	Mayor
6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
6	M	7	4.	Vice Chair	Mark Dederer	9/29/19	9/28/22	4	Mayor
6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
6	M	7	6.	Member	John Olensky	9/29/20	9/28/23	1	Mayor
6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
			9.	Member	VACANT	9/29/20	9/28/23		Mayor
6	F	7	10.	Member	Holly Golden	9/29/20	9/28/23	4	Mayor
			11.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	3	12.	Chair	Todd Leber	9/29/18	9/28/21	3	Mayor
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6	M	N/A	14.	Member	Will Ludlam	9/29/18	9/28/21	3	Mayor
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			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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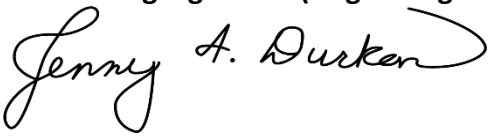
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Reappointment of Mark F. Dederer as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Mark Dederer		
<b>Board/Commission Name:</b> Seattle Center Advisory Commission		<b>Position Title:</b> Member
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2019 to 9/28/2022  <input type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> Queen Anne	<b>Zip Code:</b> 98199	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> Mark Dederer joined the Biller Family Foundation as Executive Director in 2016. Previously, he served as Senior Vice President and Community Affairs Manager for the Wells Fargo Foundation, overseeing the charitable giving program and team member involvement throughout the Washington Region. He also managed Community Affairs in Oregon and Alaska. Before rejoining Wells Fargo in 2010, he was Vice President &amp; Director of the Safeco Insurance Foundation and developed its national contributions program.</p> <p>A Seattle native, Mr. Dederer continues a family legacy of civic duty established by his grandfather, an early Seattle business leader and passionate community advocate who was one of the chairmen on the committee that brought the 1962 World's Fair to the city.</p> <p>Mr. Dederer serves on the board of Philanthropy Northwest, Virginia Mason Hospital board of governors, is a commissioner for the Seattle Center, a member of the Central Washington University Business School advisory board, and is Past Board Chair of Seafair, Seattle's premier summer festival.</p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> Jenny Durkan Mayor

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# MARK F. DEDERER

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## Employment Background

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### **The Sheri & Les Biller Family Foundation, Seattle WA**

**2016 – Present**

*Executive Director*

- Provide research on issues important to the Foundation's four focus areas as well as federal and state laws which might affect private non-operating foundations. Offer guidance and information on best practices accordingly.
- Represent the Foundation locally and nationally to a wide variety of constituents including press, elected officials, and Foundation grantee partners. Communicate effectively through various channels about the Foundation's mission and purpose.
- Manage all outward-facing presence for the Foundation including website and social media sites. When appropriate, create PR strategies for Foundation programs or events.
- Educate board members on Foundation programs and determine appropriate opportunities to more deeply engage board members with Foundation programs.
- Develop and utilize methods to evaluate the impact and effectiveness of programs the Foundation supports. Monitor the activities of funded projects to achieve the desired impact.
- Work with administrative and legal advisors in all matters related to Foundation operations. These responsibilities will include human resources, budgeting, tax preparation, legal oversight and expense management.

### **Wells Fargo Bank, Seattle WA**

**2010 - 2016**

*Senior Vice President, Wells Fargo Foundation and Community Affairs*

- Manages an annual contributions budget for the Northwest Region in excess of \$6.8 million and shares responsibility for allocating the annual west coast multi-market budget of \$6.5 million throughout California, Oregon, Washington and Alaska.
- Represented Wells Fargo Community Relations team in a national priorities and national relationships workgroup to build the strategic framework for Wells Fargo's philanthropy to ensure alignment with organizational mission and values and maximize impact
- Envisions, develops and oversees strategy and implementation of philanthropic giving in Washington, Alaska and Oregon
- Serves as Wells Fargo's primary representative to community organizations and provides leadership to important initiatives essential to strengthening our region
- Identifies, builds and maintains strategic partnerships and alliances with influential organizations across public, private and nonprofit sectors
- Serves on the west coast leadership team to create an environment supporting community involvement and establishment of Wells Fargo Volunteer Chapters

### **Safeco Insurance Foundation, Seattle WA**

**2007 - 2010**

*Vice President & Director*

- Developed long term vision and strategy for the Safeco Insurance Foundation
- Oversaw the implementation of new foundation guidelines, website and online application resulting in greater efficiency and reengagement with the community
- Managed and coached foundation team by providing colleagues with technical and community expertise.
- Conducted research, outreach and identified signature non-profit organizations across the United States suitable for Safeco Insurance Foundation's inaugural 2007 grant awards
- Strategically directed over \$16 million in donations impacting approximately 165 community organizations across the United States

<b>Wells Fargo Bank, Seattle WA</b> <i>Vice President &amp; Manager, Wells Fargo Foundation and Community Relations</i>	<b>2002 - 2007</b>
<b>Wells Fargo Bank, Seattle WA</b> <i>Assistant Vice President, Community Support Programs</i>	<b>2000 - 2002</b>

### **ADDITIONAL EMPLOYMENT EXPERIENCE**

<b>United Way of King County, Seattle, WA, Loaned Executive</b>	<b>1999 - 2000</b>
<b>Washington Beef, Inc., Toppenish, WA</b> <i>Assistant Director of Marketing, Asian &amp; Domestic Sales</i>	<b>1994 - 1999</b>
<b>Hudson's Bay Company, New York, NY</b> <i>International Customer Relations/Warehouse Manager</i>	<b>1988 - 1992</b>

### **FUND DEVELOPMENT EXPERIENCE AND CIVIC LEADERSHIP**

- KEXP Radio** **2013 - present**  
*Capital Campaign Advisory Board*  
 As an Advisory Board member I am tasked with strategizing and executing a \$15M capital campaign, which strategy includes leadership level asks of individuals and businesses, the production of small and large scale events, social media outreach and building broad based community partnerships.
- Seafair** **2007 - 2012**  
*Board of Directors, Past Board Chair*  
 As board chair, I helped develop and implement a new development strategy for the Seafair Foundation to ensure the long-term viability and growth of the organization during a highly volatile economic period.
- ArtsFund** **2004 - present**  
*Allocations Committee Chair, Allocations Policy Task Force Member*
- Association of Corporate Contributions Professionals** **2009 - present**  
*Board of Directors, Chair Emeritus*
- Central Washington University College of Business** **2009 - present**  
*Advisory Board Member*
- Philanthropy Northwest** **2014 - present**  
*Board of Directors*
- Seattle Center** **2010 - present**  
*Commissioner*
- Virginia Mason Hospital** **2009 - present**  
*Board of Governors*

### **EDUCATION**

<b>Central Washington University, International Business</b>	<b>B.S. 1995</b>
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# Seattle Center Advisory Commission

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			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor	8	5			1	1	1			10			
Council													
Other													
Total	8	5			1	1	1			10			

## Key:

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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01706, **Version:** 1

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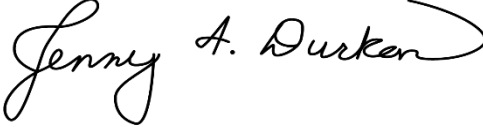
Reappointment of Donna Moodie as member, Seattle Center Advisory Commission, for a term to September 28, 2022.

The Appointment Packet is provided as an attachment.





## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> Donna Moodie		
<b>Board/Commission Name:</b> Seattle Center Advisory Commission		<b>Position Title:</b> Member
<input type="checkbox"/> Appointment OR <input checked="" type="checkbox"/> Reappointment		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: Fill in appointing authority		<b>Term of Position: *</b> 9/29/2019 to 9/28/2022 <input type="checkbox"/> Serving remaining term of a vacant position
<b>Residential Neighborhood:</b> Capitol Hill	<b>Zip Code:</b> 98122	<b>Contact Phone No.:</b> [REDACTED]
<p><b>Background:</b> Born in Jamaica and raised in Chicago, Donna found her way into her mother's kitchen at an early age. What left the biggest impression wasn't just the food, but her mother's gracious hospitality – always hosting dinner parties, always finding room for one more guest at the table, with the standard of perfection being the comfort and pleasure of those around her.</p> <p>Donna moved to Seattle in 1993 and opened her first restaurant, Marco's Supperclub, with former husband and business partner. It opened to great acclaim and by 1997; the pair had a second smash hit on their hands with Lush Life, which featured regional Italian cuisine in a sleek, romantic setting. Both restaurants' globetrotting menus and mix of sophistication and funky charm anticipated important trends on the Seattle dining scene, and their popular success helped revitalize the city's then derelict and deserted Belltown neighborhood.</p> <p>Moodie branched out on her own, transforming Lush Life into Marjorie, paying tribute to the inspiration for her lifelong affair with hospitality. Enjoying six successful years in Belltown, Marjorie relocated to Seattle's vibrant and eclectic Capitol Hill neighborhood, opening its doors in the spring of 2010.</p> <p>Having clearly established herself as a trailblazing restaurateur, Donna is President and CEO of Mint Holdings, a food and design company she created in 2008. Donna also serves as a Mayor appointed commissioner for the Seattle Center. She is a former Board President and Director of the Central District Forum for Arts and Ideas, has served on the Capitol Hill Housing Board, assisting both organizations with their gala fundraisers, Food as Art and Omniverous. Donna enthusiastically parents her son Max, travels, and occasions yoga studios in Seattle.</p>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed): 9/3/20</b>		<b>Appointing Signatory:</b> Jenny Durkan Mayor

\*Term begin and end date is fixed and tied to the position and not the appointment date.

**PROFILE**

A restaurateur with the ability to creatively translate and inspire community engagement through the intersection of arts and commerce. A spacemaker, placemaker and trendsetter. A gracious hostess who can mask turmoil with a theatrical level of even temperedness. An entrepreneur with an ability to build greatness from the ground up through diligence, enlisting the help of others, commitment and passion. A community builder, bringing people together to serve (literally and figuratively).

**AREAS OF EXPERTISE**

- Gracious Hospitality + Knowledge of Sustainable Food / Drink
- Community Engagement
- Team Cultivation, Development and Mentoring
- Brand Creation + Strategy
- Digital Marketing + Social Campaigns
- Successful Launch of Projects + Campaigns
- Encouraging a Diverse and Inclusive Culture to Passionately Engage with Clients + Community

**EXPERIENCE****EXECUTIVE DIRECTOR, CAPITOL HILL ECODISTRICT 2020 - Present**

- Provide Internal and External Leadership to Advance CH EcoDistrict
- Oversee Two Associate Planners
- Collaborate with Capitol Hill Housing Executive Leadership to Advance the Mission of Creating and Maintaining Affordable Housing

**OWNER AND OPERATOR OF MARJORIE RESTAURANT 2002 - Present**

- Created and executed the design and buildout of a concept restaurant known for its unique interior, attentive service, a globally inspired menu using sustainable ingredients, an eclectic wine list and craft cocktails
- Cultivate, mentor, manage and schedule a team of 14 employees
- Coordinate Community Engagement with staff and clients
- Execute Branding and Marketing Strategy
- Analyze marketing campaign results
- Cultivate an environment of joy and pleasure while not losing sight of the end goal
- Currently transitioning from day to day operations management

**CONSULTANT, MINT HOLDINGS 2003 – Present**

- Advise startup businesses on improvement, creation and implementation of restaurants, bars and food courts
- Advise developers and architects on diversity and inclusion in gentrifying neighborhoods
- Advise developers and architects on creating greater warmth and invitation in common areas

- **CO-OWNER, OPERATOR AND PASTRY CHEF OF MARCO'S SUPPERCLUB + LUSH LIFE 1993-2001**
- Converted a dive bar into a critically acclaimed restaurant, opening a second on its heels, acting as general contractor, interior designer, creative specialist for menu / cocktail design
- Instigated the rebirth of a formerly derelict neighborhood into a trendspotting area

### **COMMUNITY ENGAGEMENT**

#### **BOARD MEMBER + CHAIR CENTRAL DISTRICT FORUM FOR ARTS AND IDEAS 2002-2011**

- Supported and inspired the board of a humanities not for profit organization tasked with producing and presenting Black culture through a different lens.
- Created Food As Art CDForum's annual gala featuring Seattle's Black Chefs and Restaurateurs
- Collaborated with CDForum's Founder and Executive Director to cultivate, mentor and inspire existing and new board members; created and maintained avenues for fundraising, increased audience attendance at events
- Hosted fundraising events and afterparties at Marjorie Restaurant
- Lobbied with City and County Councils for funding inclusion in annual budgets

#### **COMMISSIONER SEATTLE CENTER ADVISORY COMMISSION**

- Advised and contributed to the redevelopment of Seattle Center
- Collaborated with Executive Director on procurement of donations and volunteers for Seattle Center Free Clinic
- Served on sub-committees creating Artists at Play and the Chihouly Glass Museum
- Reviewed information and presented analysis of public events at Seattle Center
- Created community partnerships through volunteers and business donations

#### **FOUNDING BOARD MEMBER CAPITOL HILL HOUSING FOUNDATION 2011 - 2013**

- Collaborated with Executive Director to create a new, more community focused annual gala
- Hosted Fundraisers at Marjorie Restaurant
- Collaborated on achieving board diversity

#### **MEMBER LURC – CENTRAL AREA 2017 - Present**

- Collaborate with Committee members, developers and architects to achieve greater community involvement in design and construction of new developments in a gentrifying historically Black neighborhood
- Facilitate project focused meetings to achieve community engagement / expand membership

#### **CO-CHAIR MAYOR APPOINTED SMALL BUSINESS ADVISORY COUNCIL**

- Advise administration on the temperature, needs and importance of small business
- Provide outreach to business community for input and participation

### **EDUCATION**

- UW, Foster School of Business Collaborative Program / SBA Emerging Leaders Certificate
- Illinois State University, BA Communications / Liberal Arts

**PASSION:** Paddleboarding, Yoga, Travel, Food and Music

**REFERENCES:** Available upon request

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
1	M	7	1.	Member	Koichi Kobayashi	9/29/19	9/28/22	1	Mayor
2	F	3	2.	Member	Donna Moodie	9/29/19	9/28/22	5	Mayor
6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
6	M	7	4.	Vice Chair	Mark Dederer	9/29/19	9/28/22	4	Mayor
6	F	6	5.	Member	Jana Lamon	9/29/19	9/28/22	2	Mayor
6	M	7	6.	Member	John Olensky	9/29/20	9/28/23	1	Mayor
6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
6	M	N/A	8.	Member	Brian Robinson	9/29/20	9/28/23	1	Mayor
			9.	Member	VACANT	9/29/20	9/28/23		Mayor
6	F	7	10.	Member	Holly Golden	9/29/20	9/28/23	4	Mayor
			11.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	3	12.	Chair	Todd Leber	9/29/18	9/28/21	3	Mayor
			13.	Member	VACANT	9/29/18	9/28/21		Mayor
6	M	N/A	14.	Member	Will Ludlam	9/29/18	9/28/21	3	Mayor
3	F	2	15.	Member	Gloria Connors	9/29/18	9/28/21	3	Mayor
			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
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RD Residential Council District number 1 through 7 or N/A

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## Legislation Text

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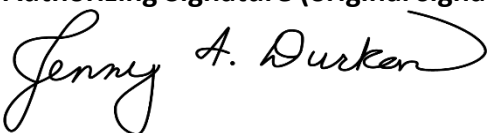
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Appointment of John Olensky as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>John Olensky</i>		
<b>Board/Commission Name:</b> <i>Seattle Center Advisory Commission</i>		<b>Position Title:</b> <i>Member</i>
<input checked="" type="checkbox"/> <b>Appointment</b> OR <input type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>		<b>Term of Position: *</b> 9/29/2020 to 9/28/2023  <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Magnolia</i>	<b>Zip Code:</b> <i>98199</i>	<b>Contact Phone No.:</b> [REDACTED]
<b>Background:</b>  <i>John Olensky is an Architectural Building Envelope Consultant with Evolution Architecture in Seattle. John has a Master's degree in the Conservation of Historic Towns and Buildings from Catholic University in Leuven, Belgium. With Evolution, John's focus is on the rehabilitation of existing and historic buildings throughout the Puget Sound. Originally from Western Canada, John has practiced for 25 years in the US in several states, most recently California and Hawaii. John has lived in the Magnolia neighborhood for the last 5 years with his wife and 3 sons. Most of all, John looks forward to learning and collaborating with a team of people, contributing to the success of the Seattle Center while representing the community and advising the Seattle Center staff as well as the Mayor and City Council.</i>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> <i>Jenny Durkan</i> <i>Mayor</i>

\*Term begin and end date is fixed and tied to the position and not the appointment date.

# John Olensky

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For over 25 years I have practiced architecture, focusing on consulting for exterior building envelope repair and rehabilitation. Prior to consulting, I practiced in Architecture and Historic Preservation. I was educated in Europe in Historic Preservation

## **EXPERIENCE**

### **Senior Consultant, Architectural Building Envelope Repair**

*Evolution Architecture, Seattle, Washington – 2020 (Current)*

Exciting role focusing on design for exterior building envelope repair and rehabilitation of existing commercial and multi-family buildings, with an outstanding team that combines practical know-how, state of the art technology, professional expertise, and forward-thinking marketing

### **Architectural Rehabilitation Lead / Building Scientist**

*Morrison Hershfield, Seattle, Washington - 2019*

Challenging opportunity to re-establish a building envelope rehabilitation group within a branch of a foreign owned engineering corporation

### **Senior Project Manager: Architectural Building Envelope Design, New Construction**

*Cross 2 Design, Seattle, Washington - 2015 to 2018*

Rewarding position in a high-volume, fast-paced work environment, producing exterior building envelope design packages for new multi-family construction, collaborating with Architectural clients in the Pacific Northwest, Southern California, and San Francisco Bay Area & Silicon Valley

### **Senior Project Manager: Architectural Building Envelope Repair and Forensic Architecture**

*Allana Buick & Bers, Honolulu, Hawaii - 2010 to 2014*

Had the great fortune to enjoy working in one of the friendliest and unique cultures in America! Performed investigations and prepared design packages for exterior architectural building envelope repair and rehabilitation of commercial and multi-family project types throughout the Hawaiian Islands in Oahu, Maui, and Hawaii, for a variety of clients, including large landowners, small businesses, and individuals. Gained enriching perspectives from the unique challenges of an Island environment, in a close-knit business community with strong community values

### **Project Manager: Architectural Building Envelope Repair and Forensic Architecture**

*Posard Broek + Associates, San Francisco Bay Area, California - 2008 to 2010*

Reporting to the firm Principles, with responsibilities for developing, producing, and implementing stand-alone design packages for exterior building envelope repair and rehabilitation of existing multi-family residential projects throughout the San Francisco Bay Area & Silicon Valley

### **Project Manager: Architectural Building Envelope Design, New Construction**

*Olympic Associates, Seattle, Washington - 2007 to 2008*

Designed exterior building envelope details, drawings, and specifications corresponding to new Architectural designs, while collaborating with Architectural clients, focused on new multi-family condominium construction in Seattle and Eastern Washington

### **Building Envelope Designer: Historic Architecture**

*Page and Turnbull, San Francisco, California - 2006 to 2007*

Provided in-house technical consulting for producing exterior building envelope design details & specifications for adaptive re-use and re-modeling of residential and commercial historic buildings including high profile projects and clients throughout the San Francisco Bay Area

### **Consultant, Architectural Building Envelope Repair and Forensic Architecture**

*Aquatech Consultancy, San Francisco Bay Area, California - 2004 to 2006*

Managed and assisted with forensic field investigations and testing, producing exterior building envelope repair and rehabilitation design packages, representing building owners and contractors in litigation cases in the San Francisco Bay Area, Northern and Southern California

### **Project Manager, Architectural Building Envelope Repair and Forensic Architecture**

*McGinnis Chen Associates, San Francisco, California - 2000 to 2004*

Began initial Building Envelope career for a recognized and respected San Francisco Forensic Building Envelope firm, focusing on design for exterior building envelope repair and rehabilitation of a variety of existing buildings, including multi-family, high rise, large and small scale historic projects, for individuals, corporate, and high-profile clients throughout the San Francisco Bay Area and Northern & Southern California

## **EDUCATION**

### **Masters**

#### **Conservation of Historic Towns and Buildings**

*Faculty of Engineering, Catholic University Leuven  
Leuven, Belgium 1999*

### **Bachelor**

#### **Environmental Studies in Architecture**

*Faculty of Architecture, University of Manitoba  
Winnipeg, Canada 1992*

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

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Council													
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RD Residential Council District number 1 through 7 or N/A

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## Legislation Text

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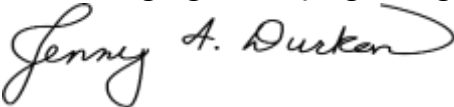
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Appointment of Brian E. Robinson as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>Brian Robinson</i>		
<b>Board/Commission Name:</b> <i>Seattle Center Advisory Commission</i>		<b>Position Title:</b> <i>Member</i>
<input checked="" type="checkbox"/> <b>Appointment</b> OR <input type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>		<b>Term of Position: *</b> 9/29/2020 to 9/28/2023 <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Shoreline</i>	<b>Zip Code:</b> <i>98177</i>	<b>Contact Phone No.:</b>
<p><b>Background:</b> Born in 1973, Brian Robinson grew up with great examples of leadership in his family. His father's business acumen and his grandfather's service and discipline as a Fire Station Chief influenced him early in life. Brian landed his first paper route when he was 11 years old; by age 12, he earned more from that paper route than he did during his first year in the U.S. Army.</p> <p>Brian is a leader in the real estate industry, serving on multiple committees to address homelessness as well as the Washington State Rental Housing Association while acquiring and operating more than 250 apartment units and several parcels of property at critical north Seattle locations. He takes great pride in thoughtful, creative transactions including his family's sale of property and successful participation in development of the Nordic Heritage Museum, now located on the former site of his family business.</p> <p>In 1993, while serving in the U.S. Military Intelligence Corp, Brian graduated from the Defense Language Institute in Mandarin studies and received concurrent certification in the Military Intelligence Interrogation Program, to become a Chinese linguist interrogator for the U.S. Army. After Honorable Discharge from the military, Brian earned a Bachelor of Arts degree in International Studies: Emphasis on the Chinese Region, from the University of Washington in 1995. After receiving a Vocational Degree in International Trade in 1996, Brian worked as a Production Manager for Sundara Industries, a major sports equipment manufacturing firm, until partnering with his father in 1999 to form Market Street Investment Group.</p> <p>In 2006, Brian co-founded the nonprofit group Save Our Sonics (SOS) in response to the sale of Seattle's beloved SuperSonics to the Oklahoma City ownership group headed by Clay Bennett. In the ensuing years, Brian worked tirelessly in search of a solution that would enable the Sonics to remain in their hometown of 41 years. In 3 short years, under his leadership and vision, the organization grew from a handful of passionate fans, to a political force nearly 10,000 strong, with a multi-talented operational core team at the helm, and an extensive network of associates throughout western Washington.</p> <p>From 2016 to 2019 Brian worked in support of a successful effort to renovate Seattle Center Arena and bring the NHL to Seattle. He remains committed and active in efforts to bring the NBA to Seattle. Brian has remained active in the political and nonprofit community. He is currently involved with several local charities and community service groups, including Washington Special Olympics, Ballard Boys and Girls Club, and the Filipino Community Center. Brian offers personal scholarships and assistance to families in his wife's native Philippine city of Manila. He is happily married to his wife Marla, and they have four children. Family activities include travel, outdoor recreation, and involvement in the Filipino Community. Each July through September he wages relentless war on the Dungeness crab infesting our Puget Sound.</p>		
<b>Authorizing Signature (original signature):</b> 		<b>Appointing Signatory:</b> <i>Jenny Durkan</i> <i>Mayor</i>
<b>Date Signed (appointed):</b> 9/3/20		

\*Term begin and end date is fixed and tied to the position and not the appointment date.



## BRIAN ROBINSON

### Brian E. Robinson:

#### Summary of Qualifications:

#### **Market Street Investment Group, Managing Partner 2001 - Present.**

- Real Estate Investment firm operating approximately 247 units of housing and 90,000sf of commercial space located strategically along North End transit lines.

#### **Jet City Property Management, President 2005 – Present**

- JetCityRent.com provides portfolio, property and facility services for residential, retail and commercial spaces owned by the Market Street Investment Group and affiliated entities.

#### **Seattle Coalition Services, Principal 2013 - 2016.**

- Seattle Coalition Services is a strategic consulting firm that advocates for projects, policies and causes. We specialize in public engagement, messaging and coalition building.
- Clients have included First and Goal, Vulcan Real Estate and the Richard Sherman Blanket Coverage Foundation.

#### **Civic Arenas Community Advisory Group, 2017 – 2018**

- Worked cooperatively with other community leaders and Seattle's Department of Economic Development in support of successfully approved KeyArena renovation MOU.

#### **VOX Media/SB Nation, Site Operator for [www.SonicsRising.com](http://www.SonicsRising.com), 2002 - Present**

- Developed [www.SonicsCentral.com](http://www.SonicsCentral.com) into one of the most successful NBA blog sites in the country writing hundreds of articles and generating peak traffic of 27 million hits and 1 million independent site visits annually before rebranding as SonicsRising.com and teaming with VOX/SB Nation.

#### **ArenaSolution.org, President. 2011 - 2012**

- Secured endorsement and participation of more than 150 key regional leaders into a coalition which effectively supported passage of an arena MOU.

#### **Save Our Sonics and Storm, Co-Founder 2006 – 2009**

- Established fan organization of 11,000+ members which campaigned and lobbied to retain professional Basketball in the Puget Sound.

#### **United States Army, 97-E Chinese Linguist Interrogator, 1992 - 1994**

- Successfully completed one of the Army's most intense training programs over a 21 month period.





## **PHILANTHROPIC ACTIVITIES:**

### **Powerful Schools, Board of Directors 2011 - 2014:**

The overall intent of Powerful Schools is to reduce the academic achievement gap by creating strong partnerships with public schools to help children thrive. During the 2012-13 school year, Powerful Schools will work with more than 4,300 children and their families in 12 Seattle and South King County elementary schools and five CDSA preschools.

### **All Home King County. Coordinating Committee, 2016- 2017:**

All Home (formerly the Committee to End Homelessness) is a community-wide partnership to align public and private efforts to make homelessness in King County rare, brief and one-time. We develop and implement data-driven strategies to respond to the crisis of homelessness and to address its root causes. Homelessness is solvable, and by acting together as a community, all people can have a home.

### **Extraordinary Futures, Board of Directors: 2011 - Present**

Extraordinary Futures is a non-profit organization founded by members of the Seattle's world champion breakdancing crew, the Massive Monkeys. It uses fun, unique, and engaging arts based programs to empower urban youth to lead healthier lifestyles and to realize their full potential as leaders.

### **Rental Housing Association of Washington State, Board of Directors, 2015 -Present:**

As a board member of the Rental Housing Association it is my goal to facilitate greater collaborative solutions between housing providers and the community at large, working to ensure a sustainable industry which recognizes both the need for private sector growth and the moral obligation to deliver affordable housing options to those in need.

### **Wellspring Family Services Rent Increase Mitigation Fund 2017 – Present**

Established and funded dedicated, need based fund designed to prevent homelessness and assist tenants impacted by rapidly increasing rents in developing long term, sustainable housing plans.

### **Seattle Dept. of Housing Workgroup to replace Landlord Liaison Program**

Joined a coalition consisting of housing providers, city and county departments to develop a successor program for the discontinued Landlord Liaison Program.

## **EDUCATION**

### **University of Washington:**

B.A. International Studies, emphasis on Chinese Region

### **Defense Language Institute, Monterey, CA**

Certification in Chinese Language Proficiency as member of United States Army Military Intelligence Corp.



### Personal Recommendations:

*I chose to refer my friends and colleagues to participate with Arena Solution because **Brian understands the value of peoples reputations and relationships**. I can trust him to conduct himself in a way which does not put either at risk.*

**Craig Kinzer, Principle Kinzer Real Estate Services**, Former BCOS member and Sonics team owner.

***Brian has a unique ability to communicate with sports fans in a way that motivates and inspires them.** For years he has led the conversation around Seattle basketball and the NBA in a manner that has earned him tremendous respect both locally and nationally. **There are a lot of people rooting for his continued success.** - **Kevin Jackson, VP/Executive Editor, ESPN***

*Brian laid the groundwork for political support of the arena issue and worked tirelessly to maintain an effective support organization. He utilized his assets strategically and achieved impressive results.. **His perseverance, passion, contributions and ability to organize fans and connect them to broader constituencies were critical to the arena's success.** He was pushing from the very beginning and it is hard to imagine we could have come to this point without his efforts.*

**Sung Yang, Chief of Staff to Dow Constantine**

*In the past year, I have seen Brian organize and lead large groups of businesspeople and politicians through incredibly complex and contentious issues. **He knows who the right people are to have in the room.** He is not afraid to respectfully ask the tough questions. He is inclusive but also uses judgment in helping to resolve disputes.*

**Audrey Lincoff, Senior VP (retired) Publicis.** Former VP of Global Communication for Starbucks Coffee.

*The NBPA first met with Brian in 2007. Since that time we have interacted with him and followed his efforts closely. As an advocate for basketball he has consistently demonstrated the ability to be a difference maker. **His carefully nuanced messaging around the leagues economics and business model has driven continued interest in professional basketball in Seattle, providing great benefit to the NBA and its players during a difficult set of circumstances.** He is capable and deserving of a role in this industry.- **Ron Klempner, Lead Counsel, National Basketball Players Association***

*I was impressed by his detailed preparation for each meeting with dozens of leaders and how he carefully listened to their interests and concerns, while providing each of them with insight to the facts and figures, as well as the sometimes overlooked business and community benefits. **He was first and foremost all business and focused on the solution, and then sports fan second.***

**James Snook, (former) Senior VP of Technology Strategy, Starbucks Coffee**



*When I invited Brian to join our legislative task force on the arena issue in 2011 he exceeded all expectations. His understanding of the issue and ability to work with high level stakeholders were impressive. Brian made an unmistakable contribution to changing the dialogue around the Sonics and **without his efforts it is unlikely that such substantial political support for the arena would have emerged.** -Senator David Frockt, Co-Sponsor Bipartisan Legislative Task Force on the Arena Issue*

*Brian has been an overachiever since he founded Save Our Sonics. He transitioned from a passionate fan to a recognized difference maker by having great communication and a clear understanding of the big picture. His participation has helped us make the most of every opportunity to build interest in the Sonics. **Brian's judgment is widely respected by our fans, media and the professional community.** - Rich Moore, Programing Director Clear Channel Media*

***Save Our Sonics far exceeded normal expectations for a fan advocacy group...** They were able to understand and contribute to the complex legal actions ongoing at the time and interact competently with all levels of local and state government. - Former US Senator Slade Gorton, member of 9/11 commission*

*He has an uncanny ability to maintain communication with individuals on all sides of the most contentious issues...**I recommend him without qualification.** - Tom Carr, Former Seattle City Attorney*

*You've been very helpful in keeping the debate focused on the issues, and in keeping the heated rhetoric as low as possible. I appreciate the respectful perspective you took when eight Councilmembers sent a letter to Chris Hansen. In the end we've come down on different sides, but I want you to know how much I appreciate your efforts, conduct and leadership style. - Nick Licata, Seattle City Councilmember*



## Brian Robinson:

Born in 1973, Brian Robinson grew up with great examples of leadership in his family. His father's business acumen and his grandfather's service and discipline as a Fire Station Chief influenced him early in life. Brian landed his first paper route when he was 11 years old; by age 12, he earned more from that paper route than he did during his first year in the U.S. Army.

Brian is a leader in the real estate industry, serving on multiple committees to address homelessness as well as the Washington State Rental Housing Association while acquiring and operating more than 250 apartment units and several parcels of property at critical north Seattle locations. He takes great pride in thoughtful, creative transactions including his family's sale of property and successful participation in development of the Nordic Heritage Museum, now located on the former site of his family business.

In 1993, while serving in the U.S. Military Intelligence Corp, Brian graduated from the Defense Language Institute in Mandarin studies and received concurrent certification in the Military Intelligence Interrogation Program, to become a Chinese linguist interrogator for the U.S. Army. After Honorable Discharge from the military, Brian earned a Bachelor of Arts degree in International Studies: Emphasis on the Chinese Region, from the University of Washington in 1995. After receiving a Vocational Degree in International Trade in 1996, Brian worked as a Production Manager for Sundara Industries, a major sports equipment manufacturing firm, until partnering with his father in 1999 to form Market Street Investment Group.

In 2006, Brian co-founded the nonprofit group Save Our Sonics (SOS) in response to the sale of Seattle's beloved SuperSonics to the Oklahoma City ownership group headed by Clay Bennett. In the ensuing years, Brian worked tirelessly in search of a solution that would enable the Sonics to remain in their hometown of 41 years. In 3 short years, under his leadership and vision, the organization grew from a handful of passionate fans, to a political force nearly 10,000 strong, with a multi-talented operational core team at the helm, and an extensive network of associates throughout western Washington.

From 2016 to 2019 Brian worked in support of a successful to renovate Seattle Center Arena and bring the NHL to Seattle. He remains committed and active in efforts to bring the NBA to Seattle.

Brian has remained active in the political and nonprofit community. He is currently involved with several local charities and community service groups, including Washington Special Olympics, Ballard Boys and Girls Club, and the Filipino Community Center. Brian offers personal scholarships and assistance to families in his wife's native Philippine city of Manila.

He is happily married to his wife Marla, and they have three children, Bryce (19) and Kayla (16) and Rowan (3). They are expecting their 4<sup>th</sup> child in August, 2019. Family activities include travel, outdoor recreation, and involvement in the Filipino Community. Each July through September he wages relentless war on the Dungeness crab infesting our Puget Sound.

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
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6	M	7	3.	Member	Michael George	9/29/19	9/28/22	1	Mayor
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6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
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			9.	Member	VACANT	9/29/20	9/28/23		Mayor
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			16.	Get Engaged Member	Mary Claire	9/1/20	8/31/21	1	Mayor

SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
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Council													
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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*





## Legislation Text

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**File #:** Appt 01709, **Version:** 1

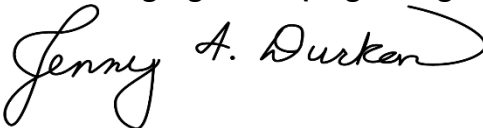
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Reappointment of Holly D. Golden as member Seattle Center Advisory Commission, for a term to September 28, 2023.

The Appointment Packet is provided as an attachment.



## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>Holly D. Golden</i>		
<b>Board/Commission Name:</b> <i>Seattle Center Advisory Commission</i>		<b>Position Title:</b> <i>Member</i>
<input type="checkbox"/> <b>Appointment</b> OR <input checked="" type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>		<b>Term of Position: *</b> 9/29/2020 to 9/28/2023  <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Interbay</i>	<b>Zip Code:</b> <i>98109</i>	<b>Contact Phone No.:</b> [REDACTED]
<b>Background:</b>  <i>Holly Golden is a land use partner at Hillis Clark Martin &amp; Peterson. Her practice focuses on urban land development and permitting. As a Washington native and a proud "double dawg" (earning both her undergraduate and law degrees from the University of Washington), Holly is excited to help shape Seattle's urban landscape and navigate policy issues around density, growth, transit-oriented development, and affordable housing. In addition to her legal practice, she loves serving on the Seattle Center Advisory Commission, exploring the PNW, and trying new Thai restaurants.</i>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> <i>Jenny Durkan</i> <i>Mayor</i>

\*Term begin and end date is fixed and tied to the position and not the appointment date.

# HOLLY D. GOLDEN

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## EXPERIENCE

- 12/11-Present HILLIS CLARK MARTIN & PETERSON SEATTLE, WASHINGTON**  
*Land Use Partner*  
\* Legal research and writing on a wide variety of land use topics in the greater Seattle area.  
\* Navigate Seattle's Municipal Code to help clients with permitting and entitlements.  
\* Advise clients on the land use legislation.  
\* Handle land use litigation and Land Use Petition Act cases.  
\* Present about land use topics, including street vacations, at conferences.  
\* Author land use articles and updates to the Real Property Deskbook.
- 11/13-10/18 ENVIRONMENTAL WORKS SEATTLE, WASHINGTON**  
*Vice President, Board of Directors*
- 9/13-Present SEATTLE CENTER ADVISORY COMMISSION SEATTLE, WASHINGTON**  
*Commissioner*
- 12/07-5/08 SALZBURG GLOBAL SEMINAR SALZBURG, AUSTRIA**  
*Research Associate at international think tank.*
- 6/07-9/07 U.S. DEPARTMENT OF STATE REYKJAVIK, ICELAND**  
*Intern, Political Department of U.S. Embassy*  
Assisted in drafting embassy's annual report on human rights in Iceland. Assisted with two congressional delegations. Researched and drafted memoranda on geothermal projects.
- 9/05-12/07 REFUGEE WOMEN'S ALLIANCE SEATTLE, WASHINGTON**  
*Tutor and Instructor, Evening Youth Program*  
Developed and implemented ESL reading and writing program for K-12 students.

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## EDUCATION

- 2008-2011 UNIVERSITY OF WASHINGTON SCHOOL OF LAW**  
\* Juris Doctorate, with honors, awarded June 2011. GPA: 3.73  
\* Recipient, School of Law half-tuition merit scholarship.  
\* Member, Moot Court Honor Board.  
\* Author, "Climate Refugees Require Relocation Assistance: Guaranteeing Adequate Land Assets through Treaties Based on the National Adaptation Programmes of Action," *Pacific Rim Law & Policy Journal*, Vol. 19.3, 613 (2010).  
\* Volunteer coordinator, Three Degrees: Climate Change and Human Rights Law Conference.  
\* Recipient, Pro Bono Honors Program Award.
- 2004-2007 UNIVERSITY OF WASHINGTON**  
\* Bachelor of the Arts double degree, *magna cum laude*, in honors English and Political Science, December 2007. GPA: 3.91  
\* Washington Scholar (full-tuition).  
\* Nominee, Rhodes and Marshall Scholarships.  
\* Member, Phi Beta Kappa.

## Holly D. Golden



### Practice Emphasis and Experience:

#### REAL ESTATE & LAND USE

Holly's practice focuses on land use and environmental law, with an emphasis on urban land development and permitting.

Holly's service on local boards and commissions, experience navigating complex regulatory systems, and appearances in court and before the Seattle Hearing Examiner on behalf of clients have empowered her to develop and execute strategies to successfully assist clients in reaching their goals.

#### REPRESENTATIVE MATTERS

**South Lake Union and Denny Triangle.** Represent multiple developers with dozens of office and residential projects in the booming South Lake Union and Denny Triangle neighborhoods of Seattle.

**Washington State Convention Center.** Land use counsel for the convention center addition, including an office tower and a residential tower on the sites adjacent to the convention center addition. The addition project involves complex entitlements, state and national environmental review, and five street and alley vacations.

**Vulcan Real Estate.** Land use counsel for Vulcan Real Estate on residential and office projects, including assistance with feasibility and entitlements.

**Amazon.** Land use counsel for Amazon on its multi-block office developments.

**Historic Properties.** Represent property owners in matters pertaining to landmark regulations and transfer of development rights.

#### ARTICLES AND PRESENTATIONS

Ask a Legal Professional, *Puget Sound Business Journal* (Street Vacation Policies), June 2018.

Presenter, "In the New Case Studies: Structures, Challenges and Outcomes, Washington State Convention Center Addition," Public/Private Partnerships: Pitfalls & Opportunities CLE, November 2017.

Ask a Legal Professional, *Puget Sound Business Journal* (Seattle Design Review Program Changes), June 2017

Author, Ask a Legal Professional, *Puget Sound Business Journal* (URM Buildings), June 2016.

Presenter, "Street Vacations' – The Legal World Meets the Real World," 2016 WSBA Environmental and Land Use Section Mid-Year Meeting and Conference.

Author, "Seattle City Council Passes a Housing Tax Resolution to Fund Affordable Housing," October 28, 2014.

Co-author, “Running Covenants” Chapter 8 Update, *Real Property Deskbook*, Washington State Bar Association, 2014.

Author, Ask a Legal Professional, *Puget Sound Business Journal* (Downtown Bonus Floor Area Requirements), June 2014.

Author, Ask a Legal Professional, *Puget Sound Business Journal* (Incentive Zoning, South Lake Union), August 2013.

Author, “Climate Refugees Require Relocation Assistance: Guaranteeing Adequate Land Assets through Treaties Based on the National Adaptation Programmes of Action,” *Pacific Rim Law & Policy Journal*, Vol. 19.3, 613 (2010).

## PROFESSIONAL AND CIVIC INVOLVEMENT

Seattle Center Advisory Commission

Environmental Works

Board member

NAIOP Government Affairs Committee

Washington State Bar Association

King County Bar Association

Environmental Law & Land Use Section

Federal Bar Association, Western District of Washington

## HONORS / AWARDS / PRIOR EXPERIENCE

Recognized by *The Best Lawyers in America* © 2021 in the field of Land Use & Zoning Law

Recognized as a Rising Star by *Washington Super Lawyers*, 2018

## EDUCATION

J.D., University of Washington School of Law, with honors, December 2010

Moot Court Honor Board

*Pacific Rim Law & Policy Journal*

Three Degrees: Law of Climate Change and Human Rights Conference  
(Volunteer Coordinator)

B.A., University of Washington, magna cum laude, Honors English and Political Science, 2007

Phi Beta Kappa

Washington Scholar

## BAR/COURT ADMISSIONS

Washington State Courts

U.S. District Court for the Western District of Washington

## PERSONAL

I love to travel, and highlights include: camping in the Serengeti, learning to cook in Bali, writing a novel in Paris, snorkeling on the Great Barrier Reef, hiking the Inca Trail, and eating pancakes with the President of Iceland. In Seattle, I stay busy through civic engagement in the arts, land use policy, and environmental causes. I also enjoy

flying through novels in a single sitting, crushing my husband at bocce ball, rooting for the Huskies, and searching for great hole-in-the-wall restaurants.

# Seattle Center Advisory Commission

15 Members: Pursuant to Ordinances 91885 and 108936, 3-year terms; 1 Member pursuant to Ordinance 121568, 1-year term; all members subject to City Council confirmation:

- 16 Mayor- appointed

## Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
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6	F	6	7.	Member	Sarah C. Rich	9/29/20	9/28/23	4	Mayor
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SELF-IDENTIFIED DIVERSITY CHART					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
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RD Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



## Legislation Text

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**File #:** Appt 01710, **Version:** 1

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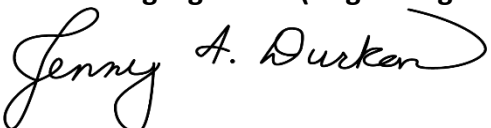
Reappointment of Sarah C. Rich as member, Seattle Center Advisory Commission, for a term to September 28, 2023.

The Appointment Packet is provided as an attachment.





## City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>Sarah C. Rich</i>		
<b>Board/Commission Name:</b> <i>Seattle Center Advisory Commission</i>		<b>Position Title:</b> <i>Member</i>
<input type="checkbox"/> <b>Appointment</b> OR <input checked="" type="checkbox"/> <b>Reappointment</b>		<b>City Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> City Council <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>		<b>Term of Position: *</b> <i>9/29/2020</i> <b>to</b> <i>9/28/2023</i>  <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Northwest</i>	<b>Zip Code:</b> <i>98117</i>	<b>Contact Phone No.:</b> <div style="background-color: black; width: 100px; height: 1.2em;"></div>
<b>Background:</b>  <i>Ms. Rich is currently a part time consultant and full-time mother. Ms. Rich previously worked as the Digital Marketing Manager at Ritani where she worked on their email and affiliate marketing programs. Before that, she was the Marketing and Retention Manager at The Seattle Times where she drove the subscription retention and direct marketing strategies.</i>  <i>Sarah served as a Get Engaged Member of the Seattle Center Advisory Commission prior to serving as a permanent member. She was part of the Imagine Curriculum Team that won the AKCHO Heritage Education Award in 2012 for curriculum it developed about Seattle Center and the 1962 World's Fair. In 2010, she received a Newspaper Association of America award for curriculum development.</i>  <i>Sarah is a graduate of Oberlin College with a concentration in geology. She also holds a Masters in Teaching from Pace University and completed the Teach For America program, teaching high school earth science in the Bronx.</i>		
<b>Authorizing Signature (original signature):</b>  <b>Date Signed (appointed):</b> 9/3/20		<b>Appointing Signatory:</b> <i>Jenny Durkan</i> <i>Mayor</i>

\*Term begin and end date is fixed and tied to the position and not the appointment date.

# Sarah C. Rich

## Marketing Manager – Consumer Products

*Energetic, digitally-savvy marketing professional with nine years of experience helping acquire customers, develop sales leads, and drive revenues within a highly competitive B2C industry niche*

### Areas of Expertise

Marketing Plan Development	Direct Mail / Direct Response	Marketing Project Management
Campaign Management	Advertising, Promotions & Special Offers	Telemarketing / Inside Sales
Customer Loyalty / Retention	Recurring Revenue / Subscriptions	Vendor Selection / Management
Collateral, Branding & Messaging	Branding & Positioning	Digital & Social Media Channels

### Employment History & Accomplishments

#### CONSULTANT

*Seattle, WA: 2016-present*

- Working as a part-time consultant and full-time mother, advising multiple clients and developing their marketing and business strategies

#### RITANI

*Seattle, WA: 2014-2016*

- Was responsible for the email and affiliate marketing channels for Ritani.com, which generated over \$3MM in annual net revenue
- Managed Ritani's inbound/outbound email programs, developing strategy & content for 200K consumers
- Increased traffic and revenue from the email channel by over 100% by implementing a comprehensive strategy, including promotional, automated and personalized email campaigns
- Directed an end-to-end effort to select a new email service provider for Ritani - researching, negotiating terms and integrating the new solution
- Led the affiliate program, managing over 100 existing partnerships and forging new relationships to drive sales for Ritani.com
- Spearheaded all promotional holiday efforts, working closely with development and content teams to execute promotions for Ritani.com
- Created marketing dashboards to analyze ROI and campaign performance metrics

#### THE SEATTLE TIMES

*Seattle, WA: 2008-present*

#### **Marketing & Customer Retention Manager** (2013-Present)

- Designed and managed marketing initiatives aimed at improving subscriber retention through various targeted marketing methods including email, direct mail, inserts and display advertising (print/digital)
- Administered budget of \$500k and managed key relationships with vendors and advertising agencies
- Coordinated a weekly rewards/loyalty email campaign with offers from over 50 local partners
- Work closely with Business Intelligence team to analyze ROI and campaign performance metrics
- Participate on (and occasionally lead) larger cross-functional marketing projects for the organization, collaborating with key personnel in the branding, circulation, sales, finance, and advertising departments

#### **Marketing & Promotions Specialist** (2011-2013)

- Managed the Seattle Restaurant Week promotion from end-to-end, coordinating partnerships with more than 165 restaurants, attracting over 20,000 customers, and generating more than \$750,000 in revenue
- Coordinated dozens of promotions and sponsorships with major clients including Seattle Theatre Group, 5th Avenue Theatre, Live Nation, Seattle Foundation, Pacific Northwest Ballet and Pacific Science Center
- Designed and ran targeted marketing campaigns to drive incremental revenue and audience engagement
- Received the Seattle Times Sales and Marketing Award for Revenue in 3rd Quarter, 2012
- Worked closely with advertising sales directors to conceptualize and launch creative promotional efforts that generated over \$500k in new revenue and led over \$3.5M in client sales

**Outreach Specialist, Newspapers In Education (NIE) Program** (2008-2011)

- Led strategic marketing and recruitment plan that grew NIE circulation rates by more than 150%
- Managed a team of contractors in the development of appropriate program curriculum and web content

Prior experience as **Teach For America Corps Member**, Frederick Douglass Academy III, Bronx, NY.

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***Education & Affiliations***

**M.S. Teaching**, Pace University, New York, NY (4.0 G.P.A.)

**B.A. Geology**, Oberlin College, Oberlin, OH (3.62 G.P.A.)

**Get Engaged Program Commissioner**, Seattle Center Advisory Commission, (2012-Present)

**Member, Community of Thinkers**, Seattle Art Museum (2009-2011)

**United Way Giving Campaign Coordinator**, The Seattle Times (2011)

# Seattle Center Advisory Commission

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## Legislation Text

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**File #:** CB 119953, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

WHEREAS, the City Light Department (“City Light”) requires that the owner of a new or altered electrical service obtain for The City of Seattle (“City”) a utility easement whenever City Light conductors must pass over, under, or through the property of another person, or when service equipment such as poles or vaults must be located either on the property being served or the property of a third party; and

WHEREAS, City Light has obtained, on behalf of the City, the necessary easements to provide electrical service from the property owners listed herein; and

WHEREAS, the Seattle City Charter (Article IV, Legislative Department; Section 14, Powers by Ordinance; Fourth, Acquisition and Disposal of Property) requires that all acquisition and disposal of real property interests shall be by ordinance; NOW, THEREFORE,

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

Section 1. The City of Seattle hereby accepts the following easements, each granting to The City of Seattle an easement for overhead or underground electrical distribution rights upon, under and across the real property in King County, Washington, as more particularly described in the document listed after each Grantor’s name:

GRAHAM DORLAND & ALICIA PATTEN; DATED JANUARY 14, 2019; SCL P.M. #230324-4-019;  
K.C. RECORDING #20190205000581;

NWB/CSPP-WEST SEATTLE, LLC; DATED JANUARY 10, 2019; SCL P.M. #240313-2-009; K.C.  
RECORDING #20190205000312;

ARISE DEVELOPMENT, LLC; DATED DECEMBER 20, 2018; SCL P.M. #240432-3-030; K.C.  
RECORDING #20190205000315;

EVERGREEN HOUSING, LLC; DATED DECEMBER 17, 2018; SCL P.M. #230408-4-041; K.C.  
RECORDING #20190205000308;

NEIL & ASHLEY HUCK; DATED DECEMBER 06, 2018; SCL P.M. #230301-3-026; K.C.  
RECORDING #20190205000582;

CASTLE DEVELOPMENT, LLC; DATED DECEMBER 12, 2018; SCL P.M. #230408-1-040; K.C.  
RECORDING #20190205000318;

FIFTH NORTH & ROY, LLC; DATED DECEMBER 18, 2018; SCL P.M. #250430-2-047; K.C.  
RECORDING #20190205000317;

STEVEN R. KINTZ AND MARK B. BUCKLEY; DATED MARCH 11, 2017; SCL P.M. #230425-4-  
025B; K.C. RECORDING #20190205000311;

ROBERT K. MAHLER; DATED FEBRUARY 22, 2017; SCL P.M. #230425-4-025C; K.C.  
RECORDING #20190205000310;

GRAHAM DORLAND & ALICIA PATTEN; DATED JANUARY 09, 2019; SCL P.M. #230324-4-018;  
K.C. RECORDING #20190205000309;

HERNANDEZ CAPITAL, LLC; DATED NOVEMBER 23, 2018; SCL P.M. #240422-4-017; K.C.  
RECORDING #20190205000316;

INTERBAY 14, LLC; DATED DECEMBER 07, 2018; SCL P.M. #250313-3-033; K.C. RECORDING  
#20190205000314;

MICHELLE NAM PHUONG NGUYEN; DATED NOVEMBER 26, 2018; SCL P.M. #230401-3-006;  
K.C. RECORDING #20190205000313;

TRUNG T & AMY TRAN; DATED JANUARY 30, 2019; SCL P.M. #240400-2-001; K.C.

RECORDING #20190215000689;

SARAH L. GAGE; DATED FEBRUARY 15, 2019; SCL P.M. #230302-4-025; K.C. RECORDING

#20190222000479;

JEAN D. VELDWYK; DATED JUNE 21, 2017; SCL P.M. #240422-3-018; K.C. RECORDING

#20190222000480;

ROSENTHAL CROWN HILL, LLC; DATED FEBRUARY 21, 2019; SCL P.M. #250301-2-016; K.C.

RECORDING #20190222000481;

20TH BLUE STONE LLC; DATED FEBRUARY 26, 2019; SCL P.M. #240336-4-038; K.C.

RECORDING #20190301000627;

MIKE OVERBECK; DATED MARCH 07, 2019; SCL P.M. #230422-2-054; K.C. RECORDING

#20190313000301;

MATTHEW MIHLON; DATED APRIL 09, 2019; SCL P.M. #240324-1-048; K.C. RECORDING

#20190409000253;

GREENBUILD DEVELOPMENT LLC; DATED MARCH 04, 2019; SCL P.M. #260336-1-039; K.C.

RECORDING #20190313000302;

GREENSTREAM INVESTMENTS, LLC; DATED MARCH 05, 2019; SCL P.M. #240422-4-018; K.C.

RECORDING #20190308000267;

BRACKETT DOCK ASSOCIATION; DATED MARCH 27, 2019; SCL P.M. #250420-1-012; K.C.

RECORDING #20190403000826;

SARAH L. GAGE; DATED MARCH 20, 2019; SCL P.M. #230302-4-025; K.C. RECORDING

#20190329001035;

CYNTHIA L. ROSE; DATED MARCH 27, 2019; SCL P.M. #230302-4-026; K.C. RECORDING

#20190403000827;

NGUYEN INVESTMENTS, LLC; DATED APRIL 10, 2019; SCL P.M. #230407-3-030; K.C.

RECORDING #20190412000900;

MRN HOMES, LLC; DATED APRIL 04, 2019; SCL P.M. #250419-3-039; K.C. RECORDING

#20190410000572;

BUILD SOUND, LLC; DATED APRIL 19, 2019; SCL P.M. #240323-1-032; K.C. RECORDING

#20190424000977;

LARC @ BURIEN, LLC; DATED MARCH 06, 2019; SCL P.M. #230409-2-022; K.C. RECORDING

#20190424000976;

MIKE OVERBECK; DATED APRIL 18, 2019; SCL P.M. #230422-2-054; K.C. RECORDING

#20190424000979;

POLYGON WLH, LLC; DATED APRIL 22, 2019; SCL P.M. #230413-1-020; K.C. RECORDING

#20190424000978;

NGUYEN STEPHANIE; DATED MAY 28, 2019; SCL P.M. #230407-4-037; K.C. RECORDING

#20190531001248;

LUKE KENNETH Y & SHUCHUAN FANG; DATED APRIL 29, 2019; SCL P.M. #240408-4-018;

K.C. RECORDING #20190508000539;

KUMAR GOKUL & RAVINA; DATED JUNE 06, 2019; SCL P.M. #230409-3-024; K.C.

RECORDING #20190612001010;

HUNAG, YIFAN; DATED MAY 14, 2019; SCL P.M. #240429-1-031; K.C. RECORDING

#20190522001168;

BERNHAGEN CLYDE R; DATED MAY 15, 2019; SCL P.M. #230301-2-027; K.C. RECORDING

#20190517000963;

SHORELINE HISTORICAL MUSEUM; DATED MAY 23, 2019; SCL P.M. #260406-3-037; K.C.

RECORDING #20190529000889;



CHROME DEVELOPMENT LLC; DATED MAY 22, 2019; SCL P.M. #240310-3-035; K.C.

RECORDING #20190523000084;

BLUEPRINT HOWELL, LLC; DATED MAY 23, 2019; SCL P.M. #250429-3-013; K.C. RECORDING

#20190529001043;

SUN, SAVOEUN; DATED JUNE 25, 2019; SCL P.M. #230421-1-055; K.C. RECORDING

#20190703001126;

RUBI, LLC; DATED JUNE 11, 2019; SCL P.M. #230419-3-023; K.C. RECORDING

#20190612001011;

144TH STREET REO PARTNERS LLC; DATED JANUARY 19, 2018; SCL P.M. #230422-2-047;

K.C. RECORDING #20190531001249;

TZEGAI, MENGSTAB; DATED JANUARY 03, 2018; SCL P.M. #230422-2-055; K.C. RECORDING

#20190531001250;

OVERBECK, MIKE; DATED JANUARY 19, 2018; SCL P.M. #230422-2-056; K.C. RECORDING

#20190531001251;

CITY OF SEATAC; DATED MAY 21, 2019; SCL P.M. #230422-3-027; K.C. RECORDING

#20190605000675;

RAHIMABEN & REHANABEN VAHORA; DATED JUNE 07, 2019; SCL P.M. #230416-4-038; K.C.

RECORDING #20190614001017;

MRN HOMES, LLC; DATED JUNE 10, 2019; SCL P.M. #250417-4-016; K.C. RECORDING

#20190612001012;

JUNEAU DEVELOPMENT, LLC; DATED JUNE 16, 2019; SCL P.M. #240422-4-019; K.C.

RECORDING #20190627001368;

LANSING HOMES II LLC; DATED JUNE 25, 2019; SCL P.M. #260404-4-030; K.C. RECORDING

#20190710001141;

STEVE HEWES; DATED JUNE 20, 2019; SCL P.M. #230416-2-013; K.C. RECORDING  
#20190624001113;

KENNETH CAGE; DATED JUNE 19, 2019; SCL P.M. #230416-2-014; K.C. RECORDING  
#20190621000896;

G-9 INVESTMENTS, LLC; DATED JULY 18, 2019; SCL P.M. #230324-4-020; K.C. RECORDING  
#20190724001233;

SOLOMON HOLDINGS LLC; DATED JULY 15, 2019; SCL P.M. #230422-4-026; K.C.  
RECORDING #20190719000642;

STORYBOOK MANOR LLC; DATED JULY 29, 2019; SCL P.M. #250403-2-036; K.C. RECORDING  
#20190731001405;

GEM CONSTRUCTION, INC.; DATED AUGUST 05, 2019; SCL P.M. #230407-1-020; K.C.  
RECORDING #20190815000859;

DARIN L. DEHAAN; DATED SEPTEMBER 04, 2019; SCL P.M. #230417-1-039; K.C. RECORDING  
#20190911000848;

SALMON CREEK SELF STORAGE, LLC; DATED SEPTEMBER 23, 2019; SCL P.M. #230312-1-  
049; K.C. RECORDING #20191002000850;

ROBERT T STRATON & KAITLYN STRATON; DATED OCTOBER 21, 2019; SCL P.M. #240336-3-  
020; K.C. RECORDING #20191022001304;

TOP FLOOR HOMES, LLC; DATED OCTOBER 17, 2019; SCL P.M. #250312-1-019; K.C.  
RECORDING #20191017000925;

THOMAS BREKKE & DIANE GRIM; DATED DECEMBER 10, 2019; SCL P.M. #230324-1-019;  
K.C. RECORDING #20191218001400.

Section 2. The real property interests conveyed by the easements in Section 1 of this ordinance are  
placed under the jurisdiction of the City Light Department.

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

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

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle City Light	Tom DeBoer/206-684-4185	Greg Shiring/206-386-4085

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department, and ratifying and confirming certain prior acts.

#### **Summary and background of the Legislation:**

City Light requires that the owner of a new or altered electrical service provide The City of Seattle with a utility easement whenever City Light facilities must pass over, under, or through the property of another person, or when service equipment such as poles or vaults must be located either on the property being served or the property of a third party.

City Light periodically requests that the City Council accept these distribution easements by ordinance. This legislation will accept the 60 distribution easements that have been received and recorded since the previous distribution easement acceptance ordinance was adopted.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?  
No.

#### **Is there financial cost or other impacts of *not* implementing the legislation?**

City Light cannot provide electrical service for these customers without the easements being in place. The financial cost of not implementing this legislation would be the forgone revenue from these customer accounts.

### **4. OTHER IMPLICATIONS**

a. Does this legislation affect any departments besides the originating department?  
No.

**b. Is a public hearing required for this legislation?**

No.

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No.

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

No.

**e. Does this legislation affect a piece of property?**

Yes. The easements are mapped in Seattle City Light's Real Property Geographic Information System (GIS).

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

There are no perceived impacts. No. Not applicable.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

No.

**List attachments/exhibits below:**

None.



## Legislation Text

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**File #:** CB 119954, **Version:** 1

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### CITY OF SEATTLE

### ORDINANCE \_\_\_\_\_

### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

WHEREAS, the Seattle Department of Construction and Inspections requires that applications for short plats, lot boundary adjustments, and unit lot subdivisions be reviewed by other City departments as a condition of its approval of such property divisions; and

WHEREAS, it is the intent of The City of Seattle that each lot created by such property divisions has adequate access for all utilities including electrical service; and

WHEREAS, the access for such utilities is provided by means of utility easements in the final approved short plats, lot boundary adjustments, and unit lot subdivisions granted by the property owners; and

WHEREAS, the Seattle City Charter, Article IV, Legislative Department, Section 14, Powers by Ordinance; Fourth, Acquisition and Disposal of Property: requires that all acquisition and disposal of real property interests shall be by ordinance; NOW, THEREFORE,

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

Section 1. The City of Seattle hereby accepts the easements for overhead or underground electrical distribution rights upon, under and across the real property in King County, Washington, as more particularly described in the short plats, lot boundary adjustments, and unit lot subdivisions approved by the Department of Construction and Inspections, with the easements granted to The City of Seattle by following persons or entities identified as follows:

GETTY KYLE & GETTY CALLIE; SDCI #3022606; approved June 20,2018; K.C. Recording  
#20180620900005;

RAY SUVENDOO K; SDCI #3025775; approved July 24,2018; K.C. Recording #20180725900003;  
WESTGATE HOLDINGS I LLC; SDCI #3026798; approved July 27,2018; K.C. Recording  
#20180731900003;

COLLZ INC; SDCI #3027079; approved June 27,2018; K.C. Recording #20180702900005;  
INSCAPE/MRJ GROUP LLC; SDCI #3027113; approved November 01,2018; K.C. Recording  
#20181116900029;

WOODBIDGE DEVELOPMENTS MADRONA TOWNHOMES LP; SDCI #3027136; approved July  
02,2018; K.C. Recording #20180706900001;

1121 34TH AVENUE LIVE WORK TOWNHOMES LP; SDCI #3027137; approved July 13,2018; K.C.  
Recording #20180718900003;

FAIRVIEW AVE HOMES LLC; SDCI #3027275; approved December 18,2018; K.C. Recording  
#20181219900004;

LLJ VENTURES LLC; SDCI #3027506; approved July 30,2018; K.C. Recording #20180801900001;  
RESOLUTE BUILDERS LLC; SDCI #3027596; approved July 10,2018; K.C. Recording  
#20180712900003;

1535 23RD AVE LLC; SDCI #3027597; approved September 11,2018; K.C. Recording  
#20180913900002;

DANG QUOC & VO MAI; SDCI #3027599; approved November 05,2018; K.C. Recording  
#20181107900004;

DANG QUOC & MAI VO; SDCI #3027605; approved October 24,2018; K.C. Recording  
#20181025900006;

BRIARBOX LLC; SDCI #3027612; approved September 13,2018; K.C. Recording #20180921900002;

BRIARBOX LLC; SDCI #3027613; approved October 02,2018; K.C. Recording #20181004900003;

BLUE FERN DEVELOPMENT; SDCI #3027930; approved June 27,2018; K.C. Recording  
#20180629900004;

RESOLUTE BUILDERS LLC; SDCI #3028054; approved October 26,2018; K.C. Recording  
#20181030900002;

RAINIER VISTA LLC; SDCI #3028063; approved June 21,2018; K.C. Recording #20180622900003;

RAINIER VISTA LLC; SDCI #3028064; approved June 22,2018; K.C. Recording #20180706900003;

RAINIER VISTA LLC; SDCI #3028067; approved June 22,2018; K.C. Recording #20180706900002;

BLOCK II LLC; SDCI #3028194; approved July 03,2018; K.C. Recording #20180705900003;

BLOCK II LLC; SDCI #3028195; approved May 23,2018; K.C. Recording #20180525900001;

BRACE DEVELOPMENT LLC; SDCI #3028316; approved June 28,2018; K.C. Recording  
#20180702900006;

GRANT-ANDERSON ANNE & GRANT-ANDERSON KYLE & FERGUSON ERIN & FERGUSON  
RICHARD; SDCI #3028457; approved June 20,2018; K.C. Recording #20180622900001;

957 N 43RD ST LLC; SDCI #3028465; approved September 12,2018; K.C. Recording  
#20180918900003;

13TH WEST PARTNERS LLC & VON WALTER MARK; SDCI #3028520; approved July 05,2018;  
K.C. Recording #20180709900001;

ELKINS STANTON L; SDCI #3028549; approved November 16,2018; K.C. Recording  
#20181120900001;

ELKINS STANTON L; SDCI #3028551; approved July 19,2018; K.C. Recording #20180720900004;

CANUSA HOMES LLC & BROTHERS K DEVELOPMENT LLC; SDCI #3028602; approved June  
29,2018; K.C. Recording #20180702900002;

VUONG PAMELA S & GEE DARREN E; SDCI #3028692; approved October 02,2018; K.C.



Recording #20181008900002;

NORTHWEST PROPERTY HOLDINGS LLC; SDCI #3028841; approved June 06,2018; K.C.

Recording #20180611900006;

BLACKWOOD HOLDINGS VII LLC; SDCI #3028844; approved October 18,2018; K.C. Recording  
#20181018900012;

BLACKWOOD HOLDINGS VII LLC; SDCI #3028845; approved October 22,2018; K.C. Recording  
#20181024900002;

STTAJ INVESTMENTS LLC; SDCI #3028912; approved August 13,2018; K.C. Recording  
#20180815900001;

BAKER INVESTMENT PARTNERS LLC; SDCI #3028931; approved July 13,2018; K.C. Recording  
#20180718900005;

DON P1 LLC; SDCI #3029019; approved June 11,2018; K.C. Recording #20180613900001;

SEATTLE BUILT HOMES LLC; SDCI #3029069; approved June 06,2018; K.C. Recording  
#20180612900002;

LOF HOLDINGS COMPANY LLC; SDCI #3029085; approved July 10,2018; K.C. Recording  
#20180711900005;

R THORESON HOMES LLC; SDCI #3029171; approved December 24,2018; K.C. Recording  
#20181228900018;

PINEHURST LAND LP; SDCI #3029176; approved August 21,2018; K.C. Recording  
#20180824900005;

AEDIFEX INC; SDCI #3029231; approved November 20,2018; K.C. Recording #20181126900016;

WEST SEATTLE CHURCH OF THE NAZARENE; SDCI #3029281; approved August 27,2018; K.C.

Recording #20180829900004;

DNALO LLC; SDCI #3029301; approved December 06,2018; K.C. Recording #20181206900003;

GCH 4422 PHINNEY LLC; SDCI #3029338; approved December 03,2018; K.C. Recording  
#201812+06900005;

ORCAS HOMES LLC; SDCI #3029349; approved August 29,2018; K.C. Recording  
#20180831900005;

GCH 4416 DAYTON LLC; SDCI #3029397; approved November 30,2018; K.C. Recording  
#20181204900024;

DWELL DEVELOPMENT LLC; SDCI #3029429; approved August 03,2018; K.C. Recording  
#20180809900012;

MID CITY BUILDERS LLC; SDCI #3029431; approved June 28,2018; K.C. Recording  
#20180702900004;

ISHII SHIRO & ENDO YORIKO; SDCI #3029482; approved May 25,2018; K.C. Recording  
#20180531900041;

SAGE HOMES NORTHWEST LLC; SDCI #3029561; approved July 09,2018; K.C. Recording  
#20180711900006;

WICK HOMES LLC; SDCI #3029600; approved June 22,2018; K.C. Recording #20180629900007;  
3028 63RD AVE SW LLC; SDCI #3029605; approved July 27,2018; K.C. Recording  
#20180731900002;

COOMBS DEVELOPMENT LLC; SDCI #3029606; approved June 01,2018; K.C. Recording  
#20180608900044;

ECOWORKS HOMES INC; SDCI #3029625; approved May 24,2018; K.C. Recording  
#20180530900003;

PNW HOMES LLC; SDCI #3029634; approved November 15,2018; K.C. Recording  
#20181121900005;

FARRAR LLC; SDCI #3029665; approved August 15,2018; K.C. Recording #20180817900002;

2813 4TH AVE W LLC; SDCI #3029682; approved August 15,2018; K.C. Recording

#20180824900002;

FRIENDS PROPERTIES LLC; SDCI #3029730; approved November 20,2018; K.C. Recording

#20181126900019;

1202 5TH AVE N LLC; SDCI #3029733; approved September 24,2018; K.C. Recording

#20180926900004;

VUONG QUANG & HUYNH HA TU; SDCI #3029745; approved August 15,2018; K.C. Recording

#20180817900006;

NOREN DEVELOPMENT LLC; SDCI #3029746; approved May 31,2018; K.C. Recording

#20180606900001;

TEAM AMALFI LLC; SDCI #3029814; approved September 28,2018; K.C. Recording

#20181003900004;

FIRWALKER CONSTRUCTION LLC; SDCI #3029839; approved October 16,2018; K.C. Recording

#20181018900002;

BUILD SOUND LLC; SDCI #3029857; approved July 27,2018; K.C. Recording #20180731900001;

BUILD SOUND LLC; SDCI #3029858; approved July 25,2018; K.C. Recording #20180726900004;

METZNER STEVEN & BREAN SUSAN; SDCI #3029898; approved June 18,2018; K.C. Recording

#20180620900004;

EPIC HOMES INC; SDCI #3029899; approved August 15,2018; K.C. Recording #20180817900003;

NELSON MICHAEL R & NELSON LAURA J; SDCI #3029954; approved June 11,2018; K.C.

Recording #20180613900007;

PHINNEY AVE N LLC; SDCI #3029990; approved December 07,2018; K.C. Recording

#20181207900002;

EBM RE I LLC; SDCI #3030005; approved December 03,2018; K.C. Recording #20181206900004;

ISOLA REAL ESTATE V LLC; SDCI #3030040; approved July 12,2018; K.C. Recording  
#20180713900001;

FERNANDEZ & BARNES LLC; SDCI #3030065; approved June 22,2018; K.C. Recording  
#20180627900003;

SOLO 51 LLC; SDCI #3030080; approved October 26,2018; K.C. Recording #20181031900008;  
BLUE FERN DEVELOPMENT LLC; SDCI #3030114; approved June 27,2018; K.C. Recording  
#20180629900006;

ONAM LLC & PHAM NGHIA KI; SDCI #3030116; approved July 12,2018; K.C. Recording  
#20180717900001;

MODERN HOMES LLC; SDCI #3030117; approved May 30,2018; K.C. Recording  
#20180604900002;

BLOCK II LLC; SDCI #3030131; approved June 28,2018; K.C. Recording #20180702900003;  
BU 4104 37TH LLC; SDCI #3030171; approved November 16,2018; K.C. Recording  
#20181121900002;

PEELER CONSTRUCTION LLC; SDCI #3030182; approved December 26,2018; K.C. Recording  
#20181227900002;

SEATTLE BUILT GREEN LLC; SDCI #3030183; approved September 28,2018; K.C. Recording  
#20181003900003;

INSIGNIA DEVELOPMENT LLC; SDCI #3030193; approved July 30,2018; K.C. Recording  
#20180801900005;

STEELE HOMES INC; SDCI #3030221; approved June 18,2018; K.C. Recording #20180620900002;  
NO TIME 2 SLEEP LLC; SDCI #3030233; approved May 24,2018; K.C. Recording  
#20180530900006;

GREENBUILD DEVELOPMENT LLC; SDCI #3030245; approved July 25,2018; K.C. Recording

#20180727900001;

M HOMES LLC; SDCI #3030273; approved September 26,2018; K.C. Recording #20180928900002;

SEATTLE BUILT HOMES INC; SDCI #3030294; approved July 13,2018; K.C. Recording

#20180718900001;

LIVE URBAN 2 LLC; SDCI #3030312; approved November 21,2018; K.C. Recording

#20181126900017;

SILVERADO DEVELOPMENT LLC; SDCI #3030330; approved July 12,2018; K.C. Recording

#20180713900002;

THAPA SHANTI & LAKHANI FARAZ; SDCI #3030338; approved July 17,2018; K.C. Recording

#20180718900004;

LAKE CITY LLC; SDCI #3030355; approved August 09,2018; K.C. Recording #20180813900003;

MRN HOMES LLC; SDCI #3030370; approved December 06,2018; K.C. Recording

#20181210900009;

MRN HOMES LLC; SDCI #3030371; approved September 28,2018; K.C. Recording

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MRN HOMES LLC; SDCI #3030375; approved September 28,2018; K.C. Recording

#20181003900009;

MRN HOMES LLC; SDCI #3030392; approved August 08,2018; K.C. Recording #20180810900007;

MRN HOMES LLC; SDCI #3030393; approved November 28,2018; K.C. Recording

#20181129900002;

RESOLUTE BUILDERS LLC; SDCI #3030400; approved December 06,2018; K.C. Recording

#20181210900007;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3030402; approved August 13,2018; K.C.

Recording #20180815900003;

ACS LLC; SDCI #3030435; approved November 07,2018; K.C. Recording #20181109900002;

PLYMOUTH ROCKS, LLC; SDCI #3030440; approved August 15,2018; K.C. Recording  
#20180817900005;

DACODA DEVELOPMENT LLC; SDCI #3030486; approved June 11,2018; K.C. Recording  
#20180611900007;

MODERN HOMES; SDCI #3030488; approved August 08,2018; K.C. Recording #20180810900004;

PACIFIC NW SIDING WINDOWS INC; SDCI #3030530; approved June 11,2018; K.C. Recording  
#20180620900003;

SAGE HOMES NORTHWEST LLC; SDCI #3030559; approved November 02,2018; K.C. Recording  
#20181107900002;

COOMBES DEVELOPMENT; SDCI #3030566; approved September 27,2018; K.C. Recording  
#20181001900006;

COOMBES DEVELOPMENT LLC; SDCI #3030567; approved September 05,2018; K.C. Recording  
#20180907900001;

BLACKHAWK INVESTMENTS LLC; SDCI #3030587; approved July 31,2018; K.C. Recording  
#20180802900037;

BLACKHAWK INVESTMENTS III LLC; SDCI #3032177; approved November 02,2018; K.C.  
Recording #20181107900001;

PNW HOMES LLC; SDCI #3032470; approved November 30,2018; K.C. Recording  
#20181204900001;

FREMONT BLOOM INVESTMENTS LLC; SDCI #3032476; approved January 17,2019; K.C.  
Recording #20190122900002;

921 10TH AVE E LLC; SDCI #3027397; approved November 21,2018; K.C. Recording  
#20181126900002;

FIFTYSIXANDFOUR, LLC; SDCI #3029390; approved December 10,2018; K.C. Recording  
#20181212900003;

PEDERSON CLASSIC HOMES INC; SDCI #3030169; approved November 16,2018; K.C. Recording  
#20181121900010;

PEDERSON CLASSIC HOMES INC; SDCI #3030603; approved November 05,2018; K.C. Recording  
#20181106900001;

DWELL DEVELOPMENT LLC; SDCI #3030658; approved October 09,2018; K.C. Recording  
#20181011900002;

NOBLE HOMES LLC; SDCI #3030689; approved August 30,2018; K.C. Recording  
#20180904900002;

FAIRCHILD LEONARD DAVID & FAIRCHILD GRACE A; SDCI #3030705; approved September  
12,2018; K.C. Recording #20180914900004;

BLOCK II LLC; SDCI #3030726; approved September 13,2018; K.C. Recording #20180917900005;  
ARRAY BUILD LLC; SDCI #3030737; approved October 24,2018; K.C. Recording  
#20181025900004;

GREENBUILD DEVELOPMENT LLC; SDCI #3030746; approved November 26,2018; K.C.  
Recording #20181204900023;

ETHERIDGE JOYCE; SDCI #3030747; approved May 18,2018; K.C. Recording #20180529900007;  
DEP REAL ESTATE X LLC; SDCI #3030775; approved November 08,2018; K.C. Recording  
#20181109900006;

BT PROPERTY INVESTMENTS LLC; SDCI #3030782; approved August 17,2018; K.C. Recording  
#20180822900002;

BENDARE DUNDAT INC; SDCI #3030796; approved December 27,2018; K.C. Recording  
#20181231900005;

HABERZETLE HOMES LLC; SDCI #3030814; approved July 17,2018; K.C. Recording  
#20180724900008;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3030846; approved December 12,2018; K.C.  
Recording #20181213900002;

SAND POINT VIEW LLC; SDCI #3030850; approved October 29,2018; K.C. Recording  
#20181031900001;

WRBT LLC; SDCI #3030852; approved December 10,2018; K.C. Recording #20181212900002;  
KANE CONSTRUCTION LLC; SDCI #3030862; approved September 04,2018; K.C. Recording  
#20180906900001;

88 GROUIP INC; SDCI #3030877; approved November 19,2018; K.C. Recording #20181126900001;  
88 GROUIP INC; SDCI #3030878; approved November 16,2018; K.C. Recording #20181121900011;  
PERPETUITY LLC; SDCI #3030884; approved December 06,2018; K.C. Recording  
#20181207900006;

GNC LLC; SDCI #3030889; approved October 24,2018; K.C. Recording #20181025900002;  
GNC LLC; SDCI #3030975; approved April 08,2019; K.C. Recording #20190410900006;  
MODERN HOMES LLC; SDCI #3031003; approved December 18,2018; K.C. Recording  
#20181219900005;

MODERN HOMES LLC; SDCI #3031007; approved August 08,2018; K.C. Recording  
#20180810900001;

ALKISTEVENSON LLC; SDCI #3031008; approved August 27,2018; K.C. Recording  
#20180829900005;

BONNEY SHIRLEY; SDCI #3031109; approved August 30,2018; K.C. Recording #20180905900005;  
SINGLETERY GERALD; SDCI #3031153; approved November 14,2018; K.C. Recording  
#20181115900003;



R THORESON HOMES LLC; SDCI #3031215; approved November 14,2018; K.C. Recording  
#20181116900025;

EMBRACE HOME TRANSITIONS LLC; SDCI #3031267; approved November 09,2018; K.C.  
Recording #20181115900001;

ECOWORKS HOMES INC; SDCI #3031272; approved November 28,2018; K.C. Recording  
#20181130900021;

GREENBUILD DEVELOPMENT LLC; SDCI #3031277; approved October 01,2018; K.C. Recording  
#20181003900010;

ACE CONSTRUCTION SERVICES LLC; SDCI #3031322; approved December 13,2018; K.C.  
Recording #20181214900003;

LCA LLC; SDCI #3031553; approved October 05,2018; K.C. Recording #20181008900008;

WHITNEY JEFF & U CHUCHUN; SDCI #3031562; approved November 15,2018; K.C. Recording  
#20181116900028;

MCCORMICK RICHARD & MCCORMICK JILL; SDCI #3024600; approved March 22,2019; K.C.  
Recording #20190327900004;

VS INVESTMENT ASSOCIATES LLC & STELMAKH VALENTIN; SDCI #3026706; approved June  
21,2019; K.C. Recording #20190627900001;

HAQUE STEPHANIE & HAQUE MOHAMAD IMAD; SDCI #3026057; approved July 24,2019; K.C.  
Recording #20190729900004;

GCH 2265 14TH LLC; SDCI #3027758; approved June 03,2019; K.C. Recording #20190605900006;

M DEVELOPMENT LLC; SDCI #3028131; approved April 29,2019; K.C. Recording  
#20190503900005;

SOLO 51 LLC; SDCI #3028178; approved July 09,2019; K.C. Recording #20190711900002;

MODERN HOMES LLC; SDCI #3028181; approved February 22,2019; K.C. Recording

#20190226900002;

SOUND EQUITIES INC; SDCI #3028431; approved January 31,2019; K.C. Recording

#20190206900007;

DELRIDGE SEVEN LLC; SDCI #3028717; approved April 11,2019; K.C. Recording

#20190416900005;

DELRIDGE SEVEN LLC; SDCI #3028722; approved February 27,2019; K.C. Recording

#20190301900003;

DONIVAN VINCE; SDCI #3028816; approved April 15,2019; K.C. Recording #20190417900001;

MARA IMPROVEMENT LLC; SDCI #3028882; approved March 07,2019; K.C. Recording

#20190308900004;

MARA IMPROVEMENT LLC; SDCI #3028883; approved April 15,2019; K.C. Recording

#20190417900002;

TOFALEANU TEODOR & TOFALEANU MONICA; SDCI #3028973; approved July 17,2019; K.C.  
Recording #20190807900001;

DELRIDGE FIVE LLC; SDCI #3028995; approved January 03,2019; K.C. Recording

#20190107900017;

INTERBAY 14 LLC; SDCI #3029114; approved April 02,2019; K.C. Recording #20190404900002;

INTERBAY 14 LLC; SDCI #3029115; approved February 14,2019; K.C. Recording #20190220900012;

HP3 TOWNHOMES LLC; SDCI #3029266; approved January 29,2019; K.C. Recording

#20190130900001;

12051 20TH AVE NE LLC; SDCI #3029553; approved February 22,2019; K.C. Recording

#20190226900007;

MRN HOMES; SDCI #3029718; approved February 22,2019; K.C. Recording #20190227900007;

1202 5TH AVE N LLC; SDCI #3029733; approved September 24,2018; K.C. Recording

#20180926900004;

TEAM AMALFI LLC; SDCI #3029815; approved February 11,2019; K.C. Recording

#20190213900003;

ISOLA REAL ESTATE VI LLC; SDCI #3029882; approved January 15,2019; K.C. Recording

#20190116900001;

MID CITY BUILDERS LLC; SDCI #3029986; approved December 20,2018; K.C. Recording

#20190118900001;

GALER ST LLC; SDCI #3030011; approved April 12,2019; K.C. Recording #20190412900002;

DALE REBECCA; SDCI #3030024; approved May 13,2019; K.C. Recording #20190515900017;

OKOM HOMES LLC; SDCI #3030087; approved April 30,2019; K.C. Recording #20190502900001;

WASHINGTON NW HOMES LLC; SDCI #3030094; approved July 25,2019; K.C. Recording

#20190729900003;

PICKERING CHRIS H; SDCI #3030134; approved March 04,2019; K.C. Recording

#20190306900006;

GLASSHOUSE THREE LLC & PHILLIPS IZABELLA; SDCI #3030148; approved January 28,2019;

K.C. Recording #20190128900004;

DEP REAL ESTATE VI LLC; SDCI #3030240; approved March 21,2019; K.C. Recording

#20190322900005;

HOLBERG TIMOTHY & LISS JILL; SDCI #3030267; approved February 25,2019; K.C. Recording

#20190228900016;

HABERZETLE HOMES INC; SDCI #3030280; approved June 17,2019; K.C. Recording

#20190619900001;

STEELE HOMES INC; SDCI #3030293; approved March 18,2019; K.C. Recording

#20190320900009;

MRN HOMES LLC; SDCI #3030299; approved July 08,2019; K.C. Recording #20190710900010;  
HABERZETLE HOMES INC; SDCI #3030319; approved June 21,2019; K.C. Recording  
#20190627900004;  
MRN HOMES INC; SDCI #3030369; approved February 22,2019; K.C. Recording #20190226900003;  
MRN HOMES; SDCI #3030373; approved February 08,2019; K.C. Recording #20190208900009;  
MRN HOMES LLC; SDCI #3030376; approved January 30,2019; K.C. Recording #20190131900004;  
DEP REAL ESTATE VI LLC; SDCI #3030499; approved February 27,2019; K.C. Recording  
#20190228900015;  
DEP REAL ESTATE VI LLC & WESTGATE HOLDINGS II LLC; SDCI #3030500; approved  
February 25,2019; K.C. Recording #20190228900020;  
SHELTER HOMES LLC; SDCI #3030510; approved January 31,2019; K.C. Recording  
#20190206900006;  
BLOCK II LLC; SDCI #3030538; approved June 21,2019; K.C. Recording #20190627900002;  
SAGE HOMES NORTHWEST LLC; SDCI #3030546; approved January 07,2019; K.C. Recording  
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MID CITY BUILDERS LLC; SDCI #3032094; approved April 19,2019; K.C. Recording  
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TONEDOS LLC; SDCI #3032112; approved January 29,2019; K.C. Recording #20190131900003;  
GREEN CANOPY HOMES; SDCI #3032132; approved January 07,2019; K.C. Recording  
#20190109900008;  
MRN HOMES LLC; SDCI #3032151; approved September 30,2019; K.C. Recording  
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SOUTH BEACON CAT LLC; SDCI #3032162; approved September 05,2019; K.C. Recording  
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SOUTH BEACON CAT LLC; SDCI #3032164; approved September 11,2019; K.C. Recording  
#20190913900001;

AA ASHWORTH DEVELOPMENT LLC; SDCI #3032172; approved March 11,2019; K.C. Recording  
#20190313900002;

NW INVESTMENT BUILDERS LLC; SDCI #3032183; approved March 13,2019; K.C. Recording  
#20190315900001;

LINDGREN JOHN D; SDCI #3032202; approved January 16,2019; K.C. Recording  
#20190118900002;

CHIEFTAIN LLC; SDCI #3032231; approved April 23,2019; K.C. Recording #20190425900001;  
BLUE FERN DEVELOPMENT LLC; SDCI #3032310; approved May 21,2019; K.C. Recording  
#20190522900005;

SAGE HOMES NORTHWEST LLC; SDCI #3032315; approved July 22,2019; K.C. Recording  
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DIMA CONSTRUCTION LLC; SDCI #3032316; approved October 09,2019; K.C. Recording  
#20191010900003;

TONEDOS LLC; SDCI #3032319; approved September 20,2019; K.C. Recording #20190924900001;  
ISOLA REAL ESTATE IV LLC; SDCI #3032320; approved September 20,2019; K.C. Recording  
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SAGE HOMES NORTHWEST LLC; SDCI #3032321; approved August 30,2019; K.C. Recording  
#20190905900008;

HOWLING FARMS LLC; SDCI #3032324; approved August 08,2019; K.C. Recording  
#20190812900001;

CALIFORNIA TOWNHOMES LLC; SDCI #3032325; approved June 21,2019; K.C. Recording  
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LEE STREET LOFTS LLC; SDCI #3032328; approved April 24,2019; K.C. Recording  
#20190429900002;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3032329; approved July 11,2019; K.C.  
Recording #20190715900004;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3032330; approved July 01,2019; K.C.  
Recording #20190709900005;

ISOLA REAL ESTATE VI LLC; SDCI #3032331; approved March 27,2019; K.C. Recording  
#20190329900004;

MRN HOMES LLC; SDCI #3032332; approved September 03,2019; K.C. Recording  
#20190904900004;

BLUE FERN DEVELOPMENT LLC; SDCI #3032333; approved May 10,2019; K.C. Recording  
#20190515900007;

BLOCK II LLC; SDCI #3032334; approved April 18,2019; K.C. Recording #20190426900002;  
REDHAUS LLC; SDCI #3032347; approved April 25,2019; K.C. Recording #20190429900003;  
BLUE FERN DEVELOPMENT LLC; SDCI #3032386; approved March 28,2019; K.C. Recording  
#20190401900008;

7749 METRICS LLC; SDCI #3032387; approved September 26,2019; K.C. Recording  
#20190927900004;

LBD HOMES LLC; SDCI #3032388; approved August 07,2019; K.C. Recording #20190808900013;  
SEATTLE NWRE LLC; SDCI #3032392; approved August 22,2019; K.C. Recording  
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PERPETUITY LLC; SDCI #3032432; approved July 17,2019; K.C. Recording #20190723900001;

CORSON ROW LLC; SDCI #3032460; approved April 29,2019; K.C. Recording #20190503900001;

BLOCK II LLC; SDCI #3032475; approved February 04,2019; K.C. Recording #20190207900006;

ROLAND DEVELOPMENT LLC; SDCI #3032478; approved April 01,2019; K.C. Recording  
#20190402900001;

WALTERS CALEB & WALTERS DARON; SDCI #3032493; approved February 14,2019; K.C.  
Recording #20190219900031;

SEATTLE CUSTOM HOMES LLC; SDCI #3032501; approved June 21,2019; K.C. Recording  
#20190625900011;

BROAD PROSPECTS LLC; SDCI #3032505; approved June 03,2019; K.C. Recording  
#20190607900003;

BUILD SOUND LLC; SDCI #3032507; approved March 14,2019; K.C. Recording #20190315900004;  
MRP INC; SDCI #3032528; approved January 31,2019; K.C. Recording #20190206900008;  
CITY OLYMPIC LLC; SDCI #3032544; approved March 26,2019; K.C. Recording #20190328900008;  
SENSA HOMES LP; SDCI #3032565; approved August 07,2019; K.C. Recording #20190808900015;  
SENSA HOMES LP; SDCI #3032566; approved September 24,2019; K.C. Recording  
#20190925900001;

GERARDY JUSTIN M; SDCI #3032567; approved July 11,2019; K.C. Recording #20190715900006;  
EMINENCE LLC; SDCI #3032568; approved February 22,2019; K.C. Recording #20190226900005;  
GREENBUILD DEVELOPMENT LLC; SDCI #3032569; approved March 19,2019; K.C. Recording  
#20190321900003;

GREENBUILD DEVELOPMENT; SDCI #3032570; approved August 01,2019; K.C. Recording  
#20190805900003;

LGC UW PORTFOLIO I LLC; SDCI #3032573; approved February 25,2019; K.C. Recording  
#20190227900003;

GREENBUILD DEVELOPMENT LLC; SDCI #3032575; approved May 09,2019; K.C. Recording  
#20190510900002;

COOMBS DEVELOPMENT; SDCI #3032581; approved February 06,2019; K.C. Recording  
#20190206900009;

RUFFHOUSE DEVELOPMENT; SDCI #3032582; approved March 19,2019; K.C. Recording  
#20190321900001;

NORTHWEST NEIGHBORHOODS LLC; SDCI #3032583; approved April 10,2019; K.C. Recording  
#20190411900005;

CAMPBELL BRIAN D; SDCI #3032584; approved September 04,2019; K.C. Recording  
#20190905900004;

CRAFTED DESIGN BUILD LLC; SDCI #3032585; approved April 25,2019; K.C. Recording  
#20190429900001;

MRP INC; SDCI #3032586; approved February 22,2019; K.C. Recording #20190226900006;

INCA BUILDERS LLC; SDCI #3032629; approved August 07,2019; K.C. Recording  
#20190809900011;

SAGE HOMES NORTHWEST LLC; SDCI #3032653; approved April 18,2019; K.C. Recording  
#20190424900003;

SAGE HOMES NORTHWEST LLC; SDCI #3032654; approved August 30,2019; K.C. Recording  
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MASCHMEDT ANTHONY& BEHAN-MASCHMEDT ABBEY; SDCI #3032672; approved April  
19,2019; K.C. Recording #20190424900007;

BEAU DEVELOPMENT INC; SDCI #3032707; approved April 19,2019; K.C. Recording  
#20190426900005;

CRAFTED DESIGN BUILD LLC; SDCI #3032712; approved March 07,2019; K.C. Recording  
#20190308900003;

CRAFTED DESIGN BUILD LLC; SDCI #3032713; approved March 27,2019; K.C. Recording



#20190329900005;

CHESELDON HOMES LLC; SDCI #3032721; approved May 29,2019; K.C. Recording

#20190531900006;

HIGHGARDEN LLC; SDCI #3032726; approved January 15,2019; K.C. Recording #20190116900005;

MRN HOMES LLC; SDCI #3032733; approved May 07,2019; K.C. Recording #20190508900005;

616 DEVELOPMENT LLC; SDCI #3032746; approved July 01,2019; K.C. Recording

#20190703900003;

4406 FRANCIS AVE N LLC; SDCI #3032773; approved May 29,2019; K.C. Recording

#20190531900004;

SKY MARK LLC; SDCI #3032805; approved March 27,2019; K.C. Recording #20190328900002;

LGC UW PORTFOLIO I LLC; SDCI #3032806; approved May 03,2019; K.C. Recording

#20190508900014;

ONE 356 LLC; SDCI #3032815; approved April 10,2019; K.C. Recording #20190411900002;

VOSS JOHN & VOSS REVOCABLE TRUST; SDCI #3032816; approved April 24,2019; K.C.

Recording #20190426900010;

817 24TH AVE S LLC; SDCI #3032819; approved April 01,2019; K.C. Recording #20190402900003;

COOMBES DEVELOPMENT LLC; SDCI #3032820; approved January 29,2019; K.C. Recording

#20190130900003;

GREEN CANOPY HOMES LLC; SDCI #3032821; approved August 26,2019; K.C. Recording

#20190828900003;

MACE HOMES; SDCI #3032822; approved June 20,2019; K.C. Recording #20190625900006;

TESORO HOMES LLC; SDCI #3032823; approved April 15,2019; K.C. Recording #20190418900001;

BLACKHAWK INVESTMENTS LLC; SDCI #3032826; approved June 26,2019; K.C. Recording

#20190703900002;

MIRRA 111 LLC; SDCI #3032833; approved October 14,2019; K.C. Recording #20191015900001;  
SEADOG CONSTRUCTION LLC; SDCI #3032850; approved June 05,2019; K.C. Recording  
#20190607900005;

MIRRA 111 LLC; SDCI #3032857; approved October 16,2019; K.C. Recording #20191017900017;  
ARMINTROUT HOMES CORPORATION; SDCI #3032885; approved May 15,2019; K.C. Recording  
#20190520900003;

MRN HOMES LLC; SDCI #3032902; approved April 19,2019; K.C. Recording #20190424900005;  
MRN HOMES; SDCI #3032903; approved February 08,2019; K.C. Recording #20190208900010;  
MRN HOMES LLC; SDCI #3032904; approved February 25,2019; K.C. Recording #20190228900014;  
TOP FLOOR HOMES LLC; SDCI #3032905; approved February 08,2019; K.C. Recording  
#20190214900032;

MIRRA 100 LLC; SDCI #3032907; approved May 15,2019; K.C. Recording #20190517900008;  
HOMESLICE LLC; SDCI #3032914; approved July 15,2019; K.C. Recording #20190717900014;  
GERRY HOMES LLC; SDCI #3032918; approved August 26,2019; K.C. Recording  
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NEWALL HOMES LLC; SDCI #3032920; approved March 21,2019; K.C. Recording  
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BLACKWOOD HOLDINGS X LLC; SDCI #3032922; approved May 09,2019; K.C. Recording  
#20190514900001;

622 10TH AVE E LLC; SDCI #3032923; approved June 13,2019; K.C. Recording #20190614900001;  
622 10TH AVE E LLC; SDCI #3032924; approved March 25,2019; K.C. Recording #20190327900002;  
AURORA & 46TH LLC; SDCI #3032939; approved July 29,2019; K.C. Recording #20190731900004;  
STORYBOOK MANOR LLC; SDCI #3032945; approved May 30,2019; K.C. Recording  
#20190531900003;

MACE HOMES LLC; SDCI #3032950; approved May 15,2019; K.C. Recording #20190520900002;  
EPIC HOMES INC; SDCI #3032952; approved May 23,2019; K.C. Recording #20190528900001;  
SILVERADO DEVELOPMENT LLC; SDCI #3032953; approved June 21,2019; K.C. Recording  
#20190627900003;

MID CITY BUILDERS LLC; SDCI #3032966; approved September 30,2019; K.C. Recording  
#20191001900002;

MID CITY BUILDERS LLC; SDCI #3032967; approved September 30,2019; K.C. Recording  
#20191002900006;

DEP REAL ESTATE X LLC; SDCI #3032969; approved September 20,2019; K.C. Recording  
#20190924900003;

MARION PARTNERS LLC; SDCI #3032970; approved June 04,2019; K.C. Recording  
#20190607900002;

GREENSTREAM INVESTMENTS LLC; SDCI #3032974; approved May 28,2019; K.C. Recording  
#20190530900007;

DEP REAL ESTATE VI LLC; SDCI #3032975; approved June 10,2019; K.C. Recording  
#20190613900009;

DEP REAL ESTATE VIII LLC; SDCI #3032977; approved May 22,2019; K.C. Recording  
#20190523900001;

HUGHES SHANNON K & KRAUSE PETER R; SDCI #3032986; approved June 17,2019; K.C.  
Recording #20190619900006;

DOLOMITE EQUITY GROUP LLC; SDCI #3033039; approved September 30,2019; K.C. Recording  
#20190930900002;

BRING IT ON HOMES; SDCI #3033050; approved June 04,2019; K.C. Recording #20190605900005;  
STEELE HOMES INC; SDCI #3033061; approved May 17,2019; K.C. Recording #20190522900003;

MODERN HOMES; SDCI #3033078; approved June 10,2019; K.C. Recording #20190612900020;

REFINO HOMES; SDCI #3033105; approved March 21,2019; K.C. Recording #20190322900004;

CHIEFTAIN LLC; SDCI #3033106; approved June 04,2019; K.C. Recording #20190605900010;

BROTHERS K DEVELOPMENT LLC; SDCI #3033128; approved May 13,2019; K.C. Recording  
#20190515900004;

STORYBOOK MANOR LLC; SDCI #3033129; approved May 13,2019; K.C. Recording  
#20190515900010;

AKA INVESTORS LLC; SDCI #3033144; approved August 07,2019; K.C. Recording  
#20190809900010;

BLUEPRINT CAPITAL SERVICES LLC; SDCI #3033170; approved September 12,2019; K.C.  
Recording #20190916900006;

KANEBUILT LLC; SDCI #3033188; approved May 02,2019; K.C. Recording #20190503900008;

KANEBUILT LLC; SDCI #3033189; approved April 19,2019; K.C. Recording #20190424900004;

PACIFIC NW SIDING & WINDOWS INC; SDCI #3033194; approved May 30,2019; K.C. Recording  
#20190531900007;

ECOWORKS HOMES INC; SDCI #3033198; approved May 28,2019; K.C. Recording  
#20190530900005;

PALANY GROUP LTD; SDCI #3033199; approved July 31,2019; K.C. Recording #20190802900003;

TOP FLOOR HOMES LLC; SDCI #3033201; approved August 28,2019; K.C. Recording  
#20190903900003;

ASHLEY REMODELING & CONSTRUCTION INC; SDCI #3033204; approved May 15,2019; K.C.  
Recording #20190517900005;

WESTCOST HOMES LLC; SDCI #3033206; approved July 31,2019; K.C. Recording  
#20190802900002;

STEELE HOMES INC; SDCI #3033208; approved May 14,2019; K.C. Recording #20190515900012;  
TOP FLOOR HOMES LLC; SDCI #3033209; approved June 12,2019; K.C. Recording  
#20190612900023;  
EBM RE IV LLC; SDCI #3033211; approved June 21,2019; K.C. Recording #20190625900001;  
BUILD SOUND LLC; SDCI #3033216; approved August 28,2019; K.C. Recording #20190904900009;  
BLACKWOOD HOLDINGS XIV LLC; SDCI #3033233; approved July 18,2019; K.C. Recording  
#20190722900002;  
JRO & CWD I LLC; SDCI #3033237; approved July 08,2019; K.C. Recording #20190710900005;  
LAKE CITY LLC; SDCI #3033238; approved September 17,2019; K.C. Recording #20190918900001;  
WESTCOAST HOMES LLC; SDCI #3033240; approved July 22,2019; K.C. Recording  
#20190725900002;  
FERNANDEZ & BARNES LLC; SDCI #3033242; approved July 09,2019; K.C. Recording  
#20190711900001;  
LINCOLN JEFF B & LINCOLN SHELLEY D & ASHINHURST HOLLY & KELLY DANIEL  
MATTHEW; SDCI #3033243; approved March 29,2019; K.C. Recording #20190402900005;  
ISOLA REAL ESTATE VI LLC; SDCI #3033245; approved September 03,2019; K.C. Recording  
#20190905900003;  
ISOLA REAL ESTATE IV LLC; SDCI #3033246; approved September 30,2019; K.C. Recording  
#20191002900002;  
SH & SI HOLDINGS LLC; SDCI #3033247; approved June 03,2019; K.C. Recording  
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MRN HOMES LLC; SDCI #3033250; approved July 29,2019; K.C. Recording #20190730900002;  
SENSA HOMES LP; SDCI #3033268; approved September 20,2019; K.C. Recording  
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PALANY GROUP LTD; SDCI #3033279; approved July 15,2019; K.C. Recording #20190717900013;

KANEBUILT LLC; SDCI #3033285; approved July 25,2019; K.C. Recording #20190730900001;

BUILD SOUND LLC; SDCI #3033289; approved September 03,2019; K.C. Recording

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BRACE DEVELOPMENT LLC; SDCI #3033309; approved August 05,2019; K.C. Recording

#20190808900005;

REFINO HOMES OF WASHINGTON LLC; SDCI #3033310; approved April 18,2019; K.C.

Recording #20190424900001;

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SENSA HOMES LP; SDCI #3033323; approved September 03,2019; K.C. Recording

#20190903900004;

COLLZ INC; SDCI #3033329; approved April 10,2019; K.C. Recording #20190411900004;

MURRAY-BRANDON ST; SDCI #3033330; approved July 09,2019; K.C. Recording

#20190712900003;

STEELE HOMES INC; SDCI #3033350; approved April 16,2019; K.C. Recording #20190418900006;

C & H FUNDING LLC; SDCI #3033371; approved June 03,2019; K.C. Recording #20190606900002;

DL BUILDERS LLC; SDCI #3033383; approved August 19,2019; K.C. Recording #20190821900004;

ISOLA REAL ESTATE VI LLC; SDCI #3033385; approved September 09,2019; K.C. Recording

#20190911900002;

ISOLA REAL ESTATE VI LLC; SDCI #3033386; approved September 11,2019; K.C. Recording

#20190917900004;

ISOLA REAL ESTATE VI LLC; SDCI #3033387; approved August 07,2019; K.C. Recording  
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HABERZETLE HOME INC; SDCI #3033397; approved May 08,2019; K.C. Recording  
#20190604900003;

ARRAY BUILD LLC; SDCI #3033400; approved July 22,2019; K.C. Recording #20190724900003;  
SHOREWOOD HOMES INC; SDCI #3033420; approved August 07,2019; K.C. Recording  
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MMCC INVESTMENTS LLC; SDCI #3033428; approved October 02,2019; K.C. Recording  
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LGC UW PORTFOLIO III LLC; SDCI #3033444; approved August 14,2019; K.C. Recording  
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LGC UW PORTFOLIO 1 LLC; SDCI #3033445; approved September 16,2019; K.C. Recording  
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LGC UW PORTFOLIO 1 LLC; SDCI #3033451; approved June 11,2019; K.C. Recording  
#20190612900024;

SOUND TRANSIT; SDCI #3033453; approved September 30,2019; K.C. Recording  
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CANUSA HOMES LLC; SDCI #3033484; approved September 09,2019; K.C. Recording  
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GCH 3251 COMMODORE LLC; SDCI #3033492; approved August 07,2019; K.C. Recording  
#20190808900008;

CANUSA HOMES LLC; SDCI #3033498; approved September 09,2019; K.C. Recording  
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URBAN ARTS AT 34TH LLC; SDCI #3033510; approved August 19,2019; K.C. Recording

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JTNKDAUGHERTY LLC; SDCI #3033523; approved July 15,2019; K.C. Recording

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WEST SEATTLE CHRISTIAN CHURCH; SDCI #3033573; approved July 15,2019; K.C. Recording

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COLLZ INC; SDCI #3033575; approved May 13,2019; K.C. Recording #20190515900008;

COLLZ INC; SDCI #3033578; approved May 09,2019; K.C. Recording #20190513900005;

921 10TH AVE E LLC; SDCI #3027398; approved April 24,2019; K.C. Recording #20190426900001;

PELKEY RICHARD; SDCI #3030621; approved April 04,2019; K.C. Recording #20190408900016;

NOBLE HOMES; SDCI #3030676; approved March 19,2019; K.C. Recording #20190321900002;

MIHLON MATTHEW; SDCI #3030687; approved February 14,2019; K.C. Recording

#20190219900023;

FOUNTAIN INVESTMENT LLC; SDCI #3030715; approved August 06,2019; K.C. Recording

#20190813900010;

2442 NW 61ST ST PARTNERS LLC; SDCI #3030716; approved April 10,2019; K.C. Recording

#20190411900003;

STORYBOOK MANOR LLC; SDCI #3030720; approved March 21,2019; K.C. Recording

#20190325900002;

NORTHWEST PROPERTY HOLDINGS LLC; SDCI #3030770; approved March 04,2019; K.C.

Recording #20190306900004;

GREEN CANOPY HOMES; SDCI #3030776; approved January 18,2019; K.C. Recording

#20190122900001;

HMS ENDER 888 LLC; SDCI #3030797; approved April 23,2019; K.C. Recording #20190425900003;

ISOLA REAL ESTATE VII LLC; SDCI #3030815; approved May 09,2019; K.C. Recording



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LAKESIDE B LLC; SDCI #3030818; approved February 14,2019; K.C. Recording #20190219900017;

ISOLA REAL ESTATE VI LLC; SDCI #3030844; approved July 01,2019; K.C. Recording

#20190703900001;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3030847; approved June 21,2019; K.C.

Recording #20190626900002;

REFINO HOMES OF WASHINGTON LLC; SDCI #3030883; approved July 01,2019; K.C. Recording

#20190710900001;

VALCOR HOLDINGS LLC; SDCI #3030899; approved January 24,2019; K.C. Recording

#20190124900005;

KANE CONSTRUCTION LLC; SDCI #3030914; approved January 17,2019; K.C. Recording

#20190118900004;

BEAU DEVELOPMENT INC; SDCI #3030938; approved January 28,2019; K.C. Recording

#20190130900002;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3030958; approved July 01,2019; K.C.

Recording #20190712900002;

EVERGREEN PACIFIC HOLDINGS INC; SDCI #3030960; approved July 08,2019; K.C. Recording

#20190710900007;

MRN HOMES LLC; SDCI #3030963; approved July 31,2019; K.C. Recording #20190802900004;

MRN HOMES LLC & PHILLIPS IZABELLA; SDCI #3030964; approved January 28,2019; K.C.

Recording #20190128900001;

GNC LLC; SDCI #3030974; approved February 06,2019; K.C. Recording #20190208900006;

GNC LLC; SDCI #3030975; approved April 08,2019; K.C. Recording #20190410900006;

MODERN HOMES LLC; SDCI #3031005; approved February 22,2019; K.C. Recording

#20190226900004;

MRN HOMES LLC; SDCI #3031015; approved July 17,2019; K.C. Recording #20190723900008;

MRN HOMES LLC; SDCI #3031024; approved May 13,2019; K.C. Recording #20190515900002;

12TH AVE S LLC; SDCI #3031099; approved March 04,2019; K.C. Recording #20190306900003;

ISOLA REAL ESTATE V LLC; SDCI #3031124; approved March 28,2019; K.C. Recording

#20190401900009;

LAKE CITY LLC; SDCI #3031137; approved March 21,2019; K.C. Recording #20190322900003;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3031154; approved August 14,2019; K.C.

Recording #20190816900004;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3031155; approved April 02,2019; K.C.

Recording #20190404900001;

CONTEMPORARY BUILDERS GROUP; SDCI #3031160; approved October 08,2019; K.C.

Recording #20191011900006;

PERPETUITY LLC; SDCI #3031169; approved March 15,2019; K.C. Recording #20190320900001;

ISOLA REAL ESTATE VI LLC; SDCI #3031198; approved September 30,2019; K.C. Recording

#20191002900011;

2371 MINOR AVENUE EAST LLC; SDCI #3031318; approved February 11,2019; K.C. Recording

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SEATTLE CUSTOM HOMES LLC; SDCI #3031324; approved May 09,2019; K.C. Recording

#20190510900003;

HALF STAR LLC; SDCI #3031335; approved April 19,2019; K.C. Recording #20190424900009;

GREENBUILD DEVELOPMENT LLC; SDCI #3031374; approved August 07,2019; K.C. Recording

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JABOODA HOMES INC; SDCI #3031408; approved January 02,2019; K.C. Recording

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2371 MINOR AVE E LLC; SDCI #3031422; approved April 16,2019; K.C. Recording

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ISOLA BUILDERS INC; SDCI #3031437; approved September 05,2019; K.C. Recording

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ISOLA BUILDERS INC; SDCI #3031438; approved October 08,2019; K.C. Recording

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ISOLA REAL ESTATE V LLC; SDCI #3031441; approved February 27,2019; K.C. Recording

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BRANDON 6 LLC; SDCI #3031499; approved April 02,2019; K.C. Recording #20190404900003;

921 10TH AVE E LLC; SDCI #3031501; approved April 30,2019; K.C. Recording #20190503900007;

MRN HOMES LLC; SDCI #3031532; approved March 27,2019; K.C. Recording #20190328900005;

MODERN CITY LLC; SDCI #3031537; approved March 18,2019; K.C. Recording #20190320900008;

MODERN CITY LLC; SDCI #3031538; approved February 11,2019; K.C. Recording

#20190213900002;

MORELLA AFFARI LLC & SMV GREGORY LLC; SDCI #3031543; approved April 10,2019; K.C.

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DONIVAN VINCE L; SDCI #3031545; approved April 25,2019; K.C. Recording #20190429900004;

MRN HOMES LLC; SDCI #3031549; approved March 06,2019; K.C. Recording #20190308900002;

JOHNSON TREVOR J & JOHNSON MELISSA L; SDCI #3031555; approved March 26,2019; K.C.

Recording #20190328900007;

DONIVAN VINCE L; SDCI #3031570; approved April 25,2019; K.C. Recording #20190429900005;

MID CITY BUILDERS LLC; SDCI #3031619; approved April 19,2019; K.C. Recording

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SENSA HOMES LP; SDCI #3031620; approved June 20,2019; K.C. Recording #20190628900002;  
HAUS INC; SDCI #3031621; approved February 06,2019; K.C. Recording #20190208900011;  
HAUS LLC; SDCI #3031622; approved February 06,2019; K.C. Recording #20190208900012;  
ISOLA REAL ESTATE VII LLC; SDCI #3031624; approved August 19,2019; K.C. Recording  
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ISOLA REAL ESTATE VII LLC; SDCI #3031632; approved June 11,2019; K.C. Recording  
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MODERN HOMES LLC; SDCI #3031634; approved January 10,2019; K.C. Recording  
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MODERN HOMES LLC; SDCI #3031662; approved May 02,2019; K.C. Recording  
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PALANY GROUP LTD; SDCI #3031686; approved July 15,2019; K.C. Recording #20190716900012;  
LNS CONSTRUCTION; SDCI #3031704; approved February 11,2019; K.C. Recording  
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ORCAS HOMES LL; SDCI #3031741; approved June 26,2019; K.C. Recording #20190628900001;  
SHOREWOOD HOMES INC; SDCI #3031754; approved June 17,2019; K.C. Recording  
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JABOODA HOMES INC; SDCI #3031766; approved March 21,2019; K.C. Recording  
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BRACE DEVELOPMENT LLC; SDCI #3033618; approved September 16,2019; K.C. Recording  
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HAUSLEBAUER LLC; SDCI #3033622; approved August 20,2019; K.C. Recording

#20190821900005;

1520 PROPERTIES LLC; SDCI #3033674; approved June 10,2019; K.C. Recording

#20190612900021;

STORYBOOK MANOR LLC; SDCI #3033710; approved July 03,2019; K.C. Recording

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GREENBUILD DEVELOPMENT LLC; SDCI #3033715; approved September 12,2019; K.C.

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WEST COAST CUSTOM HOMES LLC; SDCI #3033718; approved September 30,2019; K.C.

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NI TING & NI ZHANM; SDCI #3033809; approved September 26,2019; K.C. Recording

#20190927900002;

DL BUILDERS LLC; SDCI #3033810; approved August 08,2019; K.C. Recording #20190813900011;

BEACON CAT LLC; SDCI #3033841; approved September 24,2019; K.C. Recording

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NOBLE HOMES LLC; SDCI #3033851; approved August 20,2019; K.C. Recording

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3401 LOFTS LLC; SDCI #3033908; approved August 19,2019; K.C. Recording #20190821900002;

JMS HOMES INC; SDCI #3033915; approved October 01,2019; K.C. Recording #20191003900003;

BEAU DEVELOPMENT INC; SDCI #3033945; approved October 01,2019; K.C. Recording

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MCCONAGHY ERIC & MCCONAGHY VANESSA; SDCI #3033974; approved October 15,2019;

K.C. Recording #20191017900016;

ALL DAY BUILT LLC; SDCI #3033977; approved September 20,2019; K.C. Recording

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R THORESON HOMES LLC; SDCI #3033997; approved August 14,2019; K.C. Recording  
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ROLAND DEVELOPMENT LLC; SDCI #3034005; approved September 19,2019; K.C. Recording  
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PNM HOMES LLC; SDCI #3034075; approved September 24,2019; K.C. Recording  
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CHEBAN NATALYA; SDCI #3034150; approved September 30,2019; K.C. Recording  
#20191002900004;

DUFFUS DANIEL & DUFFUS LINDA A; SDCI #3034369; approved October 03,2019; K.C.  
Recording #20191007900004;

9308 57TH AVE S LLC; SDCI #3026956; approved December 13,2019; K.C. Recording  
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ROWLING INVESTMENTS LLC; SDCI #3030118; approved November 19,2019; K.C. Recording  
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CONTEMPORARY BUILDERS GROUP; SDCI #3030399; approved October 31,2019; K.C.  
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VINIKOW JOSEPH; SDCI #3032060; approved December 16,2019; K.C. Recording  
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AA ASHWORTH DEVELOPMENT; SDCI #3032147; approved November 05,2019; K.C. Recording  
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ISOLA REAL ESTATE VI LLC; SDCI #3032196; approved November 13,2019; K.C. Recording  
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GREENBUILD DEVELOPMENT LLC; SDCI #3032203; approved December 09,2019; K.C.  
Recording #20191210900004;

BURNSIDE TARSI & MAHARDY AMY; SDCI #3032224; approved November 05,2019; K.C.

Recording #20191107900014;

SAGE HOMES NORTHWEST LLC; SDCI #3032322; approved November 06,2019; K.C. Recording

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ISOLA REAL ESTATE V LLC; SDCI #3032327; approved December 04,2019; K.C. Recording

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ASHWORTH HOMES LLC; SDCI #3032343; approved November 04,2019; K.C. Recording

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TANG REAL ESTATE INVESTMENTS INC; SDCI #3032543; approved December 11,2019; K.C.

Recording #20191213900002;

LGC UW PORTFOLIO I LLC; SDCI #3032572; approved November 15,2019; K.C. Recording

#20191119900006;

NOR-PAC CONSTRUCTION RESOURCES; SDCI #3032576; approved October 10,2019; K.C.

Recording #20191204900008;

115 MADISON VALLEY LLC; SDCI #3032579; approved December 12,2019; K.C. Recording

#20191213900001;

XU LIN; SDCI #3032719; approved October 28,2019; K.C. Recording #20191108900001;

MOKAN HOMES LLC; SDCI #3032825; approved December 05,2019; K.C. Recording

#20191206900003;

WHITMAN LLC & LUCKY LOU LLC; SDCI #3032916; approved December 05,2019; K.C.

Recording #20191209900001;

WHITMAN LLC; SDCI #3032917; approved November 15,2019; K.C. Recording #20191119900004;

SHLEVICH BETA LLC; SDCI #3032972; approved November 15,2019; K.C. Recording

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SHLEVICH BETA LLC; SDCI #3032973; approved November 06,2019; K.C. Recording

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DEP REAL ESTATE VI LLC; SDCI #3032976; approved November 07,2019; K.C. Recording

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FILTHY LLC; SDCI #3033052; approved November 08,2019; K.C. Recording #20191113900011;

MRN HOMES LLC; SDCI #3033252; approved November 04,2019; K.C. Recording

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ISOLA REAL ESTATE VI LLC; SDCI #3033271; approved November 06,2019; K.C. Recording

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GREENBUILD DEVELOPMENT LLC; SDCI #3033373; approved December 04,2019; K.C.

Recording #20191205900007;

DL BUILDERS LLC; SDCI #3033485; approved November 07,2019; K.C. Recording

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SAGE HOMES NORTHWEST LLC; SDCI #3033513; approved October 28,2019; K.C. Recording

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ISOLA REAL ESTATE VII LLC; SDCI #3033528; approved November 15,2019; K.C. Recording

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MRN HOMES LLC; SDCI #3033542; approved November 07,2019; K.C. Recording

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BBD SIX LLC; SDCI #3033565; approved November 19,2019; K.C. Recording #20191120900004;

ISOLA CONSTRUCTION INC; SDCI #3030635; approved November 01,2019; K.C. Recording

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ISOLA CONSTRUCTION LLC; SDCI #3030636; approved October 28,2019; K.C. Recording

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ISOLA CONSTRUCTION INC; SDCI #3030637; approved October 29,2019; K.C. Recording  
#20191030900018;

CONTEMPORARY BUILDERS GROUP LLC; SDCI #3030956; approved November 04,2019; K.C.  
Recording #20191107900022;

SEATTLE CUSTOM HOMES LLC; SDCI #3031149; approved October 28,2019; K.C. Recording  
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STERLING LAND ACQUISITIONS LLC; SDCI #3031163; approved October 24,2019; K.C.  
Recording #20191028900002;

ISOLA REAL ESTATE V LLC; SDCI #3031550; approved October 29,2019; K.C. Recording  
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SENSA HOMES LP; SDCI #3031610; approved November 05,2019; K.C. Recording  
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BDR URBAN 24 LLC; SDCI #3031737; approved October 24,2019; K.C. Recording  
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CRAFTED DESIGN BUILD LLC; SDCI #3033692; approved November 05,2019; K.C. Recording  
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62ND AVENUE SW LLC; SDCI #3033716; approved December 11,2019; K.C. Recording  
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62ND AVENUE SW LLC; SDCI #3033717; approved November 13,2019; K.C. Recording  
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WALLYLITE LLC; SDCI #3033736; approved October 29,2019; K.C. Recording #20191031900003;  
9736 WOODLAWN LLC; SDCI #3033844; approved November 04,2019; K.C. Recording  
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GENESEE ST LLC; SDCI #3033852; approved November 05,2019; K.C. Recording

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ALONGI DAVID & TYSON TIMOTHY & OBERMILLER IAN & OBERMILLER OLIVIA; SDCI #3033867; approved December 04,2019; K.C. Recording #20191206900006;

BOWE JARED & BOWE JENECIA & DOVEY JENNIFER & DOVEY JAC; SDCI #3033880; approved September 30,2019; K.C. Recording #20191030900024;

DEP HOLDINGS I LLC; SDCI #3033883; approved October 22,2019; K.C. Recording #20191025900001;

C&H FUNDING LLC; SDCI #3033906; approved October 22,2019; K.C. Recording #20191025900002;

BROTHERS K DEVELOPMENT LL; SDCI #3033909; approved November 01,2019; K.C. Recording #20191107900009;

COLUMBIA BUILDERS INC; SDCI #3033920; approved December 04,2019; K.C. Recording #20191205900006;

PERPETUITY LLC; SDCI #3033923; approved November 06,2019; K.C. Recording #20191209900004;

COLLZ INC; SDCI #3033926; approved November 15,2019; K.C. Recording #20191119900001;  
RESOLUTE BUILDERS LLC; SDCI #3034017; approved December 11,2019; K.C. Recording #20191212900004;

GLASSHOUSE FOUR LLC; SDCI #3034019; approved December 11,2019; K.C. Recording #20191212900002;

GLASSHOUSE FOUR LLC; SDCI #3034022; approved December 02,2019; K.C. Recording #20191205900008;

ALL DAY BUILT LLC; SDCI #3034026; approved November 04,2019; K.C. Recording #20191107900002;

ECOBUILDERS LLC; SDCI #3034088; approved November 07,2019; K.C. Recording  
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BUILDERS SYNDICATE; SDCI #3034090; approved December 09,2019; K.C. Recording  
#20191210900006;

GREENBUILD DEVELOPMENT LLC; SDCI #3034092; approved November 19,2019; K.C.  
Recording #20191120900002;

NW CONTOUR BUILDING COMPANY; SDCI #3034094; approved December 05,2019; K.C.  
Recording #20191209900006;

CHEBAN NATALYA; SDCI #3034152; approved November 04,2019; K.C. Recording  
#20191107900006;

CRAFTED DESIGN BUILD LLC; SDCI #3034156; approved December 05,2019; K.C. Recording  
#20191209900005;

ANDERSON GREG & ANDERSON LENA & HANSEN MIKE & HANSEN MIRIAM; SDCI  
#3034323; approved December 09,2019; K.C. Recording #20191210900005;

GREEN CANOPY HOMES LLC; SDCI #3034383; approved December 12,2019; K.C. Recording  
#20191216900004;

HOMESLICE LLC; SDCI #3034385; approved November 06,2019; K.C. Recording  
#20191108900004;

DEP REAL ESTATE VI LLC; SDCI #3034417; approved November 18,2019; K.C. Recording  
#20191119900002;

RT GROUP LLC; SDCI #3034451; approved December 04,2019; K.C. Recording #20191205900005;  
BEAU DEVELOPMENT INC; SDCI #3034467; approved November 18,2019; K.C. Recording  
#20191120900001;

HABITAT 33 LLC; SDCI #3034478; approved December 04,2019; K.C. Recording #20191206900004;

GREEN WAY HOMES LLC; SDCI #3034497; approved November 15,2019; K.C. Recording  
#20191119900003;

STEELE HOMES INC; SDCI #3034516; approved December 05,2019; K.C. Recording  
#20191209900002;

COOMBES DEVELOPMENT LLC; SDCI #3034529; approved November 06,2019; K.C. Recording  
#20191108900002;

MAX BLUE LLC; SDCI #3034531; approved November 13,2019; K.C. Recording #20191115900003;  
PERPETUITY LLC; SDCI #3034554; approved December 02,2019; K.C. Recording  
#20191204900009;

EPIC HOMES INC; SDCI #3034561; approved October 29,2019; K.C. Recording #20191101900002;  
ALL DAY PROPERTIES LLC; SDCI #3034573; approved December 09,2019; K.C. Recording  
#20191210900003;

EMERALD VILLAS LLC; SDCI #3034618; approved December 04,2019; K.C. Recording  
#20191206900001;

616 DEVELOPMENT LLC; SDCI #3034626; approved October 29,2019; K.C. Recording  
#20191030900001;

COOMBES DEVELOPMENT LLC; SDCI #3034637; approved November 06,2019; K.C. Recording  
#20191107900011;

CEDAR FUND LP; SDCI #3034642; approved December 17,2019; K.C. Recording #20191219900010;  
6522 34TH AVE SW LLC; SDCI #3034709; approved October 29,2019; K.C. Recording  
#20191030900025;

LOF HOLDINGS LLC; SDCI #3034840; approved December 11,2019; K.C. Recording  
#20191213900004;

SEATTLE BUILT GREEN LLC; SDCI #3034843; approved November 21,2019; K.C. Recording

#20191122900003;

Section 2. The real property interests conveyed by the easements in Section 1 of this ordinance are placed under the jurisdiction of the City Light Department.

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

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

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

Monica Martinez Simmons, City Clerk

(Seal)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle City Light	Tom DeBoer/206-684-4185	Greg Shiring/206-386-4085

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE relating to the City Light Department; accepting various easements for overhead and underground electrical rights in King County, Washington; placing said easements under the jurisdiction of the City Light Department, and ratifying and confirming certain prior acts.

#### **Summary and background of the Legislation:**

This ordinance accepts 531 easements for overhead and underground electrical rights in King County, Washington. These easements are contained in short plats, lot boundary adjustments, and unit lot subdivisions approved by the Seattle Department of Construction and Inspections (SDCI).

SDCI requires that applications for short plats, lot boundary adjustments, and unit lot subdivisions be reviewed by other City departments. Each lot created in such property divisions needs to have adequate access for all utilities, including electrical service. The access for such utilities is provided by the means of utility easements in the final approved short plats, lot boundary adjustments, and unit lot subdivisions recorded with King County.

The Seattle City Charter requires that all acquisition and disposal of real property interests must be by ordinance. City Light periodically requests that the City Council accept by ordinance all the electrical service easements acquired through land use permitting actions.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project? \_\_\_ Yes **X** No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget? \_\_\_ Yes **X** No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

No.

**Is there financial cost or other impacts of *not* implementing the legislation?**

City Light cannot provide electrical service for these customers without the easements being in place. The financial cost of not implementing this legislation would be the forgone revenue from these customer accounts.

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

Yes. This legislation accepts the electrical service easements contained in short plats, lot boundary adjustments, and unit lot subdivisions, acquired through land use permitting actions by SDCI during the prior year.

**b. Is a public hearing required for this legislation?**

No.

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No.

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

No.

**e. Does this legislation affect a piece of property?**

Yes. The easements are mapped in Seattle City Light's Real Property Geographic Information System (GIS).

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

There are no perceived impacts. No. Not applicable.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

Not applicable.

**List attachments/exhibits below:**

None.





Legislation Text

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**File #:** CB 119956, **Version:** 1

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute an agreement with King County Fire Protection District 40 for fire protection and emergency medical services for certain City of Seattle water system properties in King County, Washington.

WHEREAS, The City of Seattle (“City”) owns certain real properties in King County for supplying and safeguarding the City’s municipal water system; and

WHEREAS, such properties and the personnel employed in the area require fire protection and emergency medical services; and

WHEREAS, RCW 52.12.031 authorizes fire protection districts to provide fire protection and emergency medical services within and adjacent to their boundaries; and

WHEREAS, Seattle Public Utilities wishes to contract with King County Fire Protection District 40 to provide fire protection and emergency medical services; and

WHEREAS, the City and King County Fire Protection District 40 are authorized under the Washington State Interlocal Cooperation Act (chapter 39.34 RCW) to enter into an agreement with respect to the provision of such services; and

WHEREAS, it is beneficial to the City to enter into an agreement with the District for provision and payment for such services; NOW, THEREFORE,

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

Section 1. The General Manager/CEO of Seattle Public Utilities, or designee, is authorized to execute,

for and on behalf of The City of Seattle, an agreement with King County Fire Protection District 40 for fire protection and emergency medical services at the Lake Youngs Facility in Maple Valley, substantially in the form attached to this ordinance as Attachment 1.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Interlocal Agreement for Fire Protection Services to SPU Properties

Recording Requested By And  
When Recorded Mail To:

City of Seattle SPU/Real Prop  
700 5th Avenue Suite 4900  
PO Box 34018  
Seattle, WA 98124-4018

## **INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICES TO SPU PROPERTIES**

THIS INTERLOCAL AGREEMENT (Agreement) is made by and between The City of Seattle, a municipal corporation of the State of Washington, acting by and through its Seattle Public Utilities ("SPU") and King County Fire Protection District No. 40, a municipal corporation of the State of Washington, hereinafter referred to as the "Agency." SPU and the Agency also may be collectively referred to as the "Parties" and individually as "Party."

WHEREAS, this Agreement is entered into by SPU and the Agency pursuant to RCW 52.30.020 and Chapter 39.34, RCW; and

WHEREAS, the Agency provides fire protection services to SPU personnel and SPU-owned buildings, equipment and land within and without the boundaries of the Agency; and

WHEREAS, SPU wishes to compensate the Agency for such services; and

WHEREAS, RCW 52.30.020 does not require the Parties to contract for emergency medical services the Agency provides to third parties; and

WHEREAS, the Parties have negotiated this Agreement in good faith.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Parties agree as follows:

### **1. Purpose and Scope of Agreement**

This Agreement is intended to comply with the requirement of RCW 52.30.020 that the Parties contract for fire protection services and is limited to the fire protection services provided to land, buildings and equipment owned or used by SPU ("SPU Properties"), except those leased to a nontax exempt person or organization. This Agreement establishes the methodology and timing for payments to be made by SPU for fire protection services covered under this Agreement.

The scope of this Agreement includes the provision of fire protection and suppression and emergency medical services, and this Agreement shall apply to the buildings, equipment and land owned, used or operated by SPU set forth in the attached Exhibit A (hereinafter "SPU Properties").

### **2. Duration of Agreement**

This Agreement shall commence on January 1, 2019 (the "Commencement Date")

and shall remain in effect until terminated in accordance with the terms and conditions contained herein.

### 3. Termination

- 3.1 This Agreement shall automatically terminate upon the effective date of any bill that eliminates the state law requirement that the Parties contract for fire protection services.
- 3.2 Either Party may terminate this Agreement upon six months' written notice to the other Party.
- 3.3 Either Party may terminate this Agreement upon a material breach of the Agreement. A "Material Breach" shall be defined as either (1) the Agency's failure to provide services at the level specified in Section 4; (2) the SPU's failure to pay the contract payments specified in Section 5; or 3) any other failure of a Party to perform an obligation required by this Agreement. Either Party may terminate this Agreement in the event of a Material Breach of this Agreement by the other Party; provided, however, that the non-breaching Party shall provide the breaching Party with written notice which sets forth the alleged Material Breach(es) and states a reasonable time to cure the breach (not to exceed sixty (60) days), the "Cure period." In the event that the breaching Party fails to cure such Material Breaches during the Cure Period, then this Agreement shall automatically terminate without further action.
- 3.4 Upon the effective date of the termination, SPU shall not be obligated to make any additional payments to the Agency.

### 4. Services Provided

During the term of this Agreement, the Agency agrees to provide all fire protection and emergency medical services to SPU Properties necessary for the protection and safety of personnel and property as required by RCW 52.30.020 ("Services"). The Services will be provided to those SPU Properties identified in Exhibit A to this Agreement. Exhibit A shall be automatically amended to add or delete properties consistent with the scope of properties set forth in RCW 52.30.020 at the time properties are acquired or disposed of by SPU. SPU shall pay the pro-rated amount for any properties added or deleted, and shall notify Agency of any changes on June 1 of each calendar year. Services shall be provided on the same basis as services are available to other property within the Agency.

### 5. Cost of Services and Payments

In consideration of the services provided by the Agency, beginning in the year 2019, SPU shall annually pay the Agency for the Services. The annual amount shall be calculated by multiplying the most-recent assessed valuation of improvements and land on SPU Properties as identified in Exhibit A by \$1.00/\$1,000.00 AV, as determined by the King County Assessor. During the performance of this Agreement, SPU shall request in writing that the King County Assessor assess the SPU Properties bi-annually to ensure parity between taxpayer and SPU-owned property values. Payment by SPU shall be made annually on or before June 1 of each calendar year.

SPU shall inform the Agency in the event that the King County Assessor fails to

assess the subject properties after two years from the date of written request by SPU to bi-annually assess the subject properties. In such an event, the Parties agree to negotiate a fair increase, if an increase is warranted, in the contract price from the previous year, until such time as the King County Assessor further assesses the subject properties.

Furthermore, in addition to the above annual amount, SPU shall pay a hazardous-materials premium of \$15,000 per year; in exchange, the Agency shall forego its right to pursue recovery for an incident caused by SPU or agents of SPU when transporting or handling hazardous materials, pursuant to RCW 4.24.314. The above premium shall increase annually in accordance with the 12-month change in Consumer Price Index for All Urban Consumers (CPI-U); Seattle-Tacoma-Bellevue; All items, not seasonally adjusted, 1982–1984=100 reference base.

6. Organization

The Parties recognize and agree that the Parties hereto are independent governments. Except for the specific terms herein, nothing herein shall be construed to limit the discretion of the governing bodies of each Party. Nothing herein shall be construed as creating an association, joint venture, or partnership between the Parties, nor to impose any partnership obligations or liabilities on either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other Party.

The Agency shall have the sole discretion and the obligation to determine the exact method by which the Services described in Section 4 above are provided to SPU Properties, provided such services are provided on the same basis as services are available to other property within the Agency.

No new or separate legal or administrative agency is created by this Agreement. This Agreement shall be administered by the Chair of the Board of Fire Commissioners for the Agency and the Executive Officer of SPU.

7. Indemnification The Agency shall defend, indemnify, and hold SPU and its officers, officials, employees, and agents free and harmless from any and all demands, costs, claims, judgments, orders, or decrees for personal injuries, death or damage to property arising out of or in any way resulting from any act or omission of the Agency, or its officers, officials, employees, volunteers, or agents in the performance of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the SPU, its officers, officials, employees, volunteers, or agent, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Agency; and provided further that nothing herein shall require the Agency to hold harmless or defend SPU from any claims arising from the sole negligence of the SPU, its officers, officials, employees, volunteers, and agents. No liability shall attach to SPU by reason of entering into this Agreement except as expressly provided herein.

- 7.2 SPU shall defend, indemnify, and hold the Agency and its officers, officials, employees, and agents free and harmless from any and all demands, costs, claims, judgments, orders, or decrees for personal injuries, death, or damage to property arising out of or in any way resulting from any act or omission of

the SPU, or its officers, officials, employees, volunteers, or agents in the performance of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the Agency, its officers, officials, employees, volunteers, or agent, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SPU; and provided further that nothing herein shall require SPU to hold harmless or defend the Agency from any claims arising from the sole negligence of the Agency, its officers, officials, employees, volunteers, and agents. No liability shall attach to the Agency by reason of entering into this Agreement except as expressly provided herein.

- 7.3 Solely for purposes of enforcing the indemnification obligations of a Party under this Section 7, each Party expressly waives, by mutual negotiation, its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and agrees that the obligation to indemnify, defend, and hold harmless provided for in this Section 7 extends to any such claim brought against the indemnified Party by or on behalf of any employee of the indemnifying Party. The foregoing waiver shall not in any way preclude the Indemnifying Party from raising such immunity as a defense against any claim brought against the indemnifying Party by any of its employees.

#### 8. Insurance

The Agency shall obtain and maintain at all times hereunder (i) a commercial general liability insurance policy with a minimum policy limit of General Liability - \$1,000,000 combined single limit per occurrence and for those policies with aggregate limits, a \$2,000,000 aggregate limit; (ii) a minimum umbrella coverage of \$6,000,000 each occurrence and \$10,000,000 annual aggregate; (iii) errors and omissions coverage including employment practices liability \$1,000,000 per occurrence and \$2,000,000 annual aggregate; (iv) Automobile Liability- \$1,000,000 combined single limit per accident for bodily injury and property damage; and (v) Workers' Compensation - statutory requirements of the state of residence and employer's liability or stop gap coverage of \$1,000,000 per occurrence, each placed with a reputable and financially strong insurance carrier with an A-rating or better. The policy(ies) shall provide that such policy(ies) shall not be terminated or reduced without thirty (30) days prior notice to the SPU. Upon request by the SPU, the Agency will provide a certificate of insurance to SPU evidencing the aforementioned coverage.

#### 9. No Third Party Liability and Public Duty Doctrine

This Agreement shall not be construed to provide any benefits to or create a cause of action for or on behalf of any third parties. Specifically and without limiting the foregoing, this Agreement shall not create or be construed as creating an exception to the Public Duty Doctrine.

10. Nondiscrimination Employment. The Agency agrees not to discriminate against any employee or applicant for employment because of sex, age, race, color, creed, national origin, sexual orientation, marital status, or the presence of any sensory, mental, or physical handicap, unless based upon a bonafide occupational qualification. This requirement shall apply without limitation to all aspects of employment (including lay-offs or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship) and advertisement.

10.2 Services and Activities. No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, sexual orientation, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental, or physical handicap. Any violation of this provision shall be considered a violation of a material provision of this Agreement and shall be grounds for termination or suspension in whole or in part of this Agreement by SPU and may result in ineligibility for future SPU agreements.

10.3 Other Non-Discrimination Laws. The Agency shall also comply with all applicable anti-discrimination laws or requirements of any and all applicable jurisdictions.

#### 11. Compliance with Laws and Regulations

The Parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

#### 12. Notices

Any notice required to be given by either Party to the other pursuant to any provision of this Agreement or any law, present or future, shall be in writing and shall be deemed to have been duly given or sent if either delivered personally, sent by nationally recognized overnight delivery service or sent via United States Mail addressed to the following:

To Agency:  
King County Fire Protection District 40  
14810 SE Petrovitsky Road  
Renton, WA 98058

To SPU:  
Seattle Public Utilities  
Attn: Pree Carpenter, Real Property Services  
PO Box 34018  
Seattle, WA 98124-4018

or, to such other person or address as is hereafter designated in writing by either Party to the other. Each Party may change its notice address set forth in this section by giving notice of a new address to the other Party in accordance with this section.

Notices may also be given by facsimile transmission (provided the fax machine has printed a confirmation of receipt). All notices that are mailed shall be deemed received three (3) business days after mailing. All other notices shall be deemed complete upon actual receipt or refusal to accept delivery.

#### 13. Dispute Resolution

The parties shall use reasonable efforts to mediate any dispute arising under this Agreement. In the event of such a dispute, each party shall designate, in writing, not

more than three (3) candidates it proposes to act as a non-binding mediator within ten (10) days following notification of a dispute. If the Parties cannot agree on one of the mediators from the combined list within five (5) days, then the Parties shall promptly meet and select a mediator by blind draw. Upon selection of the mediator, the Parties shall within forty-five (45) days or as soon thereafter as possible, meet and engage in a mediation of the dispute with the assistance of the mediator. The cost for the mediation services shall be borne equally between the Parties, each party paying one-half of the cost. The mediator shall determine reasonable procedures. Testimony and briefing, if any, provided to the mediator shall be inadmissible in any subsequent court proceedings. If mediation fails to resolve the dispute, the Parties may thereafter seek redress in a court of competent jurisdiction. Nothing in this section shall be construed to prohibit either Party from exercising its right to terminate this Agreement as otherwise provided in this Agreement or be construed as a pre-condition to the exercise of such right to terminate.

14. Assignment

The Parties shall not assign this Agreement or any interest, obligation, or duty herein without the express written consent of the other Party.

15. Approval

This Agreement is expressly conditioned upon and subject to the written approval of the authorized representatives of SPU and by ordinance of the City Council and by resolution of the Agency's legislative bodies and shall not be binding unless and until so approved. This Agreement may be altered, amended, or waived only by a written amendment executed, in the same manner, by both Parties.

16. General Provisions All of the terms, covenants, and conditions in this Agreement shall extend to and bind any approved legal successors and assigns of the Parties hereto.

16.2 This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in King County Superior Court.

16.3 The headings and recitals in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

16.4 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time SPU shall have the right to terminate the Agreement for cause.

16.5 This Agreement constitutes the entire agreement between the Parties for the purpose set forth in paragraph 1. There are no terms, obligations, covenants, or conditions other than those contained herein, No



modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both Parties.

16.6 The Agency shall ensure that copy of this Agreement is filed with the King SPU Recorder's Office.

16.7 This Agreement may be executed in counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute but one and the same instrument.

16.8 The failure of either Party to insist upon strict performance of this Agreement shall not impact that Party's right to insist upon strict performance at a later time.

**17. Equal Opportunity to Draft**

Each party has had opportunity to consult with counsel in connection with the negotiation, execution and delivery of this Agreement. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would render the provisions of this Agreement in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Agreement.

**18. Benefit Charge Collection**

SPU agrees that this Agreement shall not exempt SPU Properties from statutory benefit charges under RCW 52.18.020. SPU expressly agrees that the Agency may impose and collect statutory benefit charges on SPU owned properties in accordance with the law. Provided, however, SPU shall not be required to make payments under this Agreement for any parcel of property for which SPU pays a benefit charge.

IN WITNESS WHEREOF, the Agency and SPU have executed this Agreement as of the latter date of signature below.

For the Agency:

\_\_\_\_\_  
Chair of the Board of Fire Commissioners

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Dated: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
District Attorney

**For SPU:**

\_\_\_\_\_  
Dated: \_\_\_\_\_

## EXHIBIT A

The following is a list of SPU Properties within the Agency's boundaries with buildings or equipment.

Assessor's Tax Parcel ID#: 2123059020(portion), 212309040, 2723059006, 2723059007, 272305900, 2723059018, 2723059020, 2723059018, 3523059009, 0622069015, 0622069024 (portion), 0122059006)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Public Utilities	Wylie Harper/6-1814	Akshay Iyengar/4-0716

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:**

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute an agreement with King County Fire Protection District 40 for fire protection and emergency medical services for certain City of Seattle water system properties in King County, Washington.

**Summary and background of the Legislation:** This legislation would authorize Seattle Public Utilities (SPU) to execute an Interlocal Agreement with King County Fire Protection District 40 for the District to provide fire protection and emergency medical services to SPU employees and facilities at the Lake Youngs Facility in Maple Valley. The Agreement benefits the City protecting its employees and property interests at Lake Youngs should an emergency arise.

The Fire District is primarily supported by property taxes, which, as a public agency, SPU does not pay. This Agreement authorizes an annual payment to the District in lieu of the amount that would have been paid via King County property tax receipts. The agreement would update and replace an agreement signed in 2004, authorized by Ordinance 121539.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

The Agreement obligates SPU to pay an annual amount to the District based on the assessed value of the properties covered by the Agreement, plus a hazardous material premium of \$15,000. The total amount will be approximately \$40,600 for 2020.

**Is there financial cost or other impacts of *not* implementing the legislation?**

This Agreement is authorized by the Washington State Interlocal Cooperation Act (RCW 39.34). In the absence of fire protection and emergency medical services, an emergency at the Lake Youngs Facility could result in a loss of life or substantial property damage to the

City. The potential loss would be difficult to quantify but would affect the City financially and operationally.

#### 4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**

No.

- b. **Is a public hearing required for this legislation?**

No.

- c. **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No.

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

No.

- e. **Does this legislation affect a piece of property?**

No.

- f. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

This legislation has no implications for the principles of the Race and Social Justice Initiative. There is no impact to vulnerable or historically disadvantaged communities.

- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

This legislation does not include a new initiative or major programmatic expansion.

**List attachments/exhibits below:**

None.



## Legislation Text

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**File #:** CB 119961, **Version:** 1

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### CITY OF SEATTLE

### ORDINANCE \_\_\_\_\_

### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to acquire, accept, and record on behalf of The City of Seattle both temporary and permanent property rights from owners of property located along the alignment of the planned combined sewage conveyance and storage tunnel between 24th Avenue NW and Shilshole Avenue NW in Ballard and Interlake Avenue N and N 35th Street in Wallingford, and from owners of property located along the alignment of the planned Ballard Conveyance pipeline between 28th Avenue NW and NW 56th Street and 24th Avenue NW and Shilshole Avenue NW, and for related infrastructure in 28th Avenue NW, that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and 3rd Avenue W Water Main Replacement Project, through negotiation or eminent domain (condemnation); placing an underground electrical easement under the jurisdiction of the City Light Department; placing other real property rights acquired under the jurisdiction of Seattle Public Utilities; designating the property rights acquired for utility and general municipal purposes; authorizing termination of an easement held by the former Milwaukee Terminal Railway Company or its successors; authorizing payment of all other costs associated with acquisition; and ratifying and confirming certain prior acts.

WHEREAS, The City of Seattle (“City”) owns and operates a combined sewer system that in some locations overflows during heavy rain events; and

WHEREAS, the combined sewer system overflows (CSOs) are governed by the State of Washington under the terms of a National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, the terms of the NPDES permit mandate the City limit untreated overflows at each CSO outfall to an average of no more than one per year on a moving 20-year average; and

WHEREAS, the City is required by federal Consent Decree, as authorized by Ordinance 123908, and amended by Ordinance 124129, to construct control measures to limit untreated combined sewer overflows in accordance with State of Washington requirements by December 31, 2025; and

WHEREAS, Seattle Public Utilities and King County have been working together to evaluate possible joint

projects to reduce both City and County CSOs, and have agreed to jointly fund and build a 2.7-mile underground storage tunnel designed to temporarily store more than 29 million gallons of combined stormwater and sewage in order to reduce CSOs and partially fulfill the objectives of the City's and County's NPDES permits and Consent Decrees; and

WHEREAS, in 2015 the City Council pursuant to Ordinance 124966 authorized Seattle Public Utilities to enter into a Joint Project Agreement with King County to design, construct, operate, and maintain the Ship Canal Water Quality Project to reduce combined sewer overflows; and

WHEREAS, while the tunnel and its ancillary structures will be built primarily within street right-of-way, temporary and permanent property rights will be necessary to construct, maintain, and operate portions of the Ship Canal Water Quality Project; and

WHEREAS, in 2016 and in 2017 the City Council pursuant to Ordinances 125153 and 125390 previously authorized Seattle Public Utilities to acquire certain property rights necessary and convenient for the Ship Canal Water Quality Project; and

WHEREAS, Seattle Public Utilities' 3rd Avenue W Water Main Replacement Project will share the use of a temporary access easement with the Ship Canal Water Quality Project; and

WHEREAS, construction of the Ship Canal Water Quality Project in 2nd Avenue NW will require acquisition of permanent and temporary property rights necessary for relocating a City Light Department electrical vault to private property located at 123 NW 36th Street; and

WHEREAS, in 1908 the Milwaukee Terminal Railway Company was granted an easement across property later purchased by the City, as authorized by Ordinances 124718 and 124719, for the Ship Canal Water Quality Project, and

WHEREAS, the easement area is needed by the City for construction, operation, and maintenance of the Ship Canal Water Quality Project, and since the easement area is no longer being utilized for any railroad purpose and the easement can be terminated by the City as owner of the property for such non-use,

Seattle Public Utilities desires to terminate the easement, NOW, THEREFORE,

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

Section 1. The City of Seattle (“City”) accepts the easements and other property rights that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and the 3rd Avenue W Water Main Replacement Project, and granted for drainage and wastewater and water supply utility purposes over, under, across, and upon the real property generally described below and legally described in Attachment 1 to this ordinance.

A. Grantor: The United States Department of the Army, acting through the Corps of Engineers; Easement No. DACW67-2-19-8 (not recorded with King County).

B. Grantor: The United States Department of the Army, acting through the Corps of Engineers; Permit with King County Recording No. 20181226000674.

C. Grantor: Fremont West Office LLC, a Washington limited liability company; King County Recording No. 20190131000152.

D. Grantor: Mobile Properties, LLC, a Washington limited liability company; King County Recording No. 202009210000428.

Section 2. Public convenience and necessity require that real property interests generally shown on Attachments 2 and 3 of this ordinance, and such other property as may be necessary or convenient for the Ship Canal Water Quality Project (“Project”) located in the City of Seattle, County of King, State of Washington, together with all rights, privileges, and other property interests pertaining to the real property interests, be acquired for utility and general municipal purposes through negotiations and use of eminent domain (condemnation), if necessary, in connection with the Project.

Section 3. The General Manager and Chief Executive Officer of Seattle Public Utilities (“General Manager/CEO”) is authorized to: determine the portions and interests of the properties shown on Attachments 2 and 3 that are necessary or convenient for the Project, and any other property interests that may be necessary or



convenient for the Project, negotiate and enter into written agreements for and acquire, after paying just compensation, the real property interests that are necessary or convenient for the Project, including temporary or permanent rights, in fee or easement, or other property use agreement; and accept and record deeds, easements, and other written instruments on behalf of the City by attaching to the instrument the General Manager/CEO's written acceptance and recording the deed or other written instrument. The acquisition costs, including purchase price and transaction costs, together with relocation benefits to the extent required by law, shall be paid from the funds appropriated, or to be appropriated, for such purposes in connection with the Project.

Section 4. The City Attorney is authorized to commence and prosecute proceedings in the manner provided by law to condemn, take, damage, and appropriate easements or other property interests determined by the General Manager/CEO or the General Manager/CEO's designee to be necessary or convenient to the Project; provided the lands, rights, and privileges, and other property are to be appropriated and taken only after just compensation has been made or paid into court for the owners in the manner provided by law; and to stipulate for the purpose of minimizing damages.

Section 5. The real property interests referenced above include, but are not limited to, easements and temporary construction easements that, when received or recorded, shall be placed under the jurisdiction of Seattle Public Utilities and designated for utility and general municipal purposes.

Section 6. The real property interests acquired for the electrical vault to be relocated from 2nd Ave NW to private property located at 123 NW 36th Street shall, when received or recorded, be placed under the jurisdiction of the City Light Department and designated for utility and general municipal purposes.

Section 7. The General Manager/CEO, and/or the General Manager/CEO's designee, is authorized to terminate the easement granted to the Milwaukee Terminal Railway Company on November 25, 1908, and recorded under King County Auditor's File No. 593847, in King County, Washington.

Section 8. Any act consistent with the authority of this ordinance taken prior to its effective date is

ratified and confirmed.

Section 9. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**Attachments:**

Attachment 1 - Legal Descriptions of Acquired Property Rights

Attachment 2 - List of Affected Properties

Attachment 3 - Map of Affected Properties

## ATTACHMENT 1 – Legal Descriptions of Acquired Property Rights

1. Description of easement acquired by document No. DACW67-2-19-8. (SPU File Number 2014-016-030)

- a. Type: Easement
- b. Grantor: United States Department of the Army, acting through the Corps of Engineers
- c. Title in Instrument: Easement for Pipeline Right-of-Way
- d. Recording No. (not recorded, exists in an HYDR parcel)
- e. Recording Date: (not recorded)
- f. Legal Description:

That portion of the Lake Washington Ship Canal, as condemned by decree entered in King County Superior Court Cause No. 21942, and conveyed to the United States of America for a canal right of way by deed recorded under recording number 192544, records of King County, situated in the northeast quarter of the southeast quarter of Section 13, Township 25 North, Range 3 East, W.M.; described as follows:

Commencing at the southwest corner of Block 49 of Denny and Hoyt's Addition to the City of Seattle; thence along the northerly right of way margin of West Ewing Street, S 70° 22' 55" E a distance of 173.02 feet; thence leaving said right of way N 19° 37' 05" E a distance of 20.19 feet to the southerly right of way margin (State Harbor Line) of the Lake Washington Ship Canal and the **POINT OF BEGINNING**;

Thence along said right of way margin S 52° 10' 33" E a distance of 15.52 feet; thence leaving said right of way margin N 23° 00' 48" E a distance of 161.37 feet to the beginning of a 657.50 foot radius curve concave to northwest which radius point bears N 66° 59' 12" W; thence northeasterly along the arc of said curve, through a central angle of 13° 31' 59" a distance of 155.30 feet to the northerly right of way margin of the Lake Washington ship Canal; thence along said right of way margin N 52° 00' 33" a distance of 17.13 feet to the beginning of a non-tangent 642.50 foot radius curve concave to northwest which radius point bears N 81° 14' 57" W; thence leaving said right of way southwesterly along the arc of said curve, through a central angle of 14° 15' 44" a distance of 159.93 feet; thence S 23° 00' 48" W a distance of 157.40 feet to the southerly right of way margin of the Lake Washington Ship Canal, and the **POINT OF BEGINNING**.

Containing 4755 sq. ft., more or less

2. Description of permit acquired by document Permit No. NWS-2015-807-WRD. (SPU File Number 2014-016-031)

- a. Type: Permit
- b. Grantor: United States Department of the Army, acting through the Corps of Engineers
- c. Title in Instrument: Department of the Army Permit No NWS-2015-807-WRD
- d. Recording No. 20181226000674

- e. Recording Date: December 26, 2018
- f. Legal Description:

24<sup>th</sup> Avenue Pier in Salmon Bay (Lake Washington Ship Canal) at Seattle, King County, Washington

- 3. Description of temporary access easement acquired by document King County Recording Number 20190131000152 (SPU File Number 2014-016-029)
  - a. Type: Easement
  - b. Grantor: Fremont West Office LLC, a Washington limited liability company
  - c. Title in Instrument: Temporary Non-Exclusive Access Easement
  - d. Recording No. 20190131000152
  - e. Recording Date: January 31, 2019
  - f. Legal Description:

The Easterly 5 feet of Lot 12 and all of Lots 13 through 26, inclusive, Block 52, Denny and Hoyt's Addition to the City of Seattle, according to the Plat thereof recorded in Volume 2 of Plats, Page 136, in King County, Washington. Except the Northeasterly 12 feet thereof condemned under King County Superior Court Cause NO. 69865, as provided by City of Seattle Ordinance No. 21303.

- 4. Description of easement acquired by document King County Recording Number 20200921000048. (SPU File Number 2014-016-042)
  - a. Type: Temporary Construction Easement
  - b. Grantor: Mobile Properties LLC, a Washington limited liability company
  - c. Title in Instrument: Temporary Construction Easement
  - d. Recording No. 20200921000048
  - e. Recording Date: September 21, 2020

Legal Description:

BEGINNING AT THE NORTHEAST CORNER OF THE PROPERTY; THE EAST TWO FEET OF THE NORTH 100 FEET; TOGETHER WITH THE NORTH 5 FEET OF THE EAST 100 FEET OF THE FOLLOWING DESCRIBED PARCEL "A":

PARCEL "A"

GILMAN PARK ADD PORTION LOTS 9 TO 16 BLK 177 GILMAN PARK & OF LOTS 9 TO 12 BLK 3 BALLARD TIDE LANDS & OF WEST 44TH PLACE AS VACATED BY CITY OF SEATTLE ORD NO 57056 ADJOINING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT INTERSECTION OF SOUTH LINE WEST 45TH STREET WITH WEST LINE 11TH AVE NW, WHICH PT IS NE CORNER LOT 12 SD BLK 177;

THENCE SOUTH ALONG WEST LINE 11TH AVE NW 697.094 FT TO SELY CORNER SD BLK 3;

THENCE NWLY ALONG SWLY LINE SD BLK 3 DISTANCE OF 155.326 FT TO SWLY CORNER LOT 11 SD BLK 3;

THENCE NELY AT RIGHT ANGLES TO SWLY LINE SD BLK 3 DISTANCE OF 68.977 FT TO WEST LINE LOT 12 SD BLK 3;

THENCE NORTH ALONG SAID LOT LINE 190.199 FT TO PT 200 FT NELY FROM WHEN MEASURED AT RIGHT ANGLES TO SWLY LINE SAID BLK 3;

THENCE NWLY PARALLEL WITH SAID BLK LINE 164.036 FT TO PT 12.5 FT WEST OF EAST LINE LOT 9 SAID BLK 3;

THENCE NORTH PARALLEL WITH WEST LINE 11TH AVE NW 227.88 FT TO SOUTH LINE WEST 45TH ST;

THENCE EAST 170 FT TO BEGINNING LESS PORTION DESCRIBED AS FOLLOWS -BEGINNING ON EAST LINE SAID BLK 177 AT PT S 01-01-52 E ALONG SAID EAST LINE 226.00 FT FROM NE CORNER;

THENCE OF THE S 01-01-52 E 471.094 FT TO SELY CORNER SAID BLK 3;

THENCE NWLY ALONG SWLY LINE SAID BLK 3 155.326 FT TO SWLY CORNER LOT 11 SAID BLK 3;

THENCE NELY AT RIGHT ANGLES TO SW LINE SAID BLK 3 DISTANCE OF 68.977 FT TO WEST LINE LOT 12 IN SAID BLK 3;

THENCE NORTH ALONG SAID WEST LINE 190.199 FT TO PT 200 FT NELY FROM WHEN MEASURED AT RIGHT ANGLES, TO SWLY LINE SAID BLK 3;

THENCE NWLY PARALLEL WITH SAID SWLY LINE 164.036 FT TO PT 12.5 FT WEST OF EAST LINE LOT 9 SAID BLK 3;

THENCE N 1-01-52 W 1.88 FT TO PT ON LINE PARALLEL WITH & 226.00 FT SOUTH OF NORTH LINE SAID BLK 177

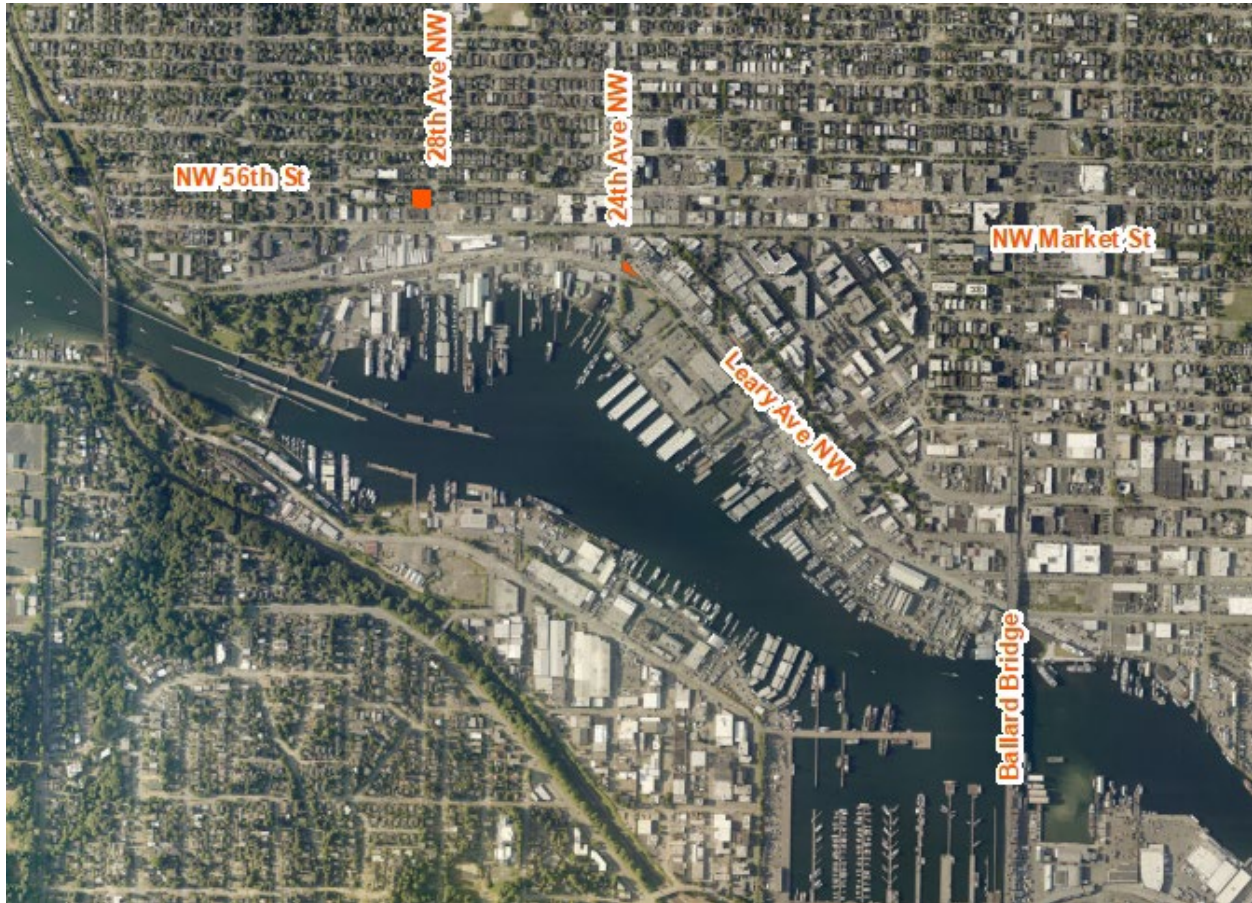
THENCE N 89-00-00 E ALONG SAID PARALLEL LINE 169.50 FT TO BEGINNING

## ATTACHMENT 2 – List of Affected Properties

King County Tax ID. No.	Property Address	Taxpayer / Property Owner	Tax Payer's Address of Record if different from property address (Name included only if different than Property owner.)
112503-9027-05	5404 24th Ave NW	Pacific Fishermen Inc	5351 24th Ave NW, Seattle 98107
112503-9114-09	5515 A 28th Ave NW	Emmanuel J. Abellanos	
112503-9115-08	5511 C 28th Ave NW	Daniel Lee Gross and Brian H. Payne	Noland LLC; 3600 Fremont Ave N, Seattle, WA 98103
112503-9116-07	5511 B 28th Ave NW	Naveen S. Advanapu and Tanuja Daman	
112503-9117-06	5511 A 28th Ave NW	Ian Scot Pihl	
112503-9118-05	5515 B 28th Ave NW	Kee Hyuk Park	
117500-0944-06	5521 28th Ave NW	Loretta Mallea	
117500-0949-01	5519 28th Ave NW	Rakesh Nambiar	
117500-0950-07	5517 28th Ave NW	Enri-Gisleno Vincenti	
117500-0951-06	2809 NW 56th St	Shannon Stamps	
117500-0952-06	2807 NW 56th St	Daniel G. Yin	
117500-0953-04	2805 NW 56th St	Deborah Diane Parsons and Jeffrey Todd Parsons	
197220-4350-06	123 NW 36th St	Fremont West Office LLC	
197220-4205-03	126 NW Canal St	126 Canal Centre LLC	

## ATTACHMENT 3 – MAPS

### Ballard Neighborhood





## Properties Affected by Proposed Side Sewer Repair

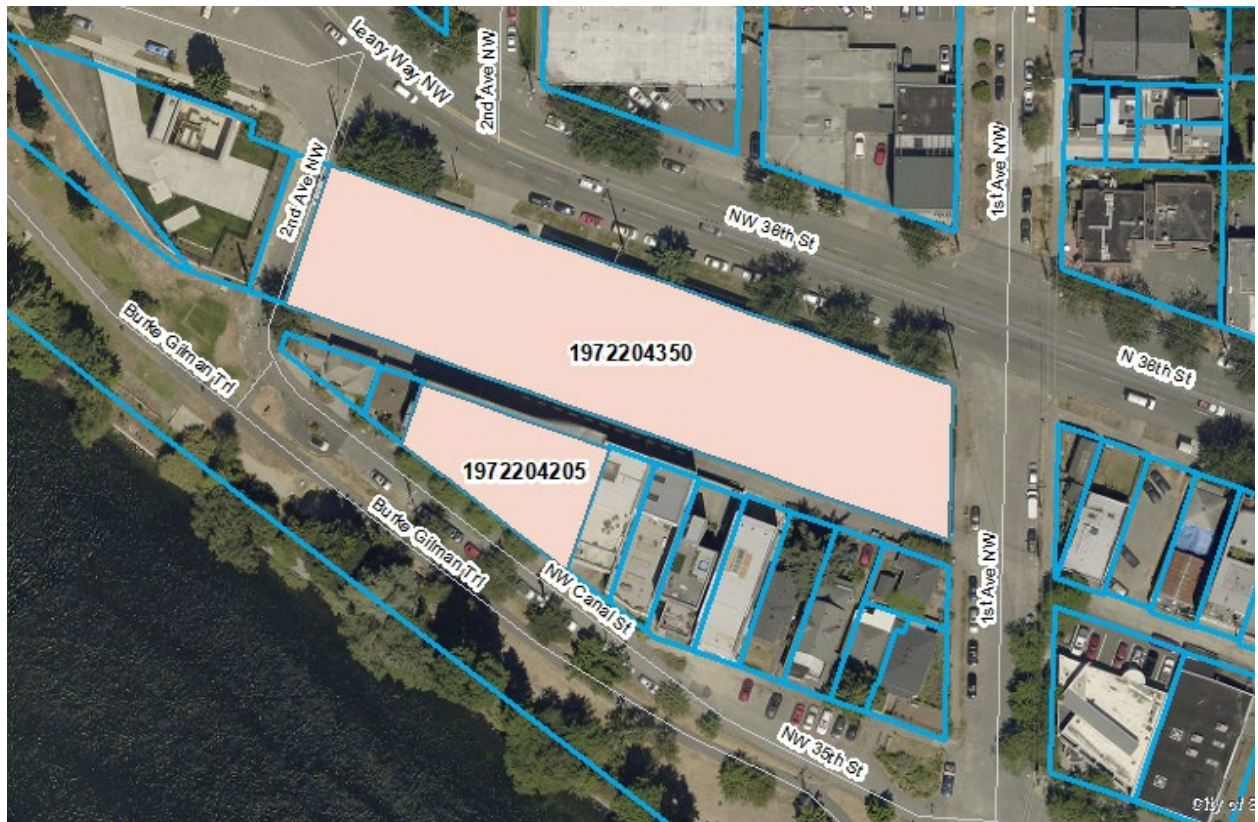




## Property Affected by Proposed Temporary Construction Easement



### Properties Affected by the Electrical Vault



## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Public Utilities	Keith Ward/5-0734	Akshay Iyengar /684-0716

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to acquire, accept, and record on behalf of The City of Seattle both temporary and permanent property rights from owners of property located along the alignment of the planned combined sewage conveyance and storage tunnel between 24th Avenue NW and Shilshole Avenue NW in Ballard and Interlake Avenue N and N 35th Street in Wallingford, and from owners of property located along the alignment of the planned Ballard Conveyance pipeline between 28th Avenue NW and NW 56th Street and 24th Avenue NW and Shilshole Avenue NW, and for related infrastructure in 28th Avenue NW, that are necessary or convenient to construct, operate, and maintain the Ship Canal Water Quality Project and 3rd Avenue W Water Main Replacement Project, through negotiation or eminent domain (condemnation); placing an underground electrical easement under the jurisdiction of Seattle City Light; placing other real property rights acquired under the jurisdiction of Seattle Public Utilities; designating the property rights acquired for utility and general municipal purposes; authorizing termination of an easement held by the former Milwaukee Terminal Railway Company or its successors; authorizing payment of all other costs associated with acquisition; and ratifying and confirming certain prior acts.

#### **Summary and background of the Legislation:**

The City of Seattle is required by federal Consent Decree, as authorized by Ordinance 123908 and amended by Ordinance 124129, and in accordance with State of Washington requirements, to control overflows from its combined sewer system to receiving waters by December 31, 2025. In 2016 Ordinance 125153 and in 2017 Ordinance 125390 the City Council authorized Seattle Public Utilities (“SPU”) to acquire specific rights necessary and convenient for the Ship Canal Water Quality Project (“Project”). This is a joint project between SPU as the lead agency and King County Department of Natural Resources – Wastewater Treatment Division. The Project consists of a 2.7-mile long storage tunnel that is being built between Ballard and Wallingford and connections to existing combined sewer systems in Ballard, North Queen Anne, Fremont and Wallingford. The proposed legislation would authorize the additional temporary and permanent property rights required to construct, operate, and maintain Project improvements.

Temporary agreements or easements are required to construct improvements planned for the Project, including side-sewer replacements, maintenance holes, and surface restoration. These property rights are necessary for the construction of the Ballard Conveyance portion of the Project and will connect existing infrastructure to the storage tunnel.

This legislation authorizes the acquisition of a permanent electrical vault easement for Seattle City Light. An electrical vault will be moved onto private property to create space for Project infrastructure.

SPU desires to acquire the temporary and permanent property rights through voluntary acquisitions. However, this legislation includes authorization for condemnation should efforts to conclude voluntary acquisitions not be successful.

This legislation also accepts easements and other property rights that have already been acquired and are necessary to construct, operate and maintain the Project and the 3<sup>rd</sup> Avenue West Water Main Replacement Project in Fremont. (A temporary access easement is shared by both projects).

Finally, this legislation requests authorization to terminate an obsolete 1908 Milwaukee Terminal Railway Co easement existing on property already acquired for the Project. The easement area does not contain any railroad infrastructure and is outside of current railroad corridors.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

The following costs will be paid for using a previous appropriation.

SPU will pay one affected property owner an estimated fair market value of up to \$5,000 total for the temporary use of their property during construction. The basis for the estimate assumes a construction duration on private property of 12 months for maintenance hole construction.

The Project's construction of new sewer lines in 28<sup>th</sup> Ave NW will interfere with a private side sewer's connection to the public sewer in 28<sup>th</sup> Ave NW. As a remedy, SPU will pay for the change in elevation of the side sewer so that it maintains its current connection to the public sewer in 28<sup>th</sup> Ave NW. These properties are included in this ordinance because SPU needs signed agreements from the owners for the side sewer work that includes temporary access to the property.

The Project's construction requires moving a Seattle City Light electrical vault onto private property and the acquisition of an easement. SPU will pay the affected property owners an estimated fair market value of \$10,000 to \$20,000 for the permanent easement and temporary

construction easement. The permanent easement obtained will be placed under the jurisdiction of Seattle City Light.

**Is there financial cost or other impacts of *not* implementing the legislation?**

Yes. Changes to the sewer system in the public right-of-way around the intersection of NW 56<sup>th</sup> St and 28<sup>th</sup> Ave NW create an unavoidable impact to a side sewer on this street (due to changes in sewer main elevations). Work on private property is required to replace the side sewer and connect it to a new sewer main.

Not implementing this legislation would require SPU to build a second non-standard sewer main in 28<sup>th</sup> Ave NW (in addition to dry weather and wet weather mains) to avoid all work on private property during construction. All other construction impacts on 28<sup>th</sup> Ave NW would still occur. The current design of the system would require additional design and engineering costs as well as schedule delays that could impact Consent Decree deadlines, which could result in financial penalties to the City.

In order to construct a proposed maintenance hole on 24<sup>th</sup> Ave NW near NW 54<sup>th</sup> St, SPU's contractor would need temporary access on property for working space around the excavation. Without this property right, SPU's contractor would require additional time and specialized equipment to construct the maintenance hole, which would result in significant cost increases to construction.

Leaving the electrical vault in its current location would impede the construction of planned SCWQP infrastructure.

The above impacts are estimated to increase project costs by approximately \$700,000.

#### **4. OTHER IMPLICATIONS**

- a. Does this legislation affect any departments besides the originating department?**  
Yes. The electrical vault easement will be placed under Seattle City Light's jurisdiction.
- b. Is a public hearing required for this legislation?**  
No.
- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
No.
- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
Yes.

**e. Does this legislation affect a piece of property?**

Yes. This legislation authorizes SPU to acquire temporary construction easements in Ballard and Fremont. See **Attachment 2** of the ordinance for a list of affected properties and **Attachment 3** of the ordinance for maps of the affected properties.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

This legislation does not disproportionately negatively impact black, indigenous, people of color (BIPOC), disadvantaged, or distressed communities. Property owners impacted by the public's need for temporary property rights will be compensated fair market value, as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), a federal law to provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

SPU's policy is to translate outreach materials and provide interpretation services at public events when working in neighborhoods where over 5% of the population speaks a language other than English. For the Ship Canal project area we are below this threshold (See chart). However, in an effort to be as inclusive as possible, we include an interpretation services box (also see below) on all of our public outreach materials and website should a resident want to request a material in another language. Additionally, we have on-call interpretation services that can be provided if needed.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

N/A

**List attachments/exhibits below:** None.



December 4, 2020  
12:30 p.m.

Clerk Filing Stamp

**CERTIFICATE OF MAILING AND PUBLICATION OF NOTICE FOR  
Council Bill 119961**

I, Judith L. Cross, Division Manager, SPU Real Property Services, hereby certify as follows:

(Check all that apply below.)

- ☒ 1. On the 17th day of November, 2020, I mailed via US Postal Service Certified Mail  
a  
☒ notice of condemnation or  
☐ other \_\_\_\_\_,  
a true and correct representative copy of which is attached and designated as Attachment A, to those persons whose names and addresses appear on the attached list as Attachment B.
- ☒ 2. For condemnation legislation: The notice designated in Attachment A constitutes adequate notice to property owners, pursuant to RCW 8.12 and 8.25, that the City may take final action to authorize condemnation of the subject property.
- ☒ 3. The notice designated in Attachment A was published in the Seattle Times on November 23 and November 30 and the Daily Journal of Commerce on November 19 and 27.
- ☒ 4. This Certificate of Mailing and Publication and complete Attachments A and B are hereby filed with the City Clerk of the City of Seattle.

Dated this 3 day of December, 2020.

The City of Seattle, Washington

Judith L. Cross

  
(Signature)

Real Property Services Manager

Seattle Public Utilities

206-386-1814

Attachment A – Newspaper and Letter Notifications

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STATE OF WASHINGTON – KING COUNTY

--ss.

389821

No.

SPU:ACCOUNTS PAYABLE

**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 12<sup>th</sup> 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:SHIP CANAL MEETING

was published on

11/19/20 11/27/20


The amount of the fee charged for the foregoing publication is the sum of \$161.56.



Affidavit of Publication

  
Subscribed and sworn to before me on

11/30/2020

  
Notary public for the State of Washington,  
residing in Seattle



# State of Washington, King County

## City of Seattle

City of Seattle

SEATTLE PUBLIC UTILITIES  
DEPARTMENT

Notice of Public Meeting and  
Planned Final Action by the Seattle  
City Council regarding the Ship Canal  
Water Quality Project proposed legisla-  
tion authorizing property acquisition  
by negotiation and/or eminent domain  
(condemnation).

Attention all parties holding an inter-  
est in, or any portion thereof, the following  
King County Tax Parcel Numbers locat-  
ed in Seattle, Washington: 112503-9027,  
112503-9111, 112503-9115, 112503-9116,  
112503-9117, 112503-9119, 117500-0844,  
117500-0849, 117500-0850, 117500-0851,  
117500-0852, 117500-0853, 197220-4350,  
and 197220-4905.

As required by State law, the City of  
Seattle is publishing notice of the date, time,  
and location of the final action at which the  
City will decide whether to authorize con-  
demnation of certain property rights on the  
above-described properties. The proposed  
ordinance will be presented for final action  
and potential adoption to the Seattle City  
Council as Council Bill (CB # to be assigned)  
in a remote meeting on Wednesday, December  
2, 2020 at 9:30 AM. Access to the meeting is  
available by calling the Council Chamber  
Listen Line at 206-684-8565 or accessing  
Seattle Council live weblink (<http://www.seattle.gov/council/councillive.htm>).

All persons claiming an interest in the  
property may appear and be heard on the  
date and time identified before adoption of  
Council Bill (CB # to be assigned). All ses-  
sions are open to the public.

For further information (including  
Council Bill #) contact:

Free Carpenter

SPU Real Property Service

[freecarpenter@seattle.gov](mailto:freecarpenter@seattle.gov)

Voice: 206.386.9754

Fax: 206.615.1215

Dates of publication in the Seattle Daily  
Journal of Commerce: November 18 and 27,  
2020

11/27(359821)

## **AFFIDAVIT OF PUBLICATION**

Pree Carpenter  
Seattle Public Utilities  
PO Box 34018  
700 5th Ave Ste 4900  
Seattle WA 98124

**STATE OF WASHINGTON, COUNTIES OF KING AND SNOHOMISH**

The undersigned, on oath states that he/she is an authorized representative of The Seattle Times Company, publisher of The Seattle Times of general circulation published daily in King and Snohomish Counties, State of Washington. The Seattle Times has been approved as a legal newspaper by others of the Superior Court of King and Snohomish Counties.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

11/23/2020, 11/30/2020

City of Seattle SEATTLE  
PUBLIC UTILITIES DEPARTMENT  
Notice of Public Meeting and Planned  
Final Action by the Seattle City Council  
regarding the Ship Canal Water Quality  
Project proposed legislation authoriz-  
ing property acquisition by negotiation  
and/or eminent domain (condemna-  
tion).

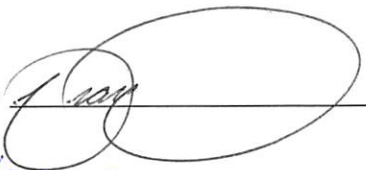
Attention all parties holding an interest  
in, or any portion thereof, the following  
King County Tax Parcel Numbers  
located in Seattle, Washington: 112503-  
9027, 112503-9114, 112503-9115, 112503-  
9116, 112503-9117, 112503-9118, 117500-  
0944, 117500-0949, 117500-0950, 117500-  
0951, 117500-0952, 117500-0953, 197220-  
4350, and 197220-4205.

As required by State law, the City of  
Seattle is publishing notice of the date,  
time, and location of the final action at  
which the City will decide whether to  
authorize condemnation of certain  
property rights on the above-described  
properties. The proposed ordinance will  
be presented for final action and poten-  
tial adoption to the Seattle City Council  
as Council Bill (CB # to be assigned) in  
a remote meeting on Wednesday,  
December 2, 2020 at 9:30 AM. Access to  
the meeting is available by calling the  
Council Chamber Listen Line at 206-684-  
8566 or accessing Seattle Council live  
weblink (<http://www.seattle.gov/council/councillive.htm>)

All persons claiming an interest in the  
property may appear and be heard on  
the date and time identified before  
adoption of Council Bill (CB # to be  
assigned). All sessions are open to the  
public.

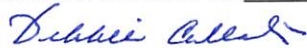
For further information (including  
Council Bill #) contact:  
Pree Carpenter  
SPU Real Property Service  
[pree.carpenter@seattle.gov](mailto:pree.carpenter@seattle.gov)  
Voice: 206.386.9754  
Fax: 206.615.1215

Agent Frankie Flight

Signature 

Subscribed and sworn to before me on

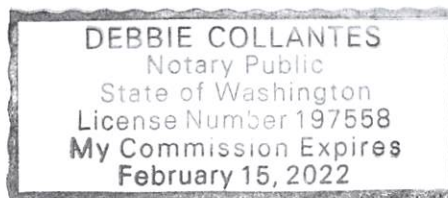
12/3/2020



**Debbie Collantes**

(Notary Signature) Notary Public in and for the State of Washington, residing at Seattle

Publication Cost: \$1094.08  
Order No: 4175  
Customer No: 430  
PO #:





**Seattle  
Public  
Utilities**

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November 17, 2020

name & address

**VIA CERTIFIED MAIL**

RE: City of Seattle Ship Canal Water Quality Project

Notice of Seattle City Council Transportation and Utilities Committee Meeting and Seattle City Council Meeting Authorizing Acquisition of Property for Public Purposes through Negotiation and the Exercise of Eminent Domain (Condemnation)

Tax Parcel No.  
Address:

Dear Property Owner:

The purpose of this notice is to inform you that the Seattle City Council is expected to vote on an ordinance that, if approved, will authorize Seattle Public Utilities (SPU) to acquire property rights (utility easements, temporary construction easements or temporary agreements) needed for the construction of an underground storage tunnel. You have been identified as a property owner from whom a temporary agreement under or over a portion of your property may be needed for the Ship Canal Water Quality Project (Project). A map indicating the proposed Project alignment is enclosed for your information. The final City Council action on this ordinance and Council approval will authorize SPU to acquire agreements or easements through negotiations with property owners and the possible use of eminent domain (condemnation), if necessary. Property owners will be paid just compensation for SPU's acquisition of any property rights and interests.

SPU and King County are working together on this Project to build an underground storage tunnel for stormwater and sewage. During storms, this tunnel will hold polluted water from Ballard, Fremont, Wallingford, and north Queen Anne, preventing it from overflowing into the Lake Washington Ship Canal. The 2.7-mile tunnel will be able to capture and temporarily hold more than 29 million gallons of stormwater and sewage that currently overflows during heavy rains. When the storm passes, flows will be sent to the existing King County West Point Wastewater Treatment Plant in Magnolia. SPU will need to acquire a utility easement, temporary construction agreements or easements to build and operate the tunnel.

The City of Seattle (City) is required by RCW 8.25.290 to provide you with formal written notice before the City takes final action authorizing the condemnation of property. The City ordinance authorizing property acquisition through negotiation or condemnation will be on the agenda of the Seattle City Council Transportation and Utilities Committee for discussion and possible vote. The Committee will take public comment as a regular part of the meeting beginning at 9:30 a.m. on Wednesday, December 2, 2020.

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700 Fifth Avenue | PO Box 34018 | Seattle, WA 98124-4018 | 206-684-3000 | [seattle.gov/utilities](http://seattle.gov/utilities)



In-person attendance is currently prohibited per Washington State Governor's Proclamation No. 20-28.12, through December 7, 2020. Meeting participation is limited to access by telephone conference line and Seattle Channel online.

Register online to speak during the Public Comment period at the 9:30 a.m. Transportation and Utilities Committee meeting at <http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the Transportation and Utilities Committee meeting will begin two hours before the 9:30 a.m. meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting.

Speakers must be registered in order to be recognized by the Chair. Submit written comments to all Councilmember Pedersen at [Alex.Pedersen@seattle.gov](mailto:Alex.Pedersen@seattle.gov)

Sign-up to provide Public Comment at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Watch live streaming video of the meeting at <http://www.seattle.gov/council/watch-council-live>.

Listen to the meeting by calling the Council Chamber Listen Line at 253-215-8782 Meeting ID: 586 416 9164 One Tap Mobile No. US: +12532158782,,5864169164#.

You will have the opportunity to express your views on the ordinance during the public comment section of the meeting. Public comments are received by the Committee at the start of the meeting and are generally limited to a total of 20 minutes, and two minutes per speaker. If you have questions about the committee meeting format, agenda for the meeting, or the public comment section, please contact Toby Thaler, Legislative Assistant to Councilmember Alex Pedersen (Chair of Seattle City Council Transportation and Utilities Committee) at 206-256-6267 or visit the Seattle City Council Transportation and Utilities Committee's website at the following address: <https://www.seattle.gov/council/committees/transportation-and-utilities>.

If the Committee approves the ordinance, it will then be scheduled for final City Council action. Final action on the ordinance by the City Council is expected on Monday, December 7, 2020, at the 2:00 p.m. Remote Meeting. If the full City Council approves the ordinance, the City of Seattle may purchase the temporary agreement for the Project from you through negotiation or may use its powers of eminent domain to condemn these rights. In either case, the City will pay just compensation for any property rights or interests it acquires for the tunnel project.

General information about the Project can be found on the City's website at the following address: <http://spushipcanal.participate.online/>. Please contact Keith Ward, Project Executive, at 206-615-0734 or [keith.ward@seattle.gov](mailto:keith.ward@seattle.gov) if you have questions about this Project. Please contact me at 206-386-9754 or [pree.carpenter@seattle.gov](mailto:pree.carpenter@seattle.gov) if you have questions about this letter.

Thank you,

*Pree Carpenter*

Senior Real Property Agent  
Seattle Public Utilities

Enclosure: Map

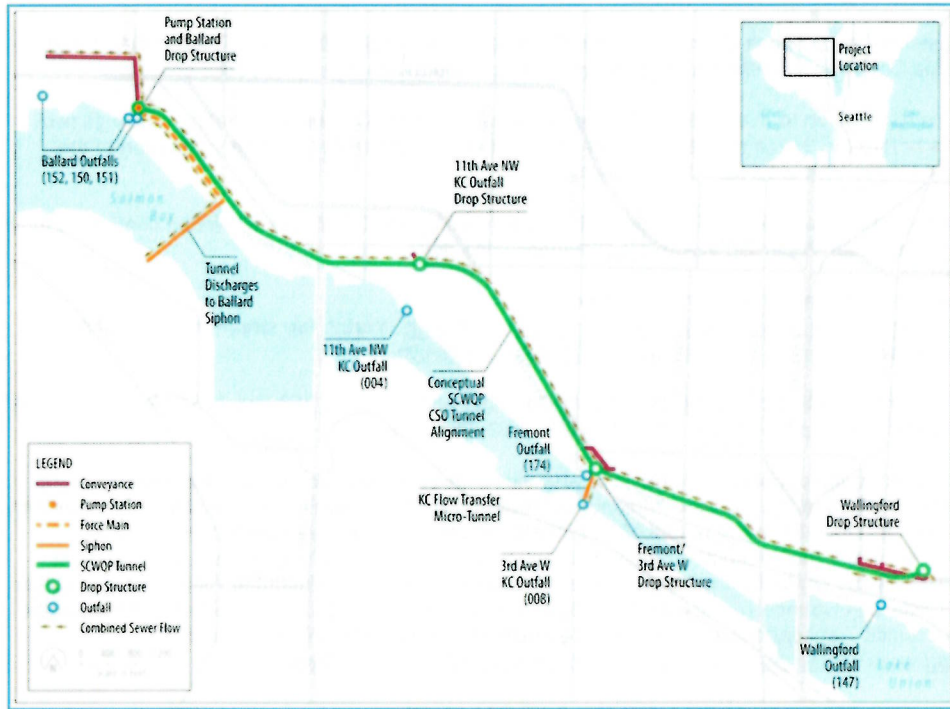


700 Fifth Avenue | PO Box 34018 | Seattle, WA 98124-4018 | 206-684-3000 | [seattle.gov/utilities](http://seattle.gov/utilities)



**Seattle  
Public  
Utilities**

## Project Alignment



700 Fifth Avenue | PO Box 34018 | Seattle, WA 98124-4018 | 206-684-3000 | [seattle.gov/utilities](http://seattle.gov/utilities)



**Seattle  
Public  
Utilities**

### Attachment B – Recipient List

Taxpayer / Property Owner	PIN	Tax Statement Addr	City, St Zip	Tax Payer's Address of Record if different from property address (Name included only if different than Property owner.)
Pacific Fishermen Inc	1125039027	5351 24th Ave NW	Seattle, WA 98107	5351 24th Ave NW, Seattle 98107
Emmanuel J. Abellanos	1125039114	x5515 A 28th Ave NW	Seattle, WA 98107	Noland LLC; 3600 Fremont Ave N, Seattle, WA 98103
Daniel Lee Gross and Brian H. P	1125039115	5511 C 28th Ave NW	Seattle, WA 98107	
Naveen S. Advanapu and Tanuja	1125039116	5511 B 28th Ave NW	Seattle, WA 98107	
Ian Scot Pihl	1125039117	5511 A 28th Ave NW	Seattle, WA 98107	
Kee Hyuk Park	1125039118	5515 B 28th Ave NW	Seattle, WA 98107	
Loretta Mallea	1175000944	5521 28th Ave NW	Seattle, WA 98107	
Rakesh Nambiar	1175000949	x5519 28th Ave NW	Seattle, WA 98107	4413 Greenwood Ave N, Seattle, WA 98103
Enri-Gisleno Vincenti	1175000950	x5517 28th Ave NW	Seattle, WA 98107	418 28th Ave, San Francisco, CA 94121
Shannon Stamps	1175000951	2809 NW 56th St	Seattle, WA 98107	c/o Kidder Mathews, 12886 Interurban Ave S, Tukwila, WA 98168
Daniel G. Yim	1175000952	2807 NW 56th St	Seattle, WA 98107	
Deborah Diane Parsons and Jeff	1175000953	2805 NW 56th St	Seattle, WA 98107	
Fremont West Office LLC	1972204350	x123 NW 36th St	Seattle, WA 98107	
126 Canal Centre LLC	1972204205	126 NW Canal St	Seattle, WA 98107	



## Legislation Text

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**File #:** CB 119962, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to enter into a stormwater facility construction and maintenance agreement with the State of Washington and grant a non-exclusive easement to the State of Washington for the stormwater facility, upon, under, and across a portion of the south half of the northwest quarter of Section 3, Township 23 North, Range 4 East, W.M., King County, Washington.

WHEREAS, The City of Seattle (“City”), by and through its Seattle Public Utilities Department (SPU) owns a parcel of land adjacent to Interstate 5 north of the Boeing Access Road, which was purchased in 1993 to address the needs of the City’s South Norfolk Street Drainage Project (authorized by Ordinance 116785) and the State of Washington’s (“State”) Tukwila to Lucile St. High Occupancy Vehicle (HOV) and Surveillance, Control, and Driver Information (SC&DI) Stage 1 complementary drainage projects; and

WHEREAS, since time was of the essence, SPU granted the State a construction permit to proceed with construction of stormwater facilities while continuing to negotiate the terms of the Participating Agreement GM1119 between the City and the State; and

WHEREAS, SPU and the State unsuccessfully attempted to reach agreement on the construction and maintenance details of the joint drainage project; and

WHEREAS, SPU has not yet conveyed property rights to the State for the project; and

WHEREAS, the State proceeded to install the stormwater facility necessary for the Tukwila to Lucile St. HOV and SC&DI Stage 1 project on the parcel purchased by SPU, as well as on property owned by the State within the limited access of Interstate 5, based on the construction permit previously granted to the State by SPU; and

WHEREAS, SPU and the State have agreed that the most advantageous solution to the State's stormwater facility on SPU property is the sale of an easement for the existing stormwater facilities; and

WHEREAS, the General Manager and Chief Executive Officer of Seattle Public Utilities has recommended granting the easement; NOW, THEREFORE,

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

Section 1. The General Manager and Chief Executive Officer (CEO) of Seattle Public Utilities or the CEO's designee is authorized to execute for and on behalf of The City of Seattle a Stormwater Maintenance and Operation Agreement with the State of Washington, substantially in the form of Attachment 1 to this ordinance.

Section 2. Upon receipt of payment in the amount of \$6,100, the CEO of Seattle Public Utilities or the CEO's designee is authorized to execute for and on behalf of The City of Seattle an easement with the State of Washington, substantially in the form of the Easement for Access and Stormwater Treatment Facility, attached to this ordinance as Exhibit B to Attachment 1, granting a non-exclusive easement for access to and maintenance of stormwater facilities on City-owned Tax Parcel 0323049223.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council



Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**Attachments:**

Attachment 1 - Stormwater Maintenance and Operation Agreement

**Attachment 1**

**GMB 1119**

**I-5 MLK-Norfolk Water Quality Treatment Maintenance and Operation**

This Agreement is made and entered into between the Washington State Department of Transportation, hereinafter “WSDOT,” and the City of Seattle, hereinafter the “City,” collectively as the “Parties” and individually as the “Party.”

**RECITALS**

1. The City owns, maintains and operates the I-5 MLK-Norfolk Water Quality Treatment Pond, hereinafter the “SPU Stormwater Facility,” as shown on Exhibit A, Page 2 (approximately).
2. WSDOT owns, maintains and operates two (2) Interstate 5 (I-5) drainage cross culverts, one 48-inch diameter and one 24-inch diameter, hereinafter the “WSDOT Culverts,” located on WSDOT I-5 limited access right of way, as shown on Exhibit A, Page 2 (approximately). The Parties agree WSDOT shall continue to maintain and operate these two WSDOT Culverts, which drain into the SPU Stormwater Facility.
3. WSDOT constructed a stormwater pond, hereinafter the “WSDOT Stormwater Pond,” located north of the WSDOT Culverts and the SPU Stormwater Facility, as shown on Exhibit A, Page 2 (approximately). The WSDOT Stormwater Pond was built in part on WSDOT I-5 limited access right of way that runs alongside Southbound I-5 and in part on City right of way that lies west of WSDOT I-5 limited access right of way.
4. An access road with gate is adjacent to the westernmost lane of Southbound I-5 at Milepost 158.35 (approximately), hereinafter the “I-5 Access Road/SPU Access Road” and the “WSDOT I-5 Access Gate,” as shown on Exhibit A, Page 2.
5. The Parties agree WSDOT shall maintain and operate the WSDOT Stormwater Pond and the WSDOT Culverts.
6. The Parties agree the City shall maintain and operate the SPU Stormwater Facility.
7. WSDOT has asked the City to grant an easement to WSDOT through City right of way for the purpose of WSDOT’s maintenance and operation of the stormwater facilities that are the responsibility of WSDOT, as shown on Exhibit B. WSDOT has requested that the City grant this easement not later than two (2) years from the date this Agreement is executed. If the City does not, within this two (2) year period, grant WSDOT such an easement or grant WSDOT a substantially similar easement to which WSDOT agrees, then this Agreement will terminate two (2) years from the date this Agreement is executed.

NOW, THEREFORE, pursuant to RCW 47.28.140, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, considerations, covenants and performances contained herein, and the attached Exhibit A and Exhibit B which are incorporated by this reference and made a part hereof,

**IT IS MUTUALLY AGREED AS FOLLOWS:**

**1. RELOCATION OF FACILITY**

- 1.1 Upon at least ninety (90) calendar days written notice to the City's representative identified in Section 5 of this Agreement, WSDOT may, at the sole cost and expense of WSDOT, relocate the WSDOT Culverts as necessary to accommodate public works projects or any WSDOT projects in WSDOT I-5 limited access right of way.

**2. WSDOT MAINTENANCE AND OPERATION RESPONSIBILITIES**

- 2.1 WSDOT shall, at its sole cost and expense, maintain and operate the WSDOT Stormwater Pond and the WSDOT Culverts.
- 2.2 WSDOT's "Routine Maintenance" of the WSDOT Stormwater Pond and the WSDOT Culverts shall include cleaning and repair, replacement of any failed structure or component, and repair of any damage to City right of way caused by the maintenance and operation of the WSDOT Stormwater Pond and/or the WSDOT Culverts. Implementation of best management practices (BMPs) to minimize sediment transport, restoration of disturbed native vegetation in-kind, and repair of damage resulting from WSDOT work activities shall be part of routine maintenance in accordance with current practice of WSDOT. WSDOT shall maintain the area within a distance of 15-feet of the culvert outfalls. WSDOT shall notify the City's Representative in writing five (5) working days prior to doing Routine Maintenance of the WSDOT Culverts and/or repairing any damage to City right of way. The Parties may, upon mutual agreement, shorten the five (5) working days notification period in a particular instance. WSDOT is not required to notify the City prior to conducting routine maintenance of the WSDOT Stormwater Pond.
- 2.3 For WSDOT's major maintenance, repair and/or replacement work of the WSDOT Culverts, not including Routine Maintenance, WSDOT shall provide the City with notification of the need for such work. The City reserves the right to review any damage occurring from a failure of the WSDOT Culverts. WSDOT has the option to determine the method of repair to the WSDOT Culverts or can defer to the City and allow it to do the repair based on current WSDOT maintenance standards at WSDOT's sole cost and expense.
- 2.4 In the event of an emergency involving the WSDOT Culverts, the WSDOT Stormwater Pond and/or the SPU Stormwater Facility, WSDOT may perform

immediate maintenance and/or repair work without prior notification to the City. If WSDOT performs such emergency work it shall notify the City as soon as reasonably practicable. The City will reimburse WSDOT for the reasonable cost of emergency work for the SPU Stormwater Facility.

### **3. CITY MAINTENANCE AND OPERATION RESPONSIBILITIES**

- 3.1 The City shall, at its sole cost and expense, maintain and operate the SPU Stormwater Facility.
- 3.2 The City's "Routine Maintenance" of the SPU Stormwater Facility shall include cleaning and repair, replacement of any failed structure or component, and repair of any damage to WSDOT I-5 limited access right of way caused by the maintenance and operation of the SPU Stormwater Facility. Implementation of best management practices (BMPs) to minimize sediment transport, restoration of disturbed native vegetation in-kind, and repair of damage resulting from SPU work activities shall be part of routine maintenance in accordance with current practice of the City. The City shall notify WSDOT's Representative in writing five (5) working days prior to repairing any damage to WSDOT I-5 limited access right of way. The Parties may, upon mutual agreement, shorten the five (5) working days notification period in a particular instance. The City is not required to notify WSDOT prior to conducting routine maintenance of the SPU Stormwater Facility.
- 3.3 In the event of an emergency involving the WSDOT Culverts, the WSDOT Stormwater Pond and/or the SPU Stormwater Facility, the City may perform immediate maintenance and/or repair work without prior notification to WSDOT. If the City performs such emergency work it shall notify WSDOT as soon as reasonably practicable. WSDOT will reimburse the City for the reasonable cost of emergency work for the WSDOT Culverts and/or WSDOT Stormwater Pond.

### **4. RIGHT OF ENTRY**

- 4.1 WSDOT grants to the City and its employees, authorized agents, contractors, and/or subcontractors, a right of entry, privilege and permit of ingress and egress onto the I-5 Access Road/SPU Access Road and through the WSDOT I-5 Access Gate, for the purpose of the City's maintenance and operation of the SPU Stormwater Facility and to carry out any other duties specified for the City in this Agreement.
- 4.2 WSDOT will provide an access for WSDOT and for the City through a dual lock system at the I-5 WSDOT Access Gate. The City agrees that it will permit ingress and egress through the I-5 WSDOT Access Gate only to City-authorized personnel and to WSDOT-authorized personnel.

- 4.3 WSDOT grants to the City and its employees, authorized agents, contractors, and/or subcontractors, a right of entry, privilege and permit of ingress and egress over, under, upon and across WSDOT I-5 limited access right of way, for the purpose of the City's maintenance and operation of the SPU Stormwater Facility and to carry out any other duties specified for the City in this Agreement.
- 4.4 The City grants to WSDOT and its employees, authorized agents, contractors, and/or subcontractors, a right of entry, privilege and permit of ingress and egress over, under, upon and across City right of way, for the purpose of WSDOT's maintenance and operation of the WSDOT Culverts and the WSDOT Stormwater Pond and to carry out any other duties specified for WSDOT in this Agreement.
- 4.5 A Party shall not be responsible for damage to facilities and/or right of way caused by the employees, authorized agents, contractors and/or subcontractors of the other Party. If a Party causes such damage it will notify the other Party as soon as reasonably practicable and shall pay to repair the damage. The City and WSDOT agree to work together in good faith to agree upon the required repairs.

## 5. PARTY REPRESENTATIVES

- 5.1 All notification or contact pursuant to this Agreement shall reference GMB 1119 and be directed to the Party representatives or designated representatives, as follows:

City of Seattle	Washington State Department of Transportation
Arnel Valmonte Project Manager Seattle Public Utilities 700 Fifth Avenue, Suite 4900 Seattle, WA 98124 Phone: (206) 615-1438 <a href="mailto:arnel.valmonte@seattle.gov">arnel.valmonte@seattle.gov</a>	Jim McBride Maintenance Superintendent, Area 5 Washington State Department of Transportation 10833 Northup Way NE Bellevue, WA 98004 Phone: (425) 739-3734 <a href="mailto:MCBRIDJ@wsdot.wa.gov">MCBRIDJ@wsdot.wa.gov</a>

- 5.2 A Party may designate an alternative representative to the individual listed in Section 5.1 and in this event shall notify the other Party in writing.

## 6. DURATION AND TERMINATION

- 6.1 The term of this Agreement begins on the date the Agreement is executed.

- 6.2 WSDOT has requested that the City grant an easement to WSDOT through City right of way, as shown on Exhibit B, not later than two (2) years from the date this Agreement is executed. If the City does not, within this two (2) year period, grant WSDOT such an easement or grant WSDOT a substantially similar easement to which WSDOT agrees, then this Agreement shall terminate two (2) years from the date this Agreement is executed.
- 6.3 If WSDOT, pursuant to Section 1.1, relocates the WSDOT Culverts in their entirety to a location outside of City right of way and access to the relocated WSDOT Culverts does not necessitate WSDOT's entry onto City right of way, then the WSDOT Culverts shall no longer be subject to this Agreement.
- 6.4 Except as provided in Section 6.2 and/or Section 6.3, this Agreement may be terminated only if mutually agreed upon by the Parties. Conditions of termination shall be mutually agreed upon in writing and shall not be binding unless signed by persons authorized to bind each of the Parties.
- 6.5 Any termination of this Agreement shall not prejudice any rights or obligations accrued to WSDOT and the City prior to termination.

## **7. GENERAL PROVISIONS**

### **7.1 Amendment**

- 7.1.1 This Agreement may be amended or modified only by the mutual agreement of the Parties except as provided in Section 7.1.2 below. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.
- 7.1.2 Where it is necessary to amend this Agreement due to relocation of the WSDOT Culverts, the Parties shall negotiate any changes in good faith and without delay. Any amendment to this Agreement made as a consequence of relocation of the WSDOT Culverts shall not become effective until signed by persons authorized to bind each of the Parties.

- 7.2 Indemnification and Waiver: Each of the Parties shall protect, defend, indemnify, and hold harmless the other Party and its officers, officials, employees and authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgements, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, that Party's obligations performed or to be performed pursuant to the provisions of this Agreement. No Party shall be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the


Parties, their agents, officials or employees, and/or involve those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the indemnifying Party, its agents, officials or employees. The Parties agree that their obligations under this section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of their officers, officials, employees or agents. For this purpose only, **the Parties, by mutual negotiation, hereby waive**, with respect to each other only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. This indemnification and waiver shall survive the termination of this Agreement.

### 7.3 Disputes and Venue

- 7.3.1 In the event a dispute arises under this Agreement, WSDOT and the City representatives shall work in good faith to resolve the matter as expeditiously as possible.
- 7.3.2 If the Parties cannot reach a resolution, the City and WSDOT shall each appoint a member to a Disputes Board. These two members shall select a third member not affiliated with either Party, who shall serve as chairman, to serve on the Disputes Board. The three-members of the Disputes Board shall conduct a dispute resolution hearing that shall be informal and unrecorded and shall furnish a written decision which shall not be binding on the Parties. The Parties agree that this disputes process must be followed before filing any litigation concerning the dispute. Each Party shall be responsible for its own attorney fees and costs, and each Party agrees to pay one-half of all expenses of the third board member.
- 7.3.3 In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceeding shall be brought in the Superior Court situated in Thurston County, Washington. Further, the Parties agree that each will be solely responsible for payment of their own attorneys' fees, witness fees, and costs.
- 7.4 Records and Audit: All records for maintenance, operation and/or repair work done pursuant to this Agreement shall be held and kept available for a period of six (6) years from the date of this Agreement's termination for inspection and audit by WSDOT, the City and the Federal government. Each Party shall have full access to and right to examine said records, during normal business hours and as often as it deems necessary. Should a Party require copies of any records from the other Party, the requesting Party agrees to pay the reasonable costs thereof. In the event of litigation or claim arising from the performance of this Agreement, the City and WSDOT agree to maintain the records and accounts until such litigation, appeal or claims are finally resolved. This section shall survive the termination of this Agreement.

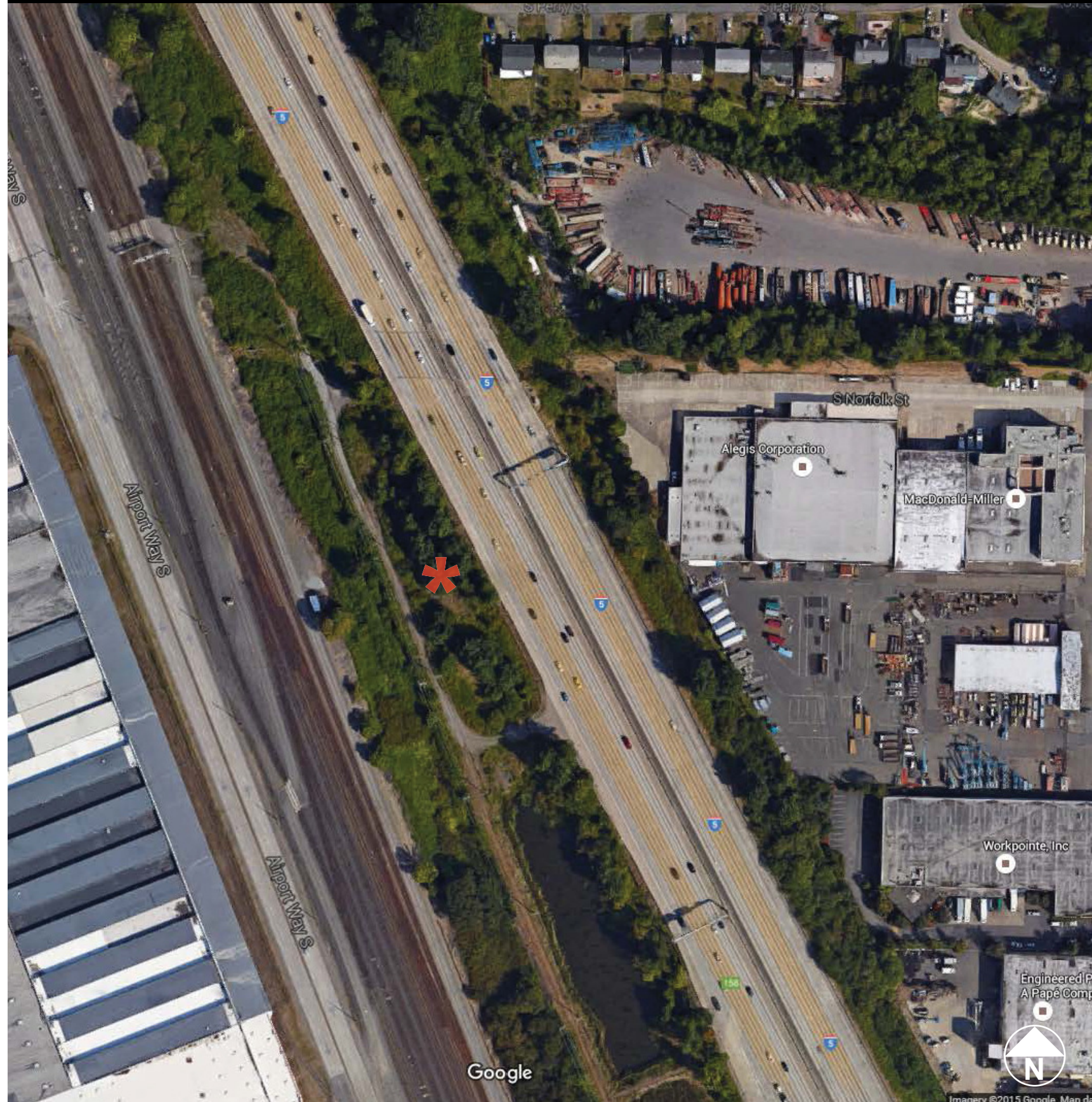
- 7.5 Calendar Day: Calendar day means any day on the calendar including Saturday, Sunday or a legal local, state, or federal holiday.
- 7.6 Working Day: Working day means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

<b>City of Seattle</b>	<b>Washington State Department of Transportation</b>
<u>Sign and Date:</u>	<u>Sign and Date:</u>
Name: Title:	Dave McCormick Assistant Regional Administrator Maintenance Operations – NW Region
<b>Approved as to Form City of Seattle</b>	<b>Approved as to Form Washington State Department of Transportation</b>
<u>Sign and Date:</u>	<u>Sign and Date:</u>  8/26/2020
Name: City Attorney	Mark Schumock Assistant Attorney General



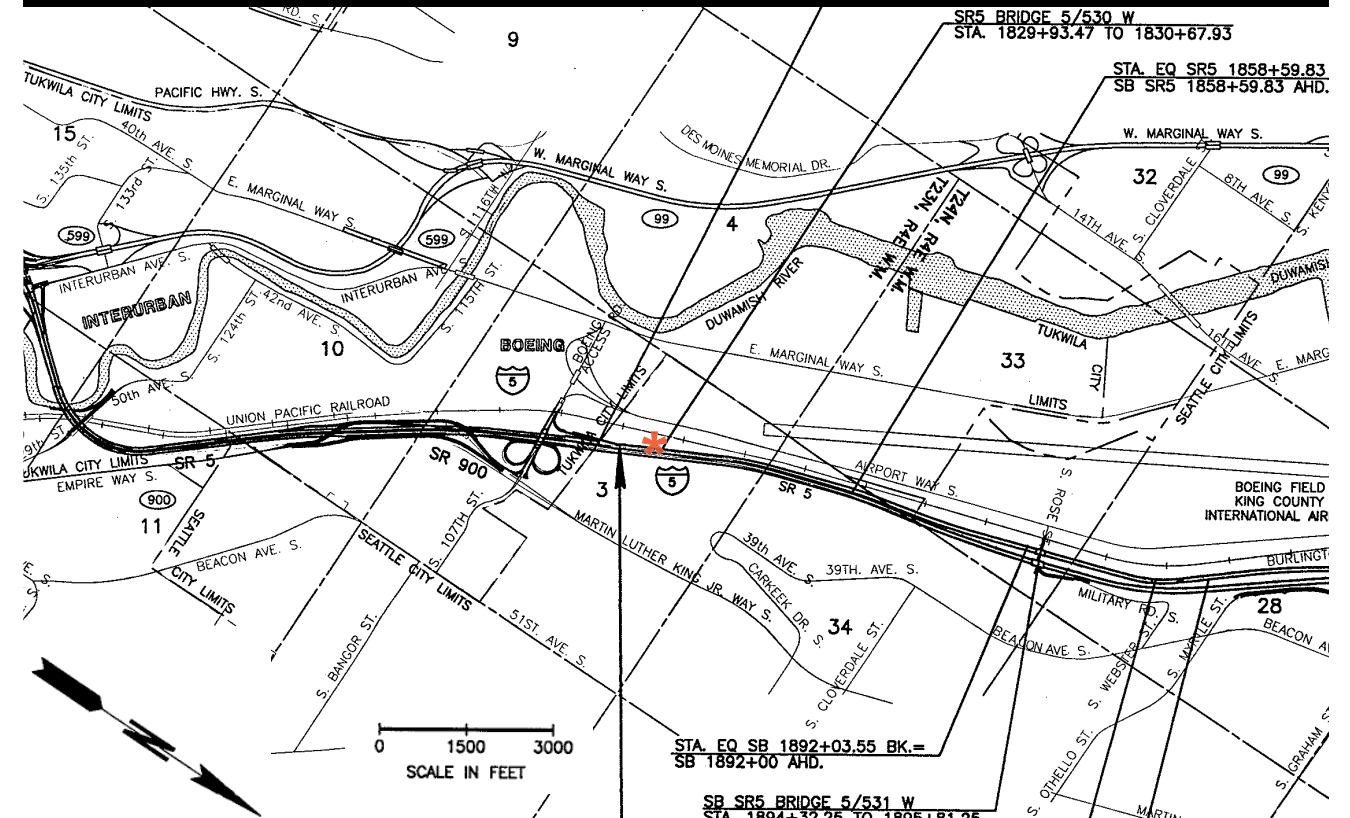
## AERIAL MAP



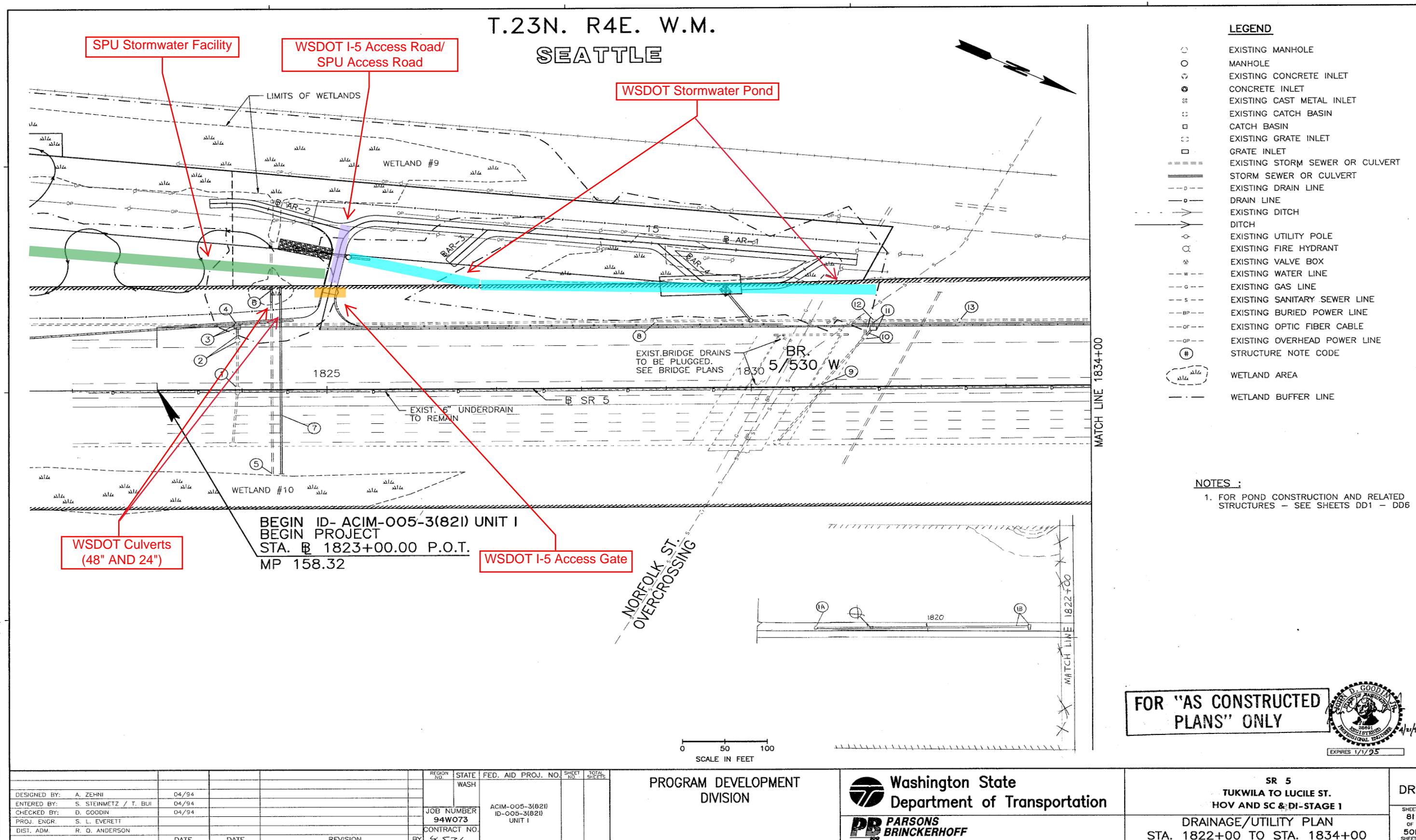
## SITE INFORMATION

<b>LOCATION:</b>	SR 5 MP 158.5
<b>FACILITY TYPE:</b>	COMBINED WET/DETENTION POND
<b>MAINTENANCE RESPONSIBILITY::</b>	WSDOT
<b>DESIGN:</b>	OL-1859   <b>CONSTRUCTION:</b> 014536   <b>JOB NUMBER:</b> 94W073
<b>HYDRAULIC REPORT:</b>	TBD
<b>MODIFIED BY:</b>	N/A
<b>SITE DESCRIPTION:</b>	THIS IS A 2-CELL FACILITY PROVIDING SEDIMENT REMOVAL,DETENTION, AND WATER QUALITY TREATMENT FROM A BIOSWALE. THE CELLS ARE SEPARATED BY EARTHEN BERMS AND ALL CELLS HAVE A GEOSYNTHETIC CLAY LINER. THIS FACILITY DOES NOT HAVE A GRAVITY DRAIN NOR A SEDIMENT GAGE.
<b>AS-BUILT FIELD VERIFICATION:</b>	7/12/2016
<b>SURVEY BENCH MARK:</b>	LID OF THE INLET CONTROL STRUCTURE
<b>DISCLAIMER:</b>	<ul style="list-style-type: none"> <li>• NOTIFY MAINTENANCE SUPERVISOR IF THE BMP IS NOT CHARACTERISTIC OF THIS OWNER'S MANUAL TO FACILITATE MAINTENANCE ACTIVITIES. CONTACT MAINTENANCE SUPERINTENDENT BEFORE ANY MAINTENANCE TAKES PLACE.</li> <li>• IF SENSITIVE AREAS OR BUFFERS ARE ADJACENT TO FENCE LINE OR POND BERM, CONTACT NW REGION ENVIRONMENTAL PROGRAM MANAGER OR MAINTENANCE AREA BMP LEAD TECH PRIOR TO STARTING ANY WORK.</li> <li>• LET ANY POND WATER SETTLE FOR DISTURBED POND AREAS PRIOR TO DISCHARGING. FOR PONDS WHERE RISK OF OVER TOPPING EXISTS, WATER MAY NEED TO BE TREATED BEFORE DISCHARGE.</li> <li>• GRAVEL FILTERS ARE TO BE PROTECTED FROM TURBID WATER DURING MAINTENANCE WORK. FOLLOW REQUIREMENTS FOR CONSTRUCTION TESC.</li> </ul>

## VICINITY MAP







After recording return document to:

State of Washington  
Department of Transportation  
Real Estate Services Office  
P O Box 47338  
Olympia WA 98504-7338

*Document Title: Easement*

*Reference Number of Related Document: N/A*

*Grantor: The City of Seattle, Seattle Public Utilities Department*

*Grantee: State of Washington, Department of Transportation*

*Legal Description: Ptn S½ of the NW¼ of Section 3, T23N, R4E, WM, King County*

*Additional Legal Description is on Page 10 of Document*

*Assessor's Tax Parcel Number: Ptn 032304-9223*

## **EASEMENT for ACCESS & STORMWATER TREATMENT FACILITY**

State Route 5, South 126th St. to Norfolk St.

This EASEMENT for ACCESS & STORMWATER TREATMENT FACILITY ("Easement") is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between The City of Seattle, a municipal corporation of the State of Washington, acting by and through its Seattle Public Utilities Department ("City"), and the State of Washington, acting by and through its Department of Transportation ("State").

### **RECITALS**

Whereas, the City owns a parcel of land adjacent to Interstate 5 north of the Boeing Access Road which was purchased in 1993 to address the needs of the City's South Norfolk Street Drainage Project (authorized by City of Seattle Ordinance 116785) and the State's Tukwila to Lucile St. HOV and SC & DI Stage 1 complimentary drainage projects, and

Whereas, time was of the essence, the City granted the State a Construction Permit to proceed with construction of stormwater facilities while continuing to negotiate the terms of the Participating Agreement GC10284 between the City and the State, and

## **EASEMENT**

Whereas, the City and State attempted to reach agreement on the construction and maintenance details of said joint drainage project, agreement was never reached and no property was transferred by the City to the State, and

Whereas, the State proceeded to install the stormwater facility necessary for their Tukwila to Lucile St. HOV and SC & DI Stage 1 project on the parcel purchased by the City as well as on property owned by the State within the limited access of Interstate 5 based on the CONSTRUCTION PERMIT previously granted to the State by the City, and

Whereas, the City and the State have agreed that the most advantageous solution to the State's stormwater facility on City property and limited access State owned property is the sale of an easement for the existing stormwater facilities, and

Whereas, the City and the State have agreed to a joint Maintenance Agreement under GMB 1119, and

NOW THEREFORE, for and in consideration of SIX THOUSAND ONE HUNDRED AND NO/100 Dollars (\$6,100.00), and the mutual covenants and agreements hereinafter set forth herein, and other valuable consideration, it is agreed by and between the parties hereto as follows:

### **A. EASEMENT GRANT AND AGREEMENT**

1. Subject to the purpose, terms, conditions, and restrictions herein described, the City hereby grants and conveys to the State a nonexclusive easement for the operation and maintenance of existing State stormwater facilities, upon, under and across that portion of the City's parcel, as legally described in Exhibit A (the "Easement Area") and depicted in Exhibit B, attached hereto, including the rights of ingress and egress to the Easement Area across the areas shown in Exhibit B. The State acknowledges it has had the opportunity to access and inspect the Easement Area and the entire City parcel, including the areas for ingress and egress, and that the City makes no representations or warranties, express or implied, including without limitation, any fitness for a particular purpose, all such warranties being hereby expressly denied with respect to the Easement Area and the City's parcel. Accordingly, the State accepts the Easement Area, including the rights of ingress and egress, in its "As, Is, Where Is, and With All Faults" condition.

**EASEMENT**

2. All references to the City's activities or use of any property owned or controlled by the City including the Easement Area, shall also apply to City successors, assigns, officers, employees, agents, consultants, contractors, representatives, invitees or licensees.
3. All references to the State's activities or use of the Easement Area shall also apply to its successors, assigns, officers, employees, agents, consultants, contractors, representatives, invitees or licensees.

**B. RIGHTS RESERVED BY THE CITY**

1. City shall have the right to install, repair, replace, maintain, operate and make lateral connections to any of its existing or future drainage facilities and appurtenances, electrical transmission and distribution facilities, or other City improvements within said easement area.
2. City shall not be liable for the relocation or repair of State's stormwater facilities, or other State improvements within the Easement Area by reason of such work or operations or for damage to roadway, stormwater facilities or other State improvements within said easement area, except where such damage is caused by the sole or comparative negligence of the City, its agents or employees.
3. City reserves the right to grant or deny permission to use or occupy the Easement Area for any other purpose, including use by State or other utility agencies; provided that such use or occupancy shall not unreasonably conflict with the purposes herein granted.

**C. STATE'S USE OF THE EASEMENT AREA**

1. State shall be responsible for the maintenance of State's stormwater facilities within the Easement Area, which shall be at no cost or expense to City.
2. The use of the Easement Area by the State shall in no way interfere with present or future use of said property by City for drainage or water lines or facilities, overhead or underground electrical transmission or distribution facilities, or for other City purposes.
3. The Easement Area is for the purpose of operating and maintaining an existing stormwater facility designed and constructed by State.

**EASEMENT**

4. State has the right to use the existing roadway for ingress and egress to the Easement Area. Use of the existing roadway by State includes restoration to its condition prior to any construction or maintenance activities by State.
5. State shall access the Easement Area via their existing access point from Interstate 5 at approximately Highway Engineer's Station HES 2749+50.
6. State shall be responsible for the maintenance of the gate and all associated costs at the State's access point from Interstate 5 at approximately Highway Station HES 2749+50. Said access point, which also serves Seattle City Light and Seattle Public Utilities, shall be gated and locked when not in use. If ramp and/or lane closure is necessary during the use of this access, or for the City's maintenance schedule, a Traffic Control Plan shall be approved by the State before commencing.
7. State shall acquire no right or interest in the Easement Area, or to the occupancy of same, or any part thereof, other than as herein described.
8. Before undertaking any construction, repair or maintenance of the roadway or stormwater facilities, plans and specifications must be submitted to and approved in writing by Seattle Public Utilities.
9. This easement specifically does not allow any City utility infrastructure within the Easement Area to be altered, moved, or adjusted, unless plans and specifications have been submitted to and approved in writing by Seattle Public Utilities, any other City Department, or other entity already operating infrastructure within the Easement Area. If approved, all alterations, moving or adjusting of infrastructure shall be paid for by the State or its agents or its permittees.
10. The City has the right to stop work or modify any approved plans, if the City determines that work is not being performed as approved, there is a safety issue, or that City facilities or the facilities of others are at risk.
11. No City approval contemplated by this Agreement may be taken as an assumption of liability or a representation that any submission is in compliance with any applicable laws, standards, or regulations.

## EASEMENT

### D. COMPLIANCE WITH LAWS AND REGULATIONS

1. The use of the Easement Area is subject to all applicable rules, regulations and laws governing the construction, operation and maintenance of such use, including environmental laws.
2. Purpose, terms, conditions, and restrictions herein described shall not be construed to replace or to be used in lieu of any permit or licenses which may be required, granted or supervised by any agency or subdivision of government with jurisdiction over State's facilities.

### E. UTILITIES IN THE EASEMENT AREA

1. In addition to the purposes of this Agreement, other public utilities may be allowed in the Easement Area by City permit, subject to plans and specifications being submitted to and approved in writing by Seattle Public Utilities. Approval shall not be unreasonably withheld. Public utilities are defined as governmental or quasi-governmental entities or legally registered companies providing public utility services. Seattle Public Utilities will charge its then applicable fees for the permit, including administration of the application and writing the permit, plan review, and operational oversight of the proposed installation.
2. Utility agencies must restore the roadway and Easement Area at the time of the utility installation. Restoration shall be only as approved by both the City and State, and to the specifications of any agency or subdivision of government having jurisdiction.

### F. RELEASE AND INDEMNIFICATION

1. State shall defend, indemnify and hold harmless City, City's officials, employees, agents, and representatives from and against any and all claims, liens, demands, actions, costs, losses, expenses, harm, damages, and liability of any kind or character asserted or arising from, on account of, or in connection with: (a) State's exercise of its rights and obligations under this Agreement, (b) the acts or omissions of State (and State's officials, employees, agents, consultants, contractors, representatives, or licensees in or upon the Easement Area), or (c) any damage to or failure of the roadway, storm drain or other State improvements resulting in any damage or injury to any person or property, or any interest of any person or entity whatsoever; provided however, nothing herein shall require State to so indemnify and hold



**EASEMENT**

harmless City to the extent of the negligence or other fault on the part of the City, its officials, employees, agents, consultants, contractors, representatives or licensees.

2. State agrees to maintain compliance with any and all environmental laws and not to cause or permit the Easement Area to become contaminated with any hazardous substances in violation of such environmental laws. In the event that any property becomes contaminated as a result of the use of the Easement Area by State, its officials, employees, agents, consultants, contractors, representatives, licensees, invitees or visitors, State agrees to clean up and remediate damage to such property and to bring it into compliance with all applicable environmental laws. State agrees to indemnify, release and hold harmless the City from any environmental liability which may arise out of, result from, or be related to the past, present, or future contamination of the Easement Area by State, its officials, employees, agents, consultants, contractors, representatives, licensees, invitees or visitors. For purposes of this paragraph, "environmental laws" shall mean any local, state or federal law, regulation, ordinance, order or other source of law, now or hereafter in effect relating to the protection of human health or the environment including, but not limited to: the Federal Clean Air Act; the Federal Water Pollution Control Act; the Federal Safe Drinking Water Act; the Federal Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Federal Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Federal Occupational Safety and Health Act; the Federal Emergency Planning and Right-to-Know Act of 1986; the Federal Hazardous Materials Transportation Control Act of 1980; the Federal Water Act of 1977; the Federal Insecticide, Fungicide and Rodenticide Act; the Federal Waste Management Recovery and Recycling Act; the Washington Hazardous Waste Management Act; the Washington Hazardous Waste Fees Act; Washington Model Toxics Control Act; the Washington Nuclear Energy and Radiation Act; the Washington Radioactive Waste Storage and Transportation Act; the Washington Underground Petroleum Storage Tanks Act; and any regulations promulgated thereunder from time to time.
3. Any and all damage or injury done to the Easement Area, City municipal utility facilities, or existing facilities of others, resulting from construction in, and the use of, the Easement Area by State or its agents or its permittees, for the Purposes described in this Easement, must be repaired to the City's and/or other facility owner's satisfaction within thirty (30) days of the occurrence of such damage or of notification to State by the City or other facility owner of the existence of such damage, at the sole cost and expense of State or its agents or its permittees. State



**EASEMENT**

agrees to require an insurance policy of any of its permittees, in an amount adequate to cover any and all damages to the Easement Area during the construction phase, not less than \$1 million.

4. If State, or its agents or its permittees, has not corrected, or made an acceptable agreement with City to correct any condition caused by State, or any responsible agents or permittees, that the City determines as unacceptable within thirty (30) days of notification by City, City may perform such work, and all reasonable costs incurred shall be paid by State, or any responsible agents or permittees, within 30 days of receipt of an invoice for the work. City may act immediately for conditions which pose a threat to public health, safety or the environment. Any late payments will be charged 1% per month interest.

**G. GOVERNING LAW**

1. This Agreement shall be construed and governed under Washington Law. Venue for any action between the parties arising from the subject matter of this Agreement will be in King County Superior Court at Seattle.

**H. SEVERABILITY**

1. If any provision of this Agreement is found to be invalid, the remainder of the provisions of this Agreement that are not materially altered or invalidated shall remain in full force and effect.
2. This Agreement, and each of the terms, provisions, conditions and covenants herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**I. CONTACTS**

CITY OF SEATTLE – SEATTLE PUBLIC UTILITIES: (206) 386-1800

STATE – DEPARTMENT OF TRANSPORTATION: (425) 739-3734  
(Area 5 Maintenance)

## EASEMENT

It is understood and agreed that delivery of this Easement is hereby tendered and that the terms and obligations hereof shall not become binding upon the State of Washington unless and until accepted and approved hereon in writing for the State of Washington, by and through its Department of Transportation, by its authorized agent.

Dated \_\_\_\_\_, 2020

## THE CITY OF SEATTLE

By: \_\_\_\_\_  
Mami Hara, General Manager and Chief  
Executive Officer, Seattle Public Utilities

This deed is executed and delivered pursuant to City of Seattle Ordinance \_\_\_\_\_.

Accepted and Approved

STATE OF WASHINGTON,  
Department of Transportation

By: \_\_\_\_\_  
Hal Wolfe, Northwest Region  
Real Estate Services Manager,  
Authorized Agent

Date: \_\_\_\_\_

## EASEMENT

STATE OF WASHINGTON                    )  
  : §  
County of King                            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared MAMI HARA, known to me to be the General Manager and Chief Executive Officer of Seattle Public Utilities of the City of Seattle, the municipal corporation named in and which executed the within and foregoing document, and stated on oath that she was authorized to execute the foregoing document on behalf of said municipal corporation and signed the same as the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

Notary Seal

Please stay within block.

Notary (print name) \_\_\_\_\_  
 Notary Public in and for the State of Washington,  
 residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

**EASEMENT****EXHIBIT A**

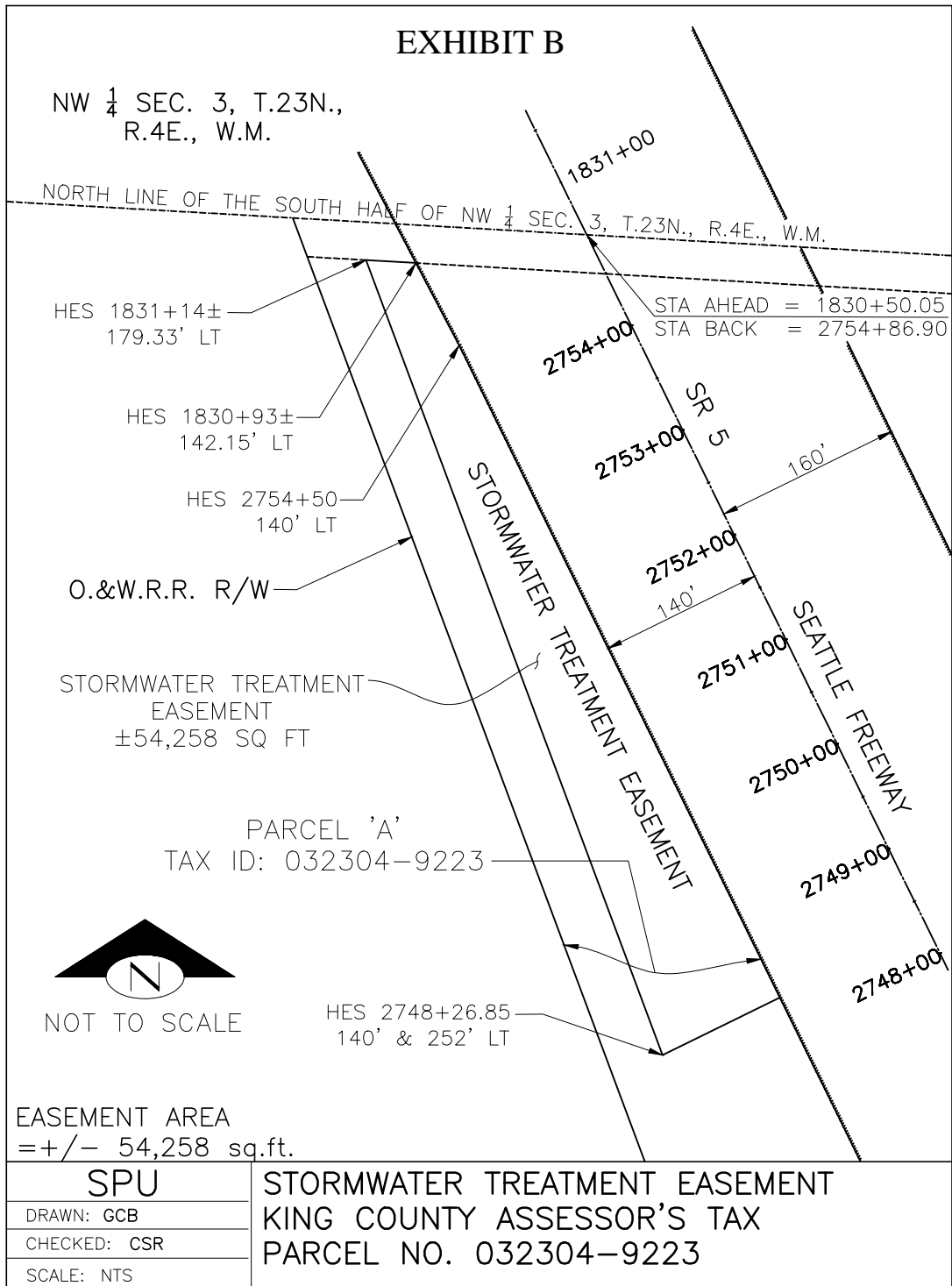
All that portion of the hereinafter described PARCEL "A" lying within a tract of land beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 2748+26.85 on the SR 5 line survey of SR 5, South 126th St. to Norfolk St., and 140 feet southwesterly therefrom; thence southwesterly to a point opposite said HES 2748+26.85 and 252 feet southwesterly therefrom; thence northwesterly through equation P.O.T. 2754+86.9 BACK = P.O.T. 1830+50.05 AHEAD to a point opposite HES 1831+14± on said line survey and 179.33 feet southwesterly therefrom, said point lying on the northerly property boundary line of said PARCEL "A"; thence easterly along said northerly property boundary line to a point opposite HES 1830+93± on said line survey and 142.15 feet southwesterly therefrom, said point being the northeast corner of said PARCEL "A"; thence southeasterly along the easterly line of said PARCEL "A" to a point opposite HES 2754+50 on said line survey and 140 feet southwesterly therefrom; thence continuing southeasterly along the easterly line of said PARCEL "A" to the point of beginning.

**PARCEL "A"**

That portion of the south half of the northwest quarter of Section 3, Township 23 North, Range 4 East, W.M., in King County, Washington, lying easterly of the O & W Railroad (now Union Pacific Railroad) right of way, south of the south margin of South Norfolk Street, and southwesterly of Primary State Highway No. 1 (now SR 5).

The lands herein described contain an area of 54,258 square feet, more or less, the specific details concerning all of which are to be found on sheet 5 of that certain plan entitled SR 5, South 126th St. to Norfolk St., now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval March 13, 1962, revised August 30, 2019.

Grantor's Initials
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## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Public Utilities	Sahba Mohandessi/684-7592	Akshay Iyengar/4-0716

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager and Chief Executive Officer of Seattle Public Utilities to enter into a stormwater facility construction and maintenance agreement with the State of Washington and grant a non-exclusive easement to the State of Washington for the stormwater facility, upon, under, and across a portion of the south half of the northwest quarter of Section 3, Township 23 North, Range 4 East, W.M., King County, Washington.

**Summary and background of the Legislation:** The Washington State Department of Transportation and Seattle Public Utilities in 1993 collaborated on constructing drainage facilities for the benefit of both agencies. Under an agreement approved by the parties, the City would purchase property for a joint stormwater facility and WSDOT would build detention ponds, grassy swales and a maintenance access road on the property purchased by the City.

Upon completion of the project, the property was to be transferred to the State. WSDOT built the drainage facilities but the subsequent property transfer did not take place. In 2011 SPU improved City's drainage system on the property and parties agreed to provide WSDOT an easement for maintenance of its water quality ponds. This ordinance would complete the transfer of real property rights envisioned in the agreement between the parties.

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**  
No

**Is there financial cost or other impacts of *not* implementing the legislation?**

If the easement is not given to WSDOT it will not have access to its drainage facilities to maintain them, causing them to fail. This would lead to failure of SPU's drainage system, causing flooding of private and public properties

**3.b. Revenues/Reimbursements**

**X This legislation adds, changes, or deletes revenues or reimbursements.**  
**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

Fund Name and Number	Dept	Revenue Source	2020 Revenue	2021 Estimated Revenue
DWF 44010	SPU	Easement Fee	\$6,100	
<b>TOTAL</b>			<b>\$6,100</b>	

**Is this change one-time or ongoing?**

One time

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**  
No

**b. Is a public hearing required for this legislation?**  
Yes

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
No

**d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
No

**e. Does this legislation affect a piece of property?**  
Yes

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**  
No

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

NA

**List attachments/exhibits below:**





## Legislation Text

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**File #:** CB 119959, **Version:** 1

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE imposing a revenue measure of 0.15 percent sales and use tax for transportation purposes as authorized by Seattle voters at the November 3, 2020 election; and ratifying and confirming certain prior acts.

WHEREAS, the Revised Code of Washington (RCW), Chapter 36.73, provides for establishment of

transportation benefit districts by cities and counties and authorizes those districts to levy and impose various taxes and fees to generate revenues to support transportation improvements that benefit the district and that are consistent with state, regional, or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, City of Seattle Ordinance 123397 created the Seattle Transportation Benefit District for preserving and maintaining transportation infrastructure; improving public safety; implementing elements of the Seattle Transportation Strategic Plan and other planning documents; investing in bicycle, pedestrian, freight mobility, and transit enhancements; and providing people with choices to meet their mobility needs; and

WHEREAS, on August 7, 2016, by Ordinance 125070, The City of Seattle (“City”) assumed the rights, powers, immunities, functions, and obligations of the STBD as authorized under RCW 36.74.030; and

WHEREAS, on July 31, 2020, by Ordinance 126115, the City placed Proposition 1 on the November 3, 2020 ballot authorizing a 0.15 percent sales and use tax through March 31, 2027, as a replacement for the Seattle Transportation Benefit District measure that passed in 2014 and expires on December 31, 2020; and

WHEREAS, on November 3, 2020, City of Seattle Proposition 1 was approved by a majority of qualified Seattle electors; and

WHEREAS, The City of Seattle intends to implement programs necessary to implement Proposition 1, as defined in Ordinance 126115, including purchase of King County Metro Transit services with over 65 percent of stops within Seattle; transit access for low-income residents, workers, seniors, and youth; transit infrastructure maintenance and capital improvements; and emerging mobility needs related to COVID-19 response and recovery, and closure of the West Seattle High Bridge; NOW, THEREFORE,

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

Section 1. A 0.15 percent sales and use tax is established, as authorized by Ordinance 126115, and consistent with RCW 36.73.040 and 36.73.065, to be collected by the Washington State Department of Revenue, as set forth in RCW 82.14.0455. This sales and use tax will expire on March 31, 2027.

Section 2. The revenues generated by this sales and use tax shall be used in accordance with the purposes set forth in Ordinance 126115.

Section 3. The Finance Director is authorized to provide any necessary notice to the Department of Revenue in order to effectuate the sales and use tax enacted by this ordinance no later than April 1, 2021, in accordance with RCW 82.14.0455 and 82.14.055, and to execute, on and behalf of The City of Seattle, any necessary agreement with the Department of Revenue for the collection and administration of the tax enacted by this ordinance.

Section 4. Any notice given or agreement executed by the Finance Director as authorized by Section 3 of this ordinance prior to the effective date of this ordinance is ratified and confirmed. Action necessary to ensure collection of this sales and use tax starting April 1, 2021, is ratified and confirmed.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by  
me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
SDOT	Bill LaBorde/206.484.8662	Christie Parker/206.684.5211

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE imposing a revenue measure of 0.15 percent sales and use tax for transportation purposes as authorized by Seattle voters at the November 3, 2020, election; and ratifying and confirming certain prior acts.

#### **Summary and background of the Legislation:**

This legislation is necessary to enact the 0.15% sales and use tax approved by voters in November 2020. Funds will be used to maintain and enhance transit service and access in Seattle. Revenue collections will begin April 1, 2021 and continue through the first quarter of 2027.

The November 2020 ballot measure replaces a previous measure that imposed a 0.1% sales and use tax and \$60 vehicle license fee; that measure was approved by voters in November 2014 and expires December 31, 2020.

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**  
No

#### **Is there financial cost or other impacts of *not* implementing the legislation?**

This legislation is necessary in order to collect the 0.15% sales and use tax approved by Seattle voters. Without this legislation, the City will be unable to receive this tax revenue which will be used to fund transit service and other items.

### 3.a. Appropriations

— This legislation adds, changes, or deletes appropriations.

**Appropriations Notes:** This legislation does not provide appropriations. Funds will be appropriated in separate budget legislation.

### 3.b. Revenues/Reimbursements

X This legislation adds, changes, or deletes revenues or reimbursements.

**Revenue/Reimbursement Notes:** This legislation will provide an estimated \$294 million of dedicated revenue for transportation purposes over six years; approximately \$33 million of this revenue will be generated in 2021, and just over \$45 million will be generated in the first full year of collections in 2022. These revenues are not added to the City's budget through this legislation but will be accounted for in separate budget revision and appropriation legislation.

Annual revenues are estimated as follows (dollars in millions):

2021	2022	2023	2024	2025	2026	2027	Total
\$33.4M	\$45.6M	\$48.1M	\$49.9M	\$51.5M	\$53.3M	\$12.6	\$294.3M

Revenue collections are estimated to begin April 1, 2021 and continue through the first quarter of 2027.

### 3.c. Positions

— This legislation adds, changes, or deletes positions.

**Position Notes:** This legislation does not add, change or delete positions. Position additions, changes or deletions are being determined through separate budget legislation.

## 4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?  
No
- b. Is a public hearing required for this legislation?  
No
- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?  
No

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

No

- e. **Does this legislation affect a piece of property?**

No

- f. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

While the regressive effects of relying on sales tax has a disproportionate impact on lower income communities of color, including immigrant and refugee communities, the Mayor and Council agreed to increase the STBD sales tax rate by .05% after hearing from many of these same communities about the need to maintain frequent transit service. People of color tend to rely on public transportation more than Seattle residents as a whole. For example, through the pandemic, routes like Metro Route 7 that serve more racially diverse parts of Seattle have retained roughly half their pre-COVID levels of ridership while routes serving less diverse parts of the City are generating approximately 20% pre-COVID ridership.

- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

Yes. This legislation allows the Seattle Transportation Benefit District investments in transit service and access first approved by Seattle voters in 2014 to continue for another 6 years. Given the uncertainty created by Initiative I-976, the measure approved by voters on November 3 relies entirely on sales tax revenue; unlike the 2014 measure, the 2016 measure does not authorize any vehicle license fees.

**List attachments/exhibits below:**



## Legislation Text

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**File #:** CB 119960, **Version:** 2

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### CITY OF SEATTLE

#### ORDINANCE \_\_\_\_\_

#### COUNCIL BILL \_\_\_\_\_

AN ORDINANCE regarding the Transit Service Funding Agreement with King County; authorizing the Director of the Seattle Department of Transportation to execute an amendment to the agreement extending the term to June 30, 2021; and ratifying and confirming certain prior acts.

WHEREAS, in November 2014, Seattle voters approved Seattle Transportation Benefit District (STBD)

Proposition 1, approving a \$60 annual vehicle license fee and 0.1 percent sales tax for the purpose of purchasing transit service from King County Metro Transit (“Metro Transit”); and

WHEREAS, on February 27, 2015, Ordinance 124720 was enacted, authorizing the Director of the Seattle Department of Transportation (SDOT) to execute an interlocal agreement (“Agreement”) with Metro Transit to purchase the transit service necessary to implement the transit service approved by voters through the STBD measure; and

WHEREAS, Section 4 of the Agreement provides that Metro Transit’s General Manager and the SDOT Director may extend the Agreement for up to three years without additional approval by the City Council and, in 2018, SDOT and Metro Transit did, in fact, execute an extension to the current Agreement through December 31, 2020; and

WHEREAS, the current Metro Transit service period through which The City of Seattle (“City”) is purchasing fixed route bus service started on September 19, 2020, and ends on March 20, 2021; and

WHEREAS, the City’s STBD-funded partnership with Metro Transit to provide Via to Transit on-demand service in the Rainier Valley runs through April 1, 2021; and

WHEREAS, final reconciliations and invoices will be issued following the end of the above-noted service

terms; and

WHEREAS, the King County Council passed Ordinance 19169 on September 29, 2020, approving  
“Amendment No. 5” to the Agreement, which would extend it through June 30, 2021, NOW,  
THEREFORE,

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

Section 1. The Seattle Department of Transportation (SDOT) Director, or the Director’s designee, is hereby authorized and directed to execute on behalf of The City of Seattle Amendment No. 5 to the Transit Service Funding Agreement by and between The City of Seattle, in substantially the form as described in Attachment A to this ordinance.

Section 2. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by  
me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_



Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 20.

---

Monica Martinez Simmons, City Clerk

(Seal)

**Attachments:**

Attachment A - Amendment No. 5 to the Transit Service Funding Agreement by and Between King County and The City of Seattle

**AMENDMENT No. 5  
TO THE  
TRANSIT SERVICE FUNDING AGREEMENT  
BY AND BETWEEN  
KING COUNTY  
AND  
THE CITY OF SEATTLE**

This Amendment No. 5 to the Transit Service Funding Agreement (“Amendment No. 5” or the “Fifth Amendment”) is made by and between King County, a political subdivision of the State of Washington and home rule charter county with broad powers to provide public transportation within the County's geographic boundaries, by and through the King County Metro Transit Department (the “County” or “Metro Transit”) and the City of Seattle, a Washington municipal corporation, by and through the Seattle Department of Transportation (the “City” or “SDOT”) both of which entities may be referred to hereinafter individually as a “Party” and collectively as the “Parties.”

- A. In February 2015, Ordinance 17978 was enacted, approving The Transit Service Funding Agreement (the “Agreement”) between King County and the city of Seattle.
- B. The original term was set to expire December 31, 2017.
- C. Section 4 of the Agreement provides that the General Manager and the Director may extend the Agreement for up to three (3) years without additional approval by the County Council or the City Council.
- D. In December 2017, the Parties executed an amendment to extend the Agreement until June 30, 2018.
- E. In June 2018, the Parties executed another amendment to extend the Agreement until December 31, 2020—three years from the initial expiration date.
- F. The Parties desire to extend the Agreement an additional six (6) months, until June 30, 2021.

NOW, THEREFORE, in consideration of the terms, conditions and mutual covenants set forth herein, the Parties agree to amend the Agreement as follows:

- 1. Section 4 of the Agreement, “Agreement Duration,” is hereby modified by extending the expiration date of the Agreement to June 30, 2021.

2. Except as specifically provided for in this Amendment No. 5, all other provisions of the Agreement shall remain unchanged and in full force and effect.
3. Capitalized terms contained herein, unless otherwise defined, are intended to have the same meaning and effect as that set forth in the Agreement.
4. This Amendment No. 5 shall be effective as of January 1, 2021.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment No. 5 to the Agreement as of the date set forth below their signatures.

**KING COUNTY**

**CITY OF SEATTLE**

By: \_\_\_\_\_  
Terry White  
General Manager  
Metro Transit Department

By: \_\_\_\_\_  
Sam Zimbabwe  
Director  
Seattle Department of Transportation

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
SDOT	Bill LaBorde/206.484.8662	Christie Parker/206.684.5211

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **Legislation Title:**

AN ORDINANCE regarding the Transit Service Funding Agreement with King County; authorizing the Director of the Seattle Department of Transportation to execute an amendment to the agreement extending the term to June 30, 2021; and ratifying and confirming certain prior acts.

#### **Summary and background of the Legislation:**

This legislation authorizes the terms of the existing Transit Service Funding Agreement with King County governing transit service hour purchases, funded by the Seattle Transportation Benefit District (STBD) Proposition 1 transit measure that passed in November 2014 and expires at the end of 2020, to continue through the end of the current Metro service change period, ending March 19, 2021. It will also accommodate the current VIA to Transit partnership commitment that lasts through April 1, 2021. Extending the current agreement through June 2021 will allow time for Metro to produce final reconciliation and invoices. With Seattle voters approving Proposition 1 in the 2020 general election, a new 6-year interlocal agreement will be submitted for Council approval in early 2021.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

Both the fixed hour and VIA transit service commitments mentioned above are funded by the existing STBD revenue streams that will be collected through December 31, 2020. The City had always assumed that these commitments would run through the end of the current Metro service period and have, therefore, been shown in STBD spend plans presented to Council and the Transit Advisory Board since 2015. The cost of this contract extension is approximately \$5.5 million and will be paid from the STBD Fund.

**Is there financial cost or other impacts of *not* implementing the legislation?**

The City could lose protections afforded by the current Transit Service Funding Agreement if it continued to purchase planned service without an extension.

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

No

**b. Is a public hearing required for this legislation?**

No

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No

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

No

**e. Does this legislation affect a piece of property?**

No

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

The Amendment 5 extension allows the City to continue purchasing transit service that is particularly important to low-income essential workers and others living in parts of the City with the highest concentrations of people of color, including Rainier Valley, the Delridge corridor and Duwamish communities of South Park and Georgetown. Significant numbers of essential workers live in these communities and are transit dependent. For this reason, many of these routes have retained significant levels of ridership throughout the COVID-19 emergency and it is important for the City and County to avoid gaps in service along these routes.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

N/A

**List attachments/exhibits below:**



## Legislation Text

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**File #:** Res 31981, **Version:** 1

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### CITY OF SEATTLE

### RESOLUTION \_\_\_\_\_

A RESOLUTION relating to the Seattle Department of Transportation; authorizing the Director to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant funding assistance managed through the Recreation and Conservation Office.

WHEREAS, state grant assistance is requested by The City of Seattle to aid in financing the cost of the Flume Off-Leash Area and Trail Development, a component of the Georgetown-South Park Connection trail project, to be administered by the Seattle Department of Transportation (SDOT); and

WHEREAS, in the development of the 2017 Georgetown Mobility Study, Duwamish Valley community members identified the need for a walkable, bikeable connection between Georgetown and South Park's historic "Main Streets" and connecting the heart of the Duwamish Valley, support which has been reiterated in the form of statements of support from over 400 individuals and six community groups residing in the Duwamish Valley; and

WHEREAS, the trail project is included as a priority within the City's Pedestrian Master Plan, Bike Master Plan, Freight Master Plan, Transit Master Plan, and Bicycle and Pedestrian Safety Analysis; and

WHEREAS, state grant assistance is requested by SDOT to aid in financing the cost of the Flume Off-Leash Area and Trail Development referenced above; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR  
CONCURRING, THAT:**

Section 1. The City of Seattle (for the purposes of this resolution, "the City" and "we/us/our") has applied for State of Washington for funding assistance managed by the State Recreation and Conservation

Office (Office) for the “Proposed CIP Project” in the amount set forth in the “Grant Request” column below:

<b>Proposed Project</b>	<b>RCO Category / Project #</b>	<b>Grant Request</b>	<b>Match</b>	<b>Total</b>
Flume Off-Leash Area and Trail Development (Georgetown to South Park Trail - MC-TR-C096)	#20-1803	\$ 910,445	\$400,000	\$1,310,445

Section 2. The SDOT Director, or the Director’s designee, is authorized to act as the authorized representative/agent for the City who has or will have by the time any project agreement is executed full authority to bind the City regarding all matters related to the Project(s), including but not limited to, full authority to: (1) approve submittal of a grant application to the Office, (2) enter into a project agreement(s) on behalf of the City, (3) sign any amendments thereto on behalf of the City, (4) make any decisions and submissions required with respect to the Project(s), and (5) designate a project contact(s) to implement the day-to-day management of the grant(s).

Section 3. The City has reviewed the sample project agreement, which is attached to this resolution as Attachment 1. The City understands and acknowledges that, if offered a project agreement to sign in the future, it will contain an indemnification and legal venue stipulation (applicable to any sponsor) and a waiver of sovereign immunity (applicable to Tribes) and other terms and conditions substantially in the form contained in the sample project agreement, and that such terms and conditions of any signed project agreement shall be legally binding, to the extent allowed by law, on the City if the SDOT Director or the authorized representative/agent enters into a project agreement on our behalf. The City’s obligations under any indemnity provision authorized by this resolution are subject to any limitations imposed by state law. Appropriated funds that are subject to this indemnity obligation include, but are not limited to, funds in the Licensee’s self-insurance program and in the Judgment/Claims Fund (00126) established by Ordinance 124088, and future

moneys appropriated for the same purposes. The City understands that the Office reserves the right to revise the project agreement prior to execution and shall communicate any such revisions with the above-authorized representative/agent before execution.

Section 4. The City acknowledges and warrants that the SDOT Director will have full legal authority to enter on its behalf into a project agreement(s) that include indemnification, waiver of sovereign immunity (as may apply to Tribes), and stipulated legal venue for lawsuits and other terms substantially in the form contained in the sample project agreement to the maximum extent allowed by law or as may be revised prior to execution.

Section 5. Grant assistance is contingent on a signed project agreement. Entering into any project agreement with the Office is purely voluntary on the part of the City.

Section 6. The City understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the project agreement, the characteristics of the project, and the characteristics of the City.

Section 7. The City further understands that prior to executing the project agreement(s), the Office may make revisions to its sample project agreement and that such revisions could include the indemnification, the waiver of sovereign immunity, and the legal venue stipulation. The City accepts the legal obligation that prior to execution of the project agreement(s), the SDOT Director shall inform the City Council of any revisions to the project agreement from that of the sample project agreement and obtain required authority to enter the agreement on behalf of the City. The City also acknowledges and accepts that the Superintendent will not execute the project agreement(s) without required authorizing legislation and that after execution any such revisions, all terms and conditions of the executed project agreement (including but not limited to the indemnification, the waiver of sovereign immunity, and the legal venue stipulation) may be deemed to be executed with the authorization of the City and apply to the maximum extent allowed by law.

Section 8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.



Section 9. [Reserved from State template due to City legislative requirements.]

Section 10. If match is required for the grant, we understand the City must certify the availability of match at least one month before funding approval. In addition, the City understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Section 11. The City acknowledges that any property owned by the City that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or by the Office in writing and per the project agreement or an amendment thereto. Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the project agreement or an amendment thereto.

Section 12. The City acknowledges that any property owned by the City that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or by the Office in writing and per the project agreement or an amendment thereto. Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the project agreement or an amendment thereto.

Section 13. The City passes this resolution with the understanding that it shall be deemed to be part of the formal grant application to the Office.

Section 14. By adopting this resolution, the City warrants and certifies that it has full legal authority to commit the City to the warranties, certifications, promises, and obligations set forth in this resolution.

Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by

me in open session in authentication of its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

The Mayor concurred the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Sample RCO Project Agreement



Project Number:

USFS Number:

Project Sponsor:

Project Number:

Project Title:

Approval Date:

**A. PARTIES OF THE AGREEMENT****B. PURPOSE OF AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the Sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

**C. DESCRIPTION OF PROJECT****D. PERIOD OF PERFORMANCE**

The period of performance begins on (project start date) and ends on (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by policies published in RCO manuals as of the effective date of this agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

The Sponsor has obligations beyond this period of performance as described in Section F: Long-Term Obligations.

**E. STANDARD TERMS AND CONDITIONS INCORPORATED**

The Standard Terms and Conditions of the Project Agreement are hereby incorporated by reference as part of this Agreement.

**F. LONG-TERM OBLIGATIONS****G. PROJECT FUNDING**

The total grant award provided by the funding board for this project shall not exceed \$. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board's percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
Project Sponsor			
Total Project Cost			

**H. FEDERAL FUND INFORMATION****I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS**

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

**J. AMENDMENTS TO AGREEMENT**

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and funding board policies applicable and active and published in RCO manuals or on the RCO Website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

**K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES**

This agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable policies published in RCO manuals or on the RCO Website as exist on the effective date of this Agreement and any amendments to this Agreement. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

**L. SPECIAL CONDITIONS**

**M. AGREEMENT CONTACTS**

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

**Project Contact**

Name:

Title:

Address:

Email:

Natural Resources Building

PO Box 40917

Olympia, Washington 98504-0917

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

**N. ENTIRE AGREEMENT**

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

**O. EFFECTIVE DATE**

This Agreement, for project , shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (effective date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: PERIOD OF PERFORMANCE are allowed only when this Agreement is fully executed and an original is received by RCO.

**Project Number:**

**USFS Number:**

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE PROJECT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** (printed) \_\_\_\_\_

**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Pre-approved as to form:

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Assistant Attorney General

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## Standard Terms and Conditions of the Project Agreement

Project Sponsor:

Project Number:

Project Title:

Approval Date:

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### SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

**acquisition project** – A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

**Agreement or project agreement** – The document entitled “Funding Board Project Agreement” accepted by all parties to the present transaction, including without limitation these Standard Terms and Conditions of the Project Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Funding Board Project Agreement subject to any limitations on their effect.

**applicant** – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the funding board.

**application** – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

**Authorized Representative/Agent** – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**Boating Infrastructure Grant (BIG)** – A program administered through the United States Fish and Wildlife Service.

**C.F.R.** – Code of Federal Regulations

**contractor** – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.



**conversion** – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

**development project** – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

**director** – The chief executive officer of the Recreation and Conservation Office or that person's designee.

**education project** – A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.

**education and enforcement project** – A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.

**effective date** – The date when the signatures of all parties to this agreement are present in the agreement.

**enhancement project** – 1) A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site, or 2) a project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

**equipment** – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

**funding board or board** – The board that authorized the funds in this Agreement, either the Recreation and Conservation Funding Board (RCFB) created under RCW 79A.25.110, or the Salmon Recovery Funding Board (SRFB) created under RCW 77.85.110.

**grant program** – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

**indirect cost** – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

**long-term compliance period** – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

**long-term obligations** – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

**landowner agreement** – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

**maintenance** – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation or salmon recovery.

**maintenance and operation** – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

**match or matching share** – The portion of the total project cost provided by the Sponsor.

**milestone** – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

**monitoring project** – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

**monitoring and research project** – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

**Office** – Means the Recreation and Conservation Office or RCO.

**notice of grant** – As required by RCO or another authority, a document that has been legally recorded in the county or counties where the project property is located that describes the grant funded project located on the property, the funding sources, and agencies responsible for awarding the grant.

**pass-through entity** – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

**period of performance** – The period beginning on the project start date and ending on the project end date.

**planning (RCFB projects only)** – A project that results in one or more of the following: a study, a plan, construction plans and specifications, and permits to increase the availability of outdoor recreational resources.

**planning (SRFB projects only)** – A project that results in a study, assessment, project design, or inventory.

**pre-agreement cost** – A project cost incurred before the period of performance.

**primary Sponsor** – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

**project** – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

**project area, RCFB** – A geographic area that delineates a grant assisted site which is subject to project agreement requirements (WAC 286.04.010).

**Project Number:**

**USFS Number:**

**project area, SRFB** – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

**project cost** – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).

**project end date** – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

**project start date** – The specific date identified in the Agreement on which the period of performance starts.

**research project** – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

**RCO** – Recreation and Conservation Office – The state office that provides administrative support to the Recreation and Conservation Funding Board and Salmon Recovery Funding Board. RCO includes the director and staff, created by RCW 79A.25.110 and 79A.25.150 and charged with administering this Agreement by RCW 77.85.110 and 79A.25.240.

**reimbursement** – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

**renovation project** – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

**restoration project** – A project that brings a site back to its historic function as part of a natural ecosystem or improving the ecological functionality of a site.

**restoration and enhancement project** – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

**RCFB** – Recreation and Conservation Funding Board

**RCW** – Revised Code of Washington

**Recreational Trails Program (RTP)** – A Federal Highways Administration grant program.

**secondary Sponsor** – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

**Sponsor** – A Sponsor is an organization that is listed in and has signed this Agreement.

**Sponsor Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**SRFB** – Salmon Recovery Funding Board

**subaward** – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in Section G: Project Funding.

**subrecipient** – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

**useful service life** – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

**WAC** – Washington Administrative Code.

## SECTION 2. PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

## SECTION 3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

## SECTION 4. RESPONSIBILITY FOR PROJECT

While the funding board undertakes to assist the Sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the Sponsor. The funding board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

## **SECTION 5. INDEMNIFICATION**

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

## **SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR**

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or Section 30B.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

## SECTION 7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

## SECTION 8. COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the funding board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law.
- B. Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
  - 1. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

**D. Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

**E. Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

**F. Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

## SECTION 9. RECORDS

- A. Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: PROJECT REIMBURSEMENTS. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- C. Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. Public Records.** Sponsor acknowledges that the funding board is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04. Additionally, in compliance with RCW 77.85.130(8), Sponsor agrees to disclose any information in regards to expenditure of any funding received from the SRFB. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

## SECTION 10. PROJECT FUNDING

- A. Authority.** This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.
- B. Additional Amounts.** The funding board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the funding board or director and incorporated by written amendment into this Agreement.
- C. Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by funding board policy, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in Section H: FEDERAL FUND INFORMATION are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- E. After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

## SECTION 11. PROJECT REIMBURSEMENTS



- A. Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section G: PROJECT FUNDING. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.
- C. Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
1. All approved or required activities outlined in the Agreement are done;
  2. On-site signs are in place (if applicable);
  3. A final project report is submitted to and accepted by RCO;
  4. Any other required documents and media are complete and submitted to RCO;
  5. A final reimbursement request is submitted to RCO;
  6. The completed project has been accepted by RCO;
  7. Final amendments have been processed;
  8. Fiscal transactions are complete, and
  9. RCO has accepted a final boundary map, if requested by RCO, for which the Agreement terms will apply in the future.
  10. Notice of Grant (if applicable) filed with the county lands records office and a stamped copy received by RCO
- E. Requirements for Federal Subawards: Match.** The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
1. Are verifiable from the non-Federal entity's (Sponsor's) records;
  2. Are not included as contributions for any other Federal award;
  3. Are necessary and reasonable for accomplishment of project or program objectives;

4. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION of this Agreement; and
7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

**F. Requirements for Federal Subawards:** Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
4. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

## SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements. See WAC 420-12.

## SECTION 13. RECOVERY OF PAYMENTS

- A. Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

- C. Requirements for Federal Subawards.** RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

#### **SECTION 14. COVENANT AGAINST CONTINGENT FEES**

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### **SECTION 15. INCOME (AND FEES) AND USE OF INCOME**

RCFB Projects. See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

##### **A. Income.**

1. **Farm and Forest Account (Farmland and Forestland Preservation Grants).** Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
2. **Firearms and Archery Range Recreation Projects.** Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).
3. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any policies adopted by the RCFB or SRFB.

- B. Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:

1. The Sponsor's matching resources;
2. The project's total cost;
3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;
4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
5. Capital expenses for similar acquisition and/or development and renovation; and/or
6. Other purposes explicitly approved by RCO

- C. Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:

1. Grant program laws, rules, policies, and funding board policies;

2. Value of any service(s) furnished;
3. Value of any opportunities furnished; and
4. Prevailing range of public fees in the state for the activity involved.

**D. Requirements for Federal Subawards.** Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

## **SECTION 16. PROCUREMENT REQUIREMENTS**

**A. Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;
2. Specify in the notice the date for submittal of bids/proposals;
3. Specify in the notice the general procedure and criteria for selection; and
4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

**B. Requirements for Federal Subawards.**

1. For all Federal subawards except RTP projects, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
2. For RTP subawards, Sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section .

## **SECTION 17. TREATMENT OF EQUIPMENT AND ASSETS**

Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in published funding board policies, or approved by RCO in writing.

- A. Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.
- C. Requirements for Federal Subawards.** Except in the RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
  2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
  4. Adequate maintenance procedures must be developed to keep the property in good condition.
  5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- D. Requirements for RTP Subawards.**
1. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
  2. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

## **SECTION 18. RIGHT OF INSPECTION**

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 23.C: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO's right to inspect and access lands acquired or developed with funding board assistance.

## **SECTION 19. STEWARDSHIP AND MONITORING**

Sponsor agrees to perform monitoring and stewardship functions as stated in funding board policy, this Agreement, or as otherwise directed by RCO consistent with existing policies. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

## **SECTION 20. PREFERENCES FOR RESIDENTS**

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

## **SECTION 21. ACKNOWLEDGMENT AND SIGNS**

**A. Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

**B. Signs.**

1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless exempted in funding board policy or waived by the director; and
2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

**C. Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.

**D. Federally Funded Projects.** When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:

1. The fund source;
2. The percentage of the total costs of the project that is financed with federal money;
3. The dollar amount of federal funds for the project; and
4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

## **SECTION 22. PROVISIONS FOR BOATING PROJECT GRANTS**

If requested by RCO, or required per state or federal law or rule with respect to any project or project element that supports recreational boating, Sponsor shall manage the project or project element per federal rules to include 2 C.F.R. Part 200, and place a United States Coast Guard (or other federal agency) logo and funding program information at the project site.

## SECTION 23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

- A. Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted by the board and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration (WAC 286.13.130). It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
  - 1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval of the board or RCO.
- C. Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise approved by the board.
- D. Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:
 

"During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- E. Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

## SECTION 24. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project (including projects with any acquisition component):

- A. Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to funding board policy.
- B. Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
- D. Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the funding board project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
  - 1. Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. See WAC 286 or 420. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
  - 2. Assignment of Rights.** The Assignment of Rights document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
  - 3. Easements and Leases.** The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
- E. Real Property Acquisition and Relocation Assistance.**
  - 1. Federal Acquisition Policies.** When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended, and applicable regulations and procedures of the federal agency implementing that Act.



**2. State Acquisition Policies.** When state funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

**3. Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the Sponsor agrees to provide any housing and relocation assistance required.

**F. Buildings and Structures.** In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with Section 8.D Archeological and Cultural Resources.

**G. Hazardous Substances.**

**1. Certification.** The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:

- a. No hazardous substances were found on the site, or
- b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."

**2. Responsibility.** Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

**3. Hold Harmless.** The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

**H. Requirements for Federal Subawards.** The non-federal entity (Sponsor) must submit reports at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).

**SECTION 25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS**

**A. Long-Term Obligations of RCFB Projects.** Sponsor shall comply with WAC 286-13-160, 170, and 180.

**B. Long-Term Obligations of SRFB Projects.** Sponsor shall comply with WAC 420.

- C. Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by policy, program rules, or this Agreement, or approved in writing by RCO or the funding board, RCO requires that the project area continue to function as intended after the period of performance in perpetuity.
- D. Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. Also see WAC Title 286 or 420 and applicable policies. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the funding board through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon this Agreement, applicable law and RCFB/SRFB policies.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided in this Agreement, by funding board policy, other RCO approved written documents, or required by applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per established funding board policies, and the board or RCO may pursue such remedies as are allowed by law and board policies, and/or this Agreement.

## **SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS**

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation, or restoration project:

- A. Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with funding board funds, including undeveloped sites, are built, operated, used, and maintained:
1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
  2. In a reasonably safe condition for the project's intended use;
  3. Throughout its estimated useful service life so as to prevent undue deterioration;
  4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. Open to the public.** Unless otherwise specifically provided for in the Agreement of funding board policies, and in compliance with applicable statutes, rules, and funding board policies, facilities must be open and accessible to the general public, and must:

1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the board, or by RCO in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

## SECTION 27. RECORDED NOTICE OF GRANT

At the request of RCO, Sponsor shall record a notice of grant on the property and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

## SECTION 28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate Sponsor, including any nonprofit Sponsor, shall:

- A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
- B. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
- C. Maintain sites or facilities open to the public and may not limit access to members.

## SECTION 29. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section H: FEDERAL FUND Information:

- A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

- C. Equal Employment Opportunity.** Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- 1. Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- 2. Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

- D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in Section H: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: Federal Fund Information.

- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).
- H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

- I. Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- J. Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- K. Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- L. Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

## **SECTION 30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS**

- A. Use of Sport Fish Restoration Logo.** Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

## **SECTION 31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY**

The following provisions shall be in force only if the project described in this Agreement is funded from the Firearms and Archery Range Recreation Account.

- A. Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.

- C. Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement in Section F. LONG-TERM OBLIGATIONS.
- D. Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. Government Agencies.** The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the funding board.
- F. Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

## **SECTION 32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY**

If the project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), the "Project Agreement General Provisions" of the LWCF are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

## **SECTION 33. PROVISIONS FOR FARM AND FOREST ACCOUNT PROJECTS (FARMLAND AND FORESTLAND PRESERVATION PROJECTS ONLY)**

The following sections will not apply to Farmland and Forestland Preservation Projects if covered separately in a recorded RCO approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- A.** Section 15 - Income and Income Use;
- B.** Section 19 - Stewardship and Monitoring;
- C.** Section 21 - Acknowledgement and Signs;
- D.** Section 24 -- Provisions Applying To Acquisition Projects, Sub-sections D, F, and G;
- E.** Section 25C -Perpetuity; and
- F.** Section 26 -- Construction, Operation, Use and Maintenance of Assisted Projects.

## **SECTION 34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY**

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

## **SECTION 35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY**

The following provisions shall be in force only if the project described in this Agreement is funded in part or wholly from the Puget Sound Acquisition and Restoration program.

The Sponsor agrees to the following terms and conditions:

- A. Cost Principles/Indirect Costs For State Agencies.** GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- B. Credit and Acknowledgement.** In addition to Section 21: Acknowledgement and Signs, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- C. Hotel Motel Fire Safety Act.** Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.
- D. Drug Free Workplace Certification.** Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- E. Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- F. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA).** This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement.



“You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.”

The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

- G. Lobbying.** The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities.

The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.

All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- H. Reimbursement Limitation.** If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- I. Disadvantaged Business Enterprise Requirements.** The Sponsor agrees to comply with the requirements of EPA’s Utilization of Small, Minority and Women’s Business Enterprises in procurements made under this award.
- J. Minority and Women’s Business Participation.** Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows:

Purchased Goods 8% MBE 4% WBE

Purchased Services 10% MBE 4% WBE

Professional Services 10% MBE 4% WBE

Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement :

1. Include qualified minority and women's businesses on solicitation lists .
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses .
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses .
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

**K. MBE/WBE Reporting.** In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

1. There are any funds budgeted in the contractual/services, equipment or construction lines of the award;
2. \$3,000 or more is included for supplies; or
3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as
4. Described in items (a) and (b).

When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form.

MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region . Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions.

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm).

**L. Procurement involving an EPA Financial Assistance Agreement.** Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.
6. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.

**M. Lobbying & Litigation.** By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:

1. Certification Regarding Lobbying, EPA Form 6600-06:  
[http://www.epa.gov/ogd/AppKit/form/Lobbying\\_sec.pdf](http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf)
2. Disclosure of Lobbying Activities, SF LLL: [http://www.epa.gov/ogd/AppKit/form/sflllin\\_sec.pdf](http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf)

3. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

- N. **Payment to Consultants.** EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices).

Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information.

As of January 1, 2014, the limit is \$602.24 per day \$75.28 per hour.

- O. **Peer Review.** Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- P. **International Travel (Including Canada).** All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.
- Q. **Unliquidated Obligations (ULO).** Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

## SECTION 36. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

1. Federal law and binding executive orders;
2. Code of federal regulations;
3. Terms and conditions of a grant award to the state from the federal government;
4. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
5. State law (constitution, statute);

6. Washington Administrative Code;
7. Funding board or RCO policies.

#### **SECTION 37. LIMITATION OF AUTHORITY**

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate .

#### **SECTION 38. WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default . Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing , signed by the director, or the director's designee, and attached as an amendment to the original Agreement .

#### **SECTION 39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**

The funding board and RCO rely on the Sponsor's application in making its determinations as to eligibility for , selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement .

#### **SECTION 40. SPECIFIC PERFORMANCE**

The funding board and RCO may enforce this Agreement by the remedy of specific performance , which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement , or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

#### **SECTION 41. TERMINATION AND SUSPENSION**

The funding board and RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all funding board and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by the funding board. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

##### **A. For Cause.**

1. The funding board or the director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
  - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
  - b. If the Sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement . Included in progress is adherence to milestones and other defined deadlines; or
  - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;

2. Prior to termination, the RCO or the funding board shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director or board approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

**B. For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

**C. Rights of Remedies of the RCO.**

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the funding board or director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

**D. Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

**SECTION 42. DISPUTE HEARING**

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state :

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes .

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

#### **SECTION 43. ATTORNEYS' FEES**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

#### **SECTION 44. GOVERNING LAW/VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington . In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington .

#### **SECTION 45. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR**

In the cases where this Agreement is between the funding board (which includes the State of Washington for purposes of this Agreement) and a federally recognized Indian Tribe, the following terms and conditions apply, but only between those parties:

- A.** Notwithstanding the above venue provision, if the State of Washington intends to initiate legal action against a federally recognized Indian tribe relating to the performance, breach, or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such an action in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such action in federal court, otherwise the State may sue the Tribe in the Thurston County Superior Court, or such other superior court where venue is proper, if not proper in Thurston County. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the State may bring suit in Thurston County Superior Court or such other superior court where venue is proper, if not proper in Thurston County.
- B.** Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such actions under subsection A above, shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, or employees, or the State of Washington, its agencies, or its officers and employees may exceed the amount of funding awarded under this Agreement.
- C.** As requested by RCO, the Tribe shall provide to RCO its governing requirements and procedures for entering into Agreement with RCO and waiving its sovereign immunity. In addition, the tribe shall provide to RCO all authorizations the Tribe requires to authorize the person(s) signing the Agreement on the Tribe's behalf to bind the Tribe and waive the Tribe's sovereign immunity as provided herein.
- D.** The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purposes of allowing the State to bring and prosecute to completion such actions relating to the performance, breach, or enforcement of this Agreement as provided in subsection A above, and to bring actions to enforce any judgment arising from such actions. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the funding board, the RCO, and any other state agencies as the term "agency" is broadly understood to include, but not be limited to, departments, commissions, boards, divisions, bureaus, committees, offices, councils, societies, etc.

#### **SECTION 46. SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.



### **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
SDOT	Bill LaBorde/206.484.8662	Aaron Blumenthal/206.233.2656

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

#### **1. BILL SUMMARY**

**Legislation Title:** A RESOLUTION relating to the Seattle Department of Transportation; authorizing the Director to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant funding assistance managed through the Recreation and Conservation Office.

**Summary and background of the Legislation:** This proposed legislation authorizes the Seattle Department of Transportation (SDOT) to submit a grant application to the State of Washington Recreation and Conservation Office (RCO) for state funding assistance for the projects and amounts listed in the table below. This resolution is required as part of the formal RCO grant application process.

Improvements funded by the RCO grant and City or other match sources are listed in the table below:

<b>Proposed Project</b>	<b>RCO Category / Project #</b>	<b>Grant Request</b>	<b>Match</b>	<b>Total</b>
Flume Off-Leash Area and Trail Development (Georgetown to South Park Trail -MC-TR-C096)	#20-1803	\$ 910,445	\$400,000	\$1,310,445

The City, typically via Seattle Parks & Recreation, frequently applies for RCO grants each year and has garnered a strong success rate in securing additional funding for planned capital projects. This year, SPR has submitted 11 RCO applications for a total of \$6,120,860. RCO grants require a local match and will fund only projects that are included in an adopted plan. The listed project meets both criteria, as it is included in the City's Bicycle Master Plan and the City has so far spent \$600,000 in public outreach, design and preliminary engineering on the project.

RCO will announce the grant award recommendations in January 2021, but the actual grant awards will not be contracted until July – fall 2021. RCO funding will support currently unfunded project elements.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☐ Yes ☒ No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

Approval of the proposed resolution will allow SDOT to apply for \$910,445 in grant funding from RCO.

Is there financial cost or other impacts of *not* implementing the legislation?

SDOT would not be eligible to apply for RCO grant funding in the 2020 cycle and would forego up to \$910,445 in potential project funding for the Georgetown to South Park Connection project. This project could have to be deferred or another fund source would need to be identified to accommodate the loss of the anticipated grant funding

### 3.b. Revenues/Reimbursements

☐ This legislation adds, changes, or deletes revenues or reimbursements.

#### Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2020 Revenue	2021 Estimated Revenue
Mobility-Capital (13000-BC-TR-19003)	SDOT	WWRP-Trails Category	\$0	\$910,445
<b>TOTAL</b>				<b>\$ 910,445</b>

Is this change one-time or ongoing?

One-time

## 4. OTHER IMPLICATIONS

### a. Does this legislation affect any departments besides the originating department?

Yes, the project site was once a Seattle City Light flume that transferred water from a pump house along the Duwamish River to a steam plant. Seattle City Light plans to transfer the portion of the property through which the trail would be constructed to SDOT, while the remainder of the parcel will be transferred to Seattle Parks and Recreation for the off-leash area.

**b. Is a public hearing required for this legislation?**

No.

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

No.

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

No.

**e. Does this legislation affect a piece of property?**

Yes, the SCL Georgetown Flume site referenced above. The grant is related to the trail portion of the property that will be transferred to SDOT (the remaining portion of the property will be transferred to SPR for an off-leash dog park). Map attached.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

The Duwamish Valley is one of the City's most ethnically diverse parts of the city, currently underserved by both open space and non-motorized mobility connections. The South Park and Georgetown communities have voiced their support for this project over the last several years through outreach on both the Georgetown Mobility Plan and outreach specific to the Georgetown-South Park Connection project.

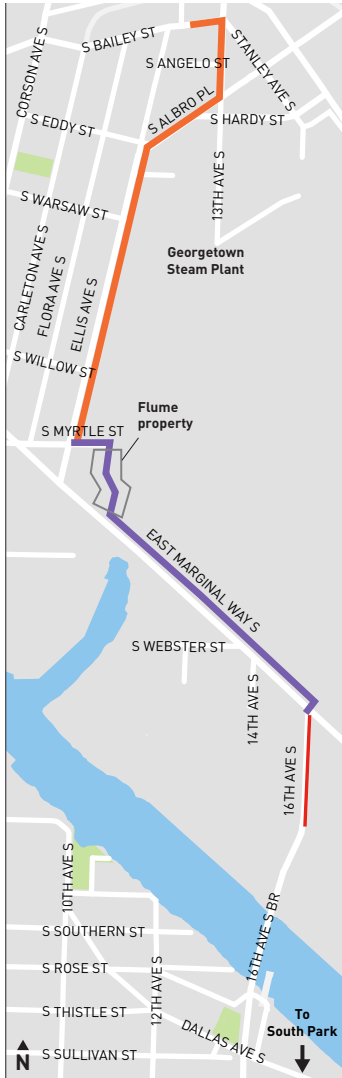
**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

This project will help ensure the Georgetown-South Park Connection project can continue past planning and design to construction.

**List attachments/exhibits below:**

Summary Attachment A – Project Map

# Summary Att A – Project Map V1





## Legislation Text

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**File #:** Res 31980, **Version:** 1

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### **CITY OF SEATTLE**

### **RESOLUTION \_\_\_\_\_**

A RESOLUTION granting conceptual approval to construct, install, maintain, and operate below-grade private utility lines under and across Roy Street, west of 8th Avenue N; Dexter Avenue N, north of Mercer Street; Roy Street, west of Dexter Avenue N; and the alley north of Mercer Street, west of Dexter Avenue N, south of Roy Street, and east of Aurora Avenue N, as proposed by McKinstry Company LLC.

WHEREAS, McKinstry Company LLC applied for permission to construct below-grade private utility lines

between the buildings located at 601 Dexter Avenue N, 701 Dexter Avenue N, and 800 Mercer Street in the South Lake Union neighborhood (“ARE District Energy”); and

WHEREAS, the purpose of ARE District Energy is to extract waste heat from municipal wastewater and

distribute it between the buildings located at 601 Dexter Avenue N, 701 Dexter Avenue N, and 800 Mercer Street, reducing energy usage and carbon emissions that would otherwise be lost; and

WHEREAS, in making a recommendation, the Director of the Seattle Department of Transportation

(“Director”) considered the plans and application materials submitted by McKinstry Company LLC to construct, install, maintain, and operate ARE District Energy and recommends that conceptual approval be granted; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR**

**CONCURRING, THAT:**

Section 1. The City Council finds that the below-grade private utility lines under and across Roy Street, west of 8th Avenue N; Dexter Avenue N, north of Mercer Street; Roy Street, west of Dexter Avenue N; and the alley north of Mercer Street, west of Dexter Avenue N, south of Roy Street, and east of Aurora Avenue N (“ARE District Energy”) as proposed by McKinstry Company LLC are in accordance with and in the public

interest.

Section 2. As conditions for obtaining permission to construct, install, maintain, and operate ARE District Energy, McKinstry Company LLC shall:

(1) Provide engineering and utility plans for additional review and permitting by the Seattle Department of Transportation (SDOT), which the Director will circulate to other City departments and any public and private utilities affected by the installation of ARE District Energy;

(2) Provide a surety bond, covenant agreement, and public liability insurance naming the City as an additional insured or self-insurance, as approved by the City's Risk Manager;

(3) Pay all City permit fees;

(4) Obtain all necessary permits;

(5) Maintain and inspect ARE District Energy; and

(6) Remove ARE District Energy and restore the right-of-way to in as good condition for public use as existed prior to construction of the ARE District Energy and in at least as good condition in all respects as the abutting portions of the public place, as required by SDOT right-of-way restoration standards, upon expiration of the term permit or at the direction of the Director or City Council, in accordance with the provisions of the term permit ordinance.

Section 3. After this resolution is adopted, SDOT will present to the Council a draft term permit ordinance identifying the conditions under which permission may be granted for the use of the right-of-way for ARE District Energy. Permission to use the right-of-way is subject to the Council's decision to approve, deny, or modify the draft term permit ordinance presented by the Director.

Section 4. As recommended by the Director and the Mayor, conceptual approval for construction, installation, maintenance, and operation of the private utility lines under and across Roy Street, west of 8th Avenue N; Dexter Avenue N, north of Mercer Street; Roy Street, west of Dexter Avenue N; and the alley north of Mercer Street, west of Dexter Avenue N, south of Roy Street, and east of Aurora Avenue N is GRANTED.

Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by  
me in open session in authentication of its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

The Mayor concurred the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

## **SUMMARY and FISCAL NOTE**

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Seattle Department of Transportation	Amy Gray/206-386-4638	Christie Parker/206-684-5211

### **1. BILL SUMMARY**

**Legislation Title:**

A RESOLUTION granting conceptual approval to construct, install, maintain, and operate below-grade private utility lines under and across Roy Street, west of 8th Avenue N; Dexter Avenue N, north of Mercer Street; Roy Street, west of Dexter Avenue N; and the alley north of Mercer Street, west of Dexter Avenue N, south of Roy Street, and east of Aurora Avenue N, as proposed by McKinstry Company LLC.

**Summary and background of the Legislation:**

This resolution grants conceptual approval for below-grade private utility lines as proposed by McKinstry Company LLC. After adoption of this resolution, SDOT will provide a draft term permit ordinance for Council's consideration that identifies the conditions under which permission to use the right-of-way may be granted.

### **2. CAPITAL IMPROVEMENT PROGRAM**

Does this legislation create, fund, or amend a CIP Project?      ☐ Yes ☒ No

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

Does this legislation amend the Adopted Budget?      ☐ Yes ☒ No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?  
No.

This resolution does not directly result in revenues/reimbursements. After this resolution is approved by Council, SDOT will prepare a draft term permit ordinance which will identify permit fee revenue associated with the permit.

**Is there financial cost or other impacts of *not* implementing the legislation?**

Although this resolution does not accept nor appropriate funds, SDOT will receive a permit fee from McKinstry Company LLC after the effective date of the term permit ordinance.

### **4. OTHER IMPLICATIONS**

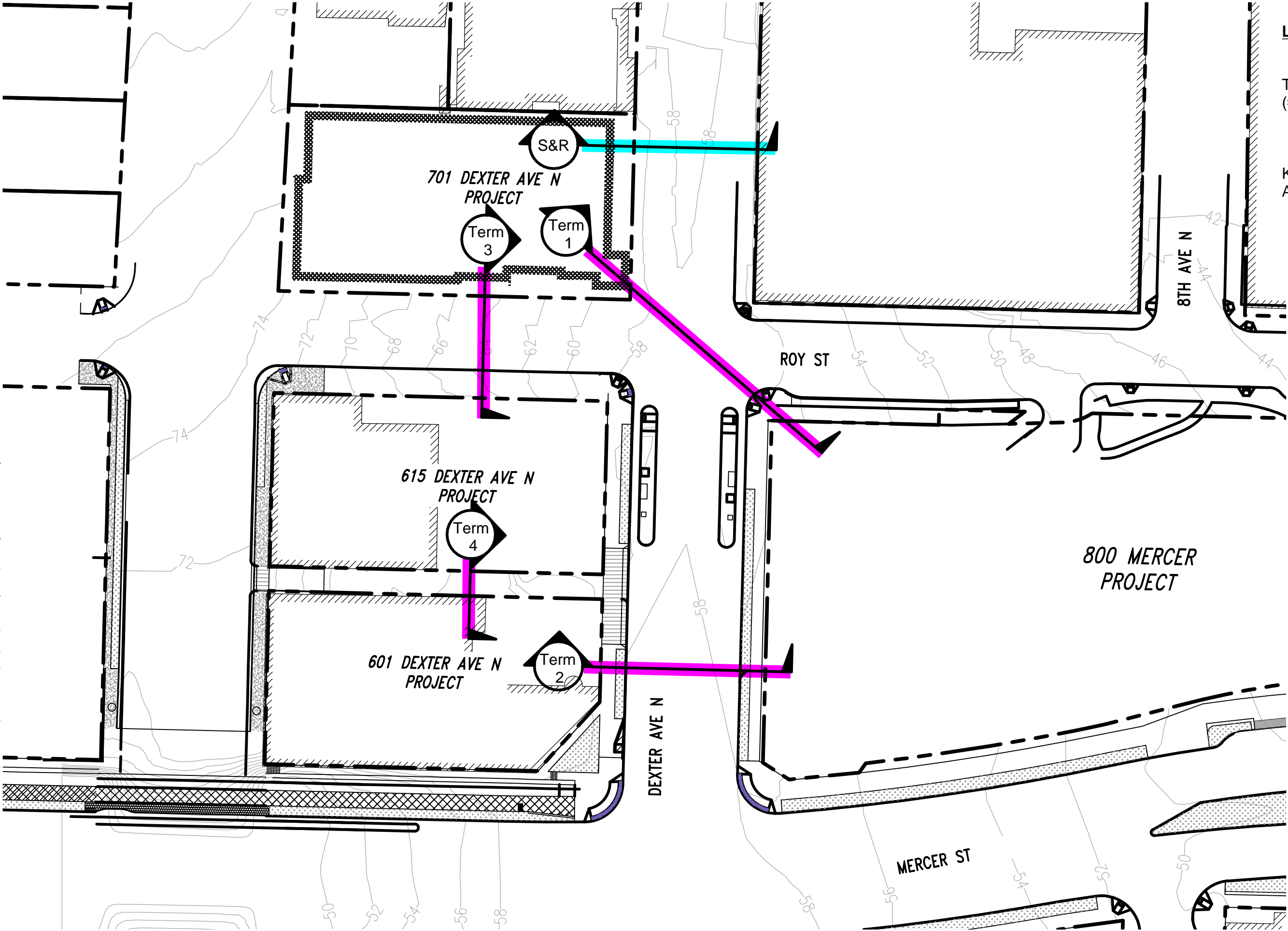
a. Does this legislation affect any departments besides the originating department?  
No.



- b. Is a public hearing required for this legislation?**  
No.
- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
No.
- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
No.
- e. Does this legislation affect a piece of property?**  
Yes, the properties located at 601 Dexter Ave N, 701 Dexter Ave N, and 800 Mercer St.
- f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**  
There are no perceived implications for the principles of the Race and Social Justice Initiative.
- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**  
N/A

**List attachments/exhibits below:**

Summary Attachment A – ARE District Energy Area Map

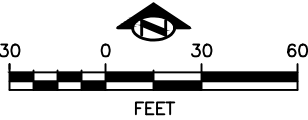


**LEGEND**

Term Permit & Associated UMP  
(#419864\_701 Dexter Ave N)



KC Supply/Return Side Sewer &  
Associated UMP (# TBD)



**ARE Energy District  
TERM PERMIT EXHIBIT**  
  
**PRELIMINARY**  
4/21/2020



Legislation Text

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**File #:** Res 31982, **Version:** 1

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**CITY OF SEATTLE**

**RESOLUTION \_\_\_\_\_**

A RESOLUTION setting forth The City of Seattle's 2021 State Legislative Agenda.

WHEREAS, The City of Seattle's ("City") Legislative Agenda is developed annually with input from our City

departments, elected officials, Seattle state legislative delegation, regional governmental agencies,

statewide interest groups, and advocates; and

WHEREAS, the City, in cooperation with these entities, will advocate to the Washington State Legislature for

items included in the Legislative Agenda; and

WHEREAS, the 2021 legislative session will last 105 days and will likely result in the adoption of operating,

capital, and transportation budgets, as well as changes to state policy; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR**

**CONCURRING, THAT:**

Section 1. Issues in the City of Seattle 2021 State Legislative Agenda, attached to this resolution as Exhibit 1, are an accurate, though not exhaustive, list of City interests and priorities for the 2021 state legislative session.

Section 2. The City of Seattle 2021 State Legislative Agenda is adopted.

Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by  
me in open session in authentication of its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

The Mayor concurred the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:  
Exhibit 1 - City of Seattle 2021 Legislative Agenda

**The City of Seattle is committed to being a safe, vibrant, interconnected, and affordable city for all. To achieve these goals, Seattle has identified the following priorities for the 2021 legislative session:**

The City of Seattle supports policies that center the experiences of Black, Indigenous, and other people of color (BIPOC). We recognize that historically, government policies have created racist institutions and been used to uphold systems of oppression. As a City, we support changes to policies that right those wrongs. The City of Seattle supports efforts to become a government that values and prioritizes Black and Brown lives. Further, Seattle is a Welcoming City and we support policies that work to ensure immigrants and refugees feel welcome and have access to programs and services that meet critical needs. We support policies that invest in Black and Brown communities, put communities first and help build a city that works for all.

**A Safe City – one that ensures all residents can live safely and securely**

The City of Seattle, like jurisdictions across the nation, is grappling with the COVID-19 crisis and its multitude of impacts. The pandemic impacts every aspect of City services and the lives of our residents and is exacerbating existing inequalities in our society. The City of Seattle supports legislation that will allow our city not only to recover but become more equitable after the pandemic. We support increased support for our frontline workers, including PPE, testing, and public health services. We support new programs to address the impacts of the pandemic on housing affordability and homelessness including rental and foreclosure assistance, utility customer assistance, and a moratorium on evictions through the crisis. We support new programs for people living homeless to increase their access to health and hygiene services, PPE and testing, and non-congregate shelter and affordable housing. We support safety net programs that will help those hardest hit by the pandemic including food assistance and access to unemployment insurance. We also support legislation that supports our small businesses, including ensuring business interruption insurance includes COVID as a qualify event. We strongly support state efforts to address the impact of COVID-19 on housing affordability and homelessness.

The City of Seattle supports efforts to increase accountability and transparency in law enforcement. We support ending qualified immunity, and legislation that broadens the definition of disqualifying misconduct to ensure that police officers who engage in serious misconduct may not work in a law enforcement capacity elsewhere. We also support legislation to reform the decertification of peace officers, including allowing the Washington State Criminal Justice Training Commission (WSCJTC) to initiate decertification once the police agency issues a final sustained finding of disqualifying misconduct. We support changes to the WSCJTC's membership to have non-law enforcement community members represent at least fifty percent of the voting membership.

The City also supports legislation that enhances the authority of police chiefs to discipline officers that violate professional standards and public trust, and the ability to sustain those decisions. We support prohibiting collective bargaining between law enforcement agencies and officers on topics related to disciplinary action, appeals of discipline, subpoena authority, and any state reforms related to law enforcement. We support the State requiring the types of police reforms that would

free local jurisdictions from having to negotiate and pay for reforms with additional compensation, including body worn cameras. We support reform of civil service hearings and arbitration in law enforcement officer discipline cases. The City of Seattle also supports removing private arbitration as a route of appeal in law enforcement discipline cases.

We support state action to raise the standards for police conduct and use of force across jurisdictions. We support legislation classifying chokeholds as deadly force. We support state policies that reduce use of force and negative externalities associated with crowd management. We support the establishment of statutory duty to intervene, so that police must intercede and report misconduct by another officer. We also support the establishment of a statewide use of force database, and an independent state agency to investigate use of deadly force incidents and independent prosecutions of deadly use of force to ensure a fair and impartial assessment can be reached. We support legislation to enable law enforcement, fire departments and other public agencies to build departments more reflective of the communities they protect by extending employment opportunities to legally permanent residents and recipients of Deferred Action for Childhood Arrivals and Temporary Protected Status. We support de-escalation, implicit bias, and other critical training for law enforcement officers to respond appropriately and equitably, and increasing the flexibility for local jurisdictions to allow civilian personnel to respond to non-violent situations.

The City supports legislation that would eliminate or at least significantly reduce the involvement of county and city law enforcement officials in immigration law enforcement. In particular, the City supports legislation that would restrict local jurisdictions from honoring U.S. Immigration and Customs Enforcement (ICE) detainers unless they are supported by a federal criminal warrant. We support the state setting a clear, statewide standard for these restrictions. The City of Seattle supports providing essential legal services and community navigation to indigent immigrant and refugee residents.

We believe every person has the right to live, work, and learn free from discrimination. We support efforts to achieve equity and advance opportunity, including actions that promote racial equity in education, community development, criminal justice, health, housing, jobs and the environment.

We support gender equity, age-friendly and family-friendly workplace policies, such as paycheck fairness and affordable childcare, so that all people regardless of age or gender thrive economically, and are safe and healthy. We support extending the state's labor protections to all workers – including workers in the emerging economies. We support local governments' ability to adopt standards to protect the health, safety, and well-being of their residents, to adopt tax measures that do not unfairly burden those in need, and to adopt tax measures that promote or expand public safety issues. We oppose preemption of local regulations, including but not limited to regulations protecting tenants and achieving housing affordability.

We support strong civil rights protections for all and efforts to protect the rights, programs, and services provided to immigrants, regardless of their immigration status, and refugees. We recognize the importance of language access and will continue to promote policies and practices to support all users of municipal and state services. We support full funding for the WA New Americans program to ensure any lawful permanent resident (LPR) who is eligible is able to

receive their naturalization. We support expanded access to economic opportunity and intentional career pathways for all skill sets including returning professionals, skilled professions and entry level living wage jobs. We support reducing regulatory barriers to money transmitters, many of whom serve immigrants and communities of color. In addition, we support policies and programs that remove barriers and create opportunities for greater civic engagement, transparency, and access; and assess the impacts of those policies on racial and gender equity. We support increased opportunities for civic engagement, including the authority for ranked-choice voting.

We support economic justice and recognize that too often economic growth is not equitably shared by all, and can leave behind low-income residents, immigrants, the LGBTQ population, and people of color. We are proud of Seattle's commitment to improving workers' lives through equitable labor standards and want to ensure that state legislation complements but does not preempt our workplace protections. We need innovative strategies to ensure that the benefits of technology and the changing nature of work do not adversely impact systemically disadvantaged communities. Seattle supports policies that help workers who are misclassified as independent contractors gain access to critical workplace rights and protections, including a statewide Domestic Workers bill of rights, and legislation that simplifies the misclassification test and resolves ambiguity in favor of employment status. We also support policies that make benefits portable, especially for gig economy workers. We are supportive of the adoption of statewide secure scheduling legislation to provide employees with predictable schedules and compensation for schedule changes to support employees' economic stability especially in the case of rural communities for which these disruptions and inequalities fall heaviest on people of color. We are supportive of legislation that authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and government for labor law violations.

We support common sense, responsible solutions to reduce gun violence, including efforts to limit high capacity magazines, rejecting intimidation by limiting open carrying of firearms in politically charged and contentious environments. We believe in maintaining funding for critical gun violence prevention research and intervention projects and that local governments should have the ability to regulate firearms or weapons to ensure the safety of their communities in accordance with local circumstances.

We support funding programs and policy changes that help individuals previously incarcerated successfully transition back into society, including providing increased employment and housing opportunities for previously incarcerated individuals to reduce recidivism and increase public safety. The City supports efforts to reform the criminal justice system, including but not limited to decreasing mass incarceration and supervision, decreasing racial disproportionality, and making the system more equitable. We support legislation to reduce the impact of economic disparity by de-linking drivers' license suspensions from non-payment of traffic fines. Further, the City supports efforts to explore alternatives to incarceration and evidence-based programs that emphasize early intervention. The City also supports abolishing the death penalty and pursuing safe and just alternatives.

We support legislation to clarify the process for evaluating and considering civil commitment petitions for defendants charged with misdemeanors in Seattle whose cases are dismissed for incompetency to stand trial. We support additional funding to ensure that there are sufficient

facilities to care for individuals in need of mental health evaluations and services, and funding for the recruitment and retention of high-quality mental health care providers. The City also supports increased funding for treatment and evaluation of substance use disorders. We recognize a full continuum of behavioral health services is needed in our community to support people with behavioral health conditions. We urge the state to invest in community-based behavioral health agencies and permanent supportive housing in addition to inpatient treatment settings.

We support efforts to increase the Medicaid reimbursement rate for ambulance transports for vulnerable Medicaid eligible populations and by instituting a quality assurance fee eligible for a federal funding match. We also support a general Medicaid increase for ambulance services.

We support legislation that clarifies and strengthens state driving under the influence (DUI) laws, including clarifying the law regarding physical control of a motor vehicle under the influence and strengthening laws regarding drug related DUIs. We also ensuring victims of sexual assault have access to community advocates, increasing data collection and assessment of how our systems are serving victims and support continued funding for the state patrol crime lab to process sexual assault evidence kits while ensuring that these funding sources are not burdensome or punitive to survivors. The City supports statewide standards for the handling, storage and destruction of these kits to ensure they are available to help solve cold cases.

The City of Seattle supports efforts to reduce domestic violence and protect survivors, ensure access to legal protection for immigrant survivors of domestic violence, and protect its most vulnerable citizens from abuse. We support legislation that prioritizes victim safety by maintaining funding for advocacy programs and aligning best-practice procedures across all types of protection orders. We support legislation that helps survivors access housing, employment, and other opportunities.

We support vacating convictions of individuals engaged in sex work. The City supports legal and regulatory efforts to protect survivors of human trafficking and close businesses that profit from this crime. We also support strengthening criminal consequences for sexual exploitation. The City supports review of the sexual assault statute of limitations and the bolstering of laws to protect workers from sexual assault and harassment on the job.

We support legislation to remove barriers to entry for marijuana delivery services that will help reduce the impact of marijuana retailers on neighborhoods. We support harmonizing laws prohibiting underage marijuana use with laws prohibiting underage alcohol use. The City also supports review of marijuana licensing and the incorporation of a racial and social equity program that recognizes the historic inequities and harm resulting from the over policing of marijuana offenses in communities of color, including the resulting lack of ownership opportunities. We support expunging all cannabis related felonies and offences to address the disproportionate impact on the Black community.

The City supports review of regulations surrounding vapor products and legislation that will protect the public from harm or risk related to vapor products.

The City supports legislation to facilitate the establishment of community health engagement



locations. We also support additional funding to support and enhance substance use disorder treatment services.

Seattle supports continued high-quality emergency response capabilities to help residents experiencing a fire or medical emergency and support options for property owners to install essential fire safety infrastructure like fire sprinklers. We support proper reimbursement to allow the Seattle Fire Department (SFD) to participate fully in state wildfire response. The City supports SFD's work in providing a fire safe community, especially as it relates to the food truck industry, and ensuring the Fire Department is able to continue their work. We support amending the "Hold Harmless Law" to include protections for Seattle Department of Transportation and SFD representatives when clearing a motor vehicle, cargo, or debris from the roadway; "Hold Harmless" protections have been granted to officers of the Seattle Police Department and Transportation Department employees.

We support reforms to the Public Records Act that maintain transparency, protect the privacy and safety of vulnerable and protected groups, promote government efficiency and effectiveness, and expand confidentiality protections to local whistleblowers.

We support funding for the Washington Information Network (WIN) 211, which helps the public access essential information and government programs and services after disasters. We also support funding for research that assesses geological hazards and informs the public of their potential impacts on the region.

## **A Vibrant City – one that supports innovation, education, economic development and the environment**

We support maximum funding for early learning, K-12, and higher education. We support equitable, ample, and sustainable funding for the K-12 education system. We support the use flexible high school graduation options and requirements that prepare students for a variety of post-secondary options. Seattle supports simplifying the requirements for individuals to become teachers in designated critical shortage areas.

We support increasing school construction capacity and providing flexibility to school districts to use capital construction funding for long-term leases to ensure we have the proper facilities to educate future generations. In addition, we support providing school districts with adequate access to on-site child care providers; and advancing ongoing and increased support of these providers.

We support programs providing support to students, including support for mental and physical health, and access to healthy food choices during the school day and out of school time to ensure they are ready and able to learn. The City is supportive of the Farm to School program that connects farmers to local schools. We also know that education and learning do not stop when the school day and school year end. We support after-school programs and summer learning accessible for all, as well as a statewide strategy for students experiencing housing instability and homelessness.

The City is supportive of legislative solutions that aim to close the opportunity gap, protect undocumented students, and improve racial equity in the education system. We support a more comprehensive curriculum that includes greater BIPOC perspectives and representation, including a requirement that Black studies and ethnic studies be included as a graduation criteria.

Building on the foundation of high-quality preschool in Seattle, we support additional coordination and funding from the State to continue to move closer toward infant care (birth to three) and preschool for all. We support expanding capacity and infrastructure for infant care, including home-based childcare, and preschool facilities and dual language instruction from early learning to K-12.

We support community colleges, apprenticeship programs, technical colleges, and state universities as they provide access to training and workforce development opportunities that build the workforce needed to address our compounding climate and housing crises and keep our economy thriving – specifically the expansion of the Washington Scholarship Grant and the Washington State Opportunity Scholarship. We also support the implementation of the Workforce Innovation and Opportunity Act (WIOA), efforts to expand college and career readiness, support people experiencing homelessness and expansion of the English proficiency training program. We further support the state playing an active role in reducing financial barriers, closing the opportunity gap, and spurring economic activity by providing free tuition at community and technical colleges in Washington. We also support funding strategic plans that address diversity, equity, and inclusion; defining part time pay equity; achieving higher ratios of full time to part time faculty and student to counselors; improving salaries; and getting more funding to hire full time faculty and counselors, in part to address the impacts of increasing access to college.

We support tax increment financing, including new value capture concepts as a tool to encourage economic development and community improvement projects, and also support a set-aside for low-income housing. We support investments in thriving local industries, including arts and culture, maritime, marine tourism, global health and life sciences research, and clean, renewable energy.

Seattle support investments and policies that enhance equitable access and promote affordability of technology and technological infrastructure while preserving the City's authority to manage its property and public right-of-way. We support policies and funding that provide greater access and equity for broadband services including subsidies and better tracking of provider data services, and, during this challenging time of the COVID pandemic, including extension of ISP-provided COVID discounts, programs, and shut off prohibitions. New, innovative programs should focus on digital equity and inclusion and target the most underserved residents in our cities.

We support capital funding for infrastructure and public works projects, including support from the State to preserve Seattle's cultural and historical institutions. We support the expansion of capital funding for BIPOC communities and groups that have historically been disenfranchised from accessing such funds as a means of building community wealth and resiliency. We support the expansion of the leasehold excise tax exemption to include facilities/venues that are publicly operated. The City also supports considering the creation of a state investment trust or other funding mechanisms to provide financing for housing development, public works infrastructure,

educational infrastructure, student loans, environmental infrastructure and design, and community quality of life projects. We support public banking, efforts to have Washington State create a state-owned public bank and designing such a bank to allow it to meet the City of Seattle's needs for a public depository. The City supports exceptions to regulatory and other state-imposed impediments to public banking, which would improve the financial feasibility of municipally owned public banks. In addition, Seattle supports the ability for municipalities to sustain international diplomacy through the maintenance of a bank account for nonpublic funds.

We support efforts to expand economic development tools, including enhancing business options and opportunities for the nightlife sector as well as clarifying and strengthening legislation that fosters the development of Business Improvement Areas (BIAs). We support promoting and incentivizing historic preservation, building and fire safety, and energy efficiency through direct or indirect assistance to property owners. The City supports Property Assessed Clean Energy and Resiliency loans and other financial mechanisms that can provide options for building owners to invest in making their building less carbon intensive, more energy and water efficient, and resilient. We also support legislation that allows for increased flexibility for cities to manage public works and other projects, and efforts aimed at increasing the participation of women and minority owned businesses (WMBE) in state and local contracting by restoring fair treatment of underserved groups in public employment, education and contracting.

The City of Seattle works to protect existing state and local shared revenues, including liquor revenues and revenue from the sale of marijuana; to preserve all existing local revenue authorities and controls; and to support new local revenue opportunities as well as increased equity in our taxation system.

We support comprehensive tax reform that leads to a more equitable and progressive tax structure and decreases reliance on flat tax sources like sale and property taxes. We support the authority to reduce Seattle's sales tax rate and have the entire rate be reduced with the reduction going to the taxpayer rather than to the county. This includes support for a statewide capital gains tax and a progressive statewide payroll tax that does not preempt or diminish the City's local authority. Seattle supports a homestead exemption and expanded access to the property tax exemption and deferral programs to promote increased participation by seniors and disabled veterans, and cultural nonprofits through a simplified application process and eligibility criteria tied to varying property values across the state. We support efforts to lower the taxable value of properties impacted by the stay at home order issued in response to the COVID-19 crisis.

Seattle supports policies to fight climate change and support climate adaptation at a scale and timeline commensurate with the crisis and as justice demands. The City's stated goal is to be climate-pollution free by 2030, through policies that limit and reduce climate pollution, and increase investments in clean energy, public transit, vehicle, vessel and building electrification, energy efficiency - including progressive building energy codes and the authority for local adoption, low carbon/clean fuel standards, and a price on carbon.

We believe utilities have a role to play in reducing greenhouse gases and maximizing the value of its hydro and renewable energy resources. Seattle supports measures that clarify the role public utilities have in relation to the electrification of the transportation and building sectors. To assist

the City's work to ensure physical ability to secure water supply reliability and resiliency post-earthquakes, and in response to climate change, major water quality risks, and other challenges, we support state assistance to help build and grow resilience. The City supports efforts to enhance financing mechanisms for buildings with unreinforced masonry (URM) that require seismic retrofits.

Seattle supports measures to increase access to renewable energy, such as solar energy, while maintaining its flexibility and authority to set appropriate rates for its customers and protect ratepayers' interests. Specifically, Seattle supports the solar production incentives and an increase in the per-utility tax credit cap so Seattle City Light can continue to offer the state incentives to its customers and support the green-collar jobs in the solar installer sector.

We look forward to working with the Governor and State Legislature to create policies that will reflect the true cost of carbon pollution, rapidly reduce climate polluting emissions, and ensure equity for lower-income communities and communities of color to share in the economic opportunities presented by solutions to climate change. We support investments in climate resilient infrastructure, including flood risk reduction, salmon recovery and working lands protection and enhancement through its Floodplains by Design program.

In order to reduce emissions and noise pollution from diesel auxiliary engines on container ships, passenger ships, and refrigerated-cargo ships while berthing at the Port of Seattle, the City of Seattle supports at-berth regulations that provides vessel fleet operators visiting our port two options to reduce at-berth emissions: 1) turn off auxiliary engines and connect the vessel to some other source of power, most likely grid-based shore power; or 2) use alternative control technology that achieve equivalent emission reductions.

Seattle values the Clean Water Act's mission of protecting the environment and making our waterways safe for protection of public health, fishing, and recreation. We support a new, long-term state funding source for local storm water and solid waste management programs to help improve water quality, waste management, and cleanup of local toxic sites. We support revenue options to fully fund implementation of the Model Toxics Control Act and Remedial Action Grants using the funds for clean-up efforts and protection of the environment. We support efforts to codify many of the recommendations made in the updated Washington State Drought Contingency Plan, including creation of a more certain and stable funding source by establishing a permanent account for Ecology to draw from for drought resiliency, preparedness, and response projects. The City supports alternative water supply development requirements to ensure coordinated planning resulting in preservation of municipal water supplies for future growth. The City supports state assistance to help local governments implement a robust fish barrier removal program that complements that state's efforts to fully remove public fish passage barriers. We support stable funding of the Salmon Recovery Fund to support Chinook salmon restoration in the Puget Sound. We support the review of dig law standards while ensuring the protection of utility assets and rate payer affordability.

Seattle supports legislation that will reduce toxic chemicals in the environment, including regulating lead paint, toxins in children's toys, neonicotinoid pesticides that threaten our food supply by harming bees, and toxic materials in recyclable and compostable products and

packaging. We support development of common industry standards for recycled products, funding for recycling facilities, and legislative initiatives to reduce waste and increase recycling and composting. We support efforts to review developing markets for recyclables and to address deficiencies in domestic sorting, processing and remanufacturing capabilities, businesses, and facilities in addition to supporting a requirement for a minimum level of recycled content in certain products to create market forces to provide demand for collected paper and plastic. We support efforts to ensure responsible recycling practices, and product stewardship approaches for products and packaging. We support labeling and certification standards for film plastic products and food and beverage products to ensure they are biodegradable, while preserving local governments' authority to enhance such regulations. We are supportive of legislation that requires wipes to meet the International Water Services Flushability Group's utility approved flushability standard for labeling to help protect our sewer system infrastructure. Seattle supports product stewardship for surplus pharmaceuticals, batteries, carpet, paint, and additions to the products covered by E-Cycle Washington, efforts to provide consumers the ability repair, refurbish, and reuse electronic products. In addition, we support efforts to reduce and redirect food waste, including efforts to address hunger and nutrition issues through food waste reduction planning, and to reduce single-use bottled water usage. We also support legislation that will reduce or eliminate products that can be harmful to our residents, infrastructure, and waterways.

The City supports legislation that would strengthen the Pollution Liability Insurance Agency by supporting revenue options to fully fund the agency and ensure coverage in order to better protect households, particularly those with low and moderate incomes, from high cleanup costs in the event of an oil tank leak.

Seattle supports local authority to impose development-related impact fees for public safety, affordable housing, transit, public schools, and other necessary facilities and services, and to require appropriate infrastructure, such as open space and sidewalks, associated with new development. We support the expansion of incentive zoning to include provisions that encourage new open space, preserving current open space, creating multi-modal transportation infrastructure, and preserving landmark structures. We support a statewide requirement that racial and social justice be considered in land use and zoning decisions. We support housing policies that discourage exclusionary zoning, encourage inclusionary zoning, and the expansion of housing programs that encourage intergenerational wealth building for historically marginalized communities.

Seattle supports efforts to update state planning regulations to promote growth within urban areas, address the climate crisis through growth management, preserve agricultural and urban forestry space and resources, and incorporate environmental justice into planning efforts, while still examining, reviewing, and mitigating the impacts on the environment. We support efforts to preserve and expand access to parks and green space in urban areas.

We support maintaining Washington's strong payday lending protections for consumers and oppose the creation of new, high-interest lending products. We support creating and enhancing the ability of state and local governments to enforce laws related to discrimination, labor standards, environmental protection and pollution, consumer protection, business practices, and public health.

The City of Seattle supports designating local broadcasters as “first informers” with all the rights and responsibilities that entails. Additionally, we support legislation giving local broadcasters special access to public emergencies, so that real time information in times of crisis (*e.g.*, earthquake, wildfire, and extreme weather) can be provided consistent with Federal Communications Commission broadcast license responsibilities.

We support financial policies that value social justice and consider externalized costs to our residents and environment. We support local options to hold public depositories in credit unions and support the repeal of RCW 39.58.240, which restricts public depositories in credit unions but not in commercial banks.

### **An Interconnected City – one supported by a cohesive and multimodal transportation network**

We support transportation policies and multimodal funding proposals that include a significant share of funding for cities to help pay for local maintenance and preservation, the expansion of transit including light rail, active transportation, and other local needs; and meet both the City's and the State's greenhouse gas emissions reduction targets and vehicle miles traveled (VMT) reductions. We support transportation policies that help to address the climate crisis, including electric vehicle (EV) charging infrastructure, incentives for EVs and E-bikes, and regional tolling as a means of reducing congestion and emissions.

We support greater flexibility and autonomy for cities in managing their transportation infrastructure and financing. We support expanding local transportation revenue options for local governments and modifying the City's parking tax authority to allow for more equitable application of the tax. We also support raising bid limits and the public works contracting threshold to be better aligned with today's construction costs, and indexing those limits to the construction cost index.

We support freight mobility and value the importance of rail to the City, Region, and State economies. We support state investment in the West Seattle Bridge and other key high-capacity, multimodal bridges as critical assets in connecting business across the state with national and international markets, supporting jobs in agriculture, manufacturing, aerospace, and maritime industries. We support regulatory and financing flexibility to ensure mobility can be restored quickly and effectively.

We support efforts to ensure a safe and modern rail and maritime infrastructure, which includes protecting citizens from the hazards posed by oil and coal shipments through our rail corridor and waterways.

We support efforts to improve transportation safety, particularly for vulnerable users such as bicyclists and pedestrians. such as local autonomy in adjusting speed limits. We support more robust data collection and transparency on traffic collisions, and an update to official statutes to accurately describe traffic collisions as crashes rather than accidents. We support improved multicultural outreach and educational materials in language to ensure that all communities are

able to access our public roadways.

We support the decriminalization of transportation activity to improve safety for travelers and the public. We support ending the use of weaponized enforcement for traffic violations and allowing non-uniformed officers, including those working for a local city department that is not a police department, to perform garage and event management activities. We support decriminalizing pedestrian activities such as loitering and jaywalking, which disproportionately impact BIPOC communities. We support setting traffic citation amounts based on income to avoid perpetuating cycles of poverty while ensuring enforcement remains an effective deterrent regardless of an individual's income and providing additional mitigation for marginalized communities.

We support continued efforts to clarify and strengthen regulations of disabled parking placards and plates in order to cut down on fraud and ensure that necessary parking is available for those in need.

Seattle supports local control over regulations concerning the gig economy and transportation network companies. In addition, we support modifications to rental car regulations. We support the development of recommendations and possible policies aimed to address the operation of autonomous vehicles on public roadways in the state. We support clarifying regulations related to trucks and other commercial vehicles and adding more resources for commercial vehicle safety enforcement; we also support policies that equitably share the burden of responsibility for safety violations between drivers and equipment owners.

### **An Affordable City – one where housing and services remain affordable and accessible to everyone**

The City of Seattle, like many other cities across the country, is facing a homelessness crisis. Our goal is to make life better, safer, and healthier for unsheltered seniors, families, people with disabilities, and vulnerable individuals. Seattle's needs outweigh current capacity. We support additional tools and funding to address the homelessness crisis, including significantly increasing the document recording fee, increasing density both near transit and otherwise to grow affordable housing and protect our most vulnerable populations, and easing SEPA requirements as they relate to the setup of shelters and encampments.

We strongly support state efforts to address the impact of COVID-19 on housing affordability and homelessness. The City of Seattle will work to protect and increase critical funding for affordable housing, human services, public health, and other critical programs. We support new programs to allay the disastrous effects of the pandemic on the housing market, such as rental and foreclosure assistance, utility customer assistance, and a moratorium on evictions through the crisis. Now more than ever, we recognize that public health is an essential service and support additional funding to allow public health to rebuild its statewide infrastructure to combat the virus.

We support raising new state revenue, progressive revenue options for local governments, and removing the 1% limitation on property tax revenue growth from one year to next. We reject austerity measure that harm our small businesses, workforce, and community at large. We also support increasing flexibility for local tools, such as a bondable revenue stream and expansion of

the Housing Trust Fund for affordable housing, the expansion of the real estate excise tax, property or other tax exemptions that provide affordable housing benefits and prevent displacement of lower income residents, and expansion of essential human services. Seattle acknowledges the importance of the Housing Trust Fund for extremely low-income housing needs, including preserving subsidized housing stock, and is supportive of clarification of repayment requirements that support project stability. Seattle supports flexible authority to dispose of public surplus property without seeking fair market value to build affordable housing or other uses that would benefit the public. The City of Seattle supports exploring options to stimulate the condo development market while protecting consumers who have purchased condominiums. Seattle supports policies that balance the economic opportunity created by short-term rentals with the need to maintain a supply of long-term housing stock.

We support additional behavioral health funding to ensure those in crisis receive the ongoing care, housing, and services they need. We support the state ensuring that there is parity of services for all people seeking medical treatment through the Affordable Care Act. In addition, to ensure quality of care, we support fully funding caseload ratios and staffing levels for Medicaid case management and increasing reimbursement rates. The City also supports efforts to guarantee health care for all and prohibits discrimination against transgender individuals. We support funding for Medicaid long-term services and supports, which serve our elderly and most vulnerable residents, including needed increases in funding for both skilled nursing facilities and home and community based services.

We support continued and expanded funding for essential safety net programs, including Maternity Support Services, public health, Community Health Clinics, mental health treatment services, Apple Health for Kids, Housing and Essential Needs (HEN), the Aged Blind and Disabled (ABD) Program, the Medical Care Services program, the Senior Services Act programs, immigrant services, State Food Assistance, the WIC Farmer's Market Nutrition Program, Working Connections Childcare, family planning, Nurse Family Partnerships, the Kinship Navigator Program, and Home for Good.

Seattle supports creating, expanding, and preserving budget appropriation, financing tools, and policies to help ensure housing affordability and stability for tenants, including robust investment in the Housing Trust Fund and acquisition, development, operation, and services of permanent supportive housing. We support the state's Medicaid 1115 Waiver extension and amendment request, which includes the Foundational Community Supports Medicaid benefit. We support access to legal counsel for those facing eviction and the repeal or modification of RCW 35.21.830, to allow local governments to protect tenants from unrestricted rent increases, without causing a negative impact on the quality or quantity of housing supply. Seattle supports incentivizing affordable housing, and supporting homeowners facing foreclosure and tenants facing eviction. We support efforts to expand alternative models of land ownership, such as co-operative ownership, as a means of providing affordable housing alternatives.

For tenants facing eviction, we support a statewide just cause eviction ordinance (JCEO), support the amendment of language in RCW 59.18.220 that limits Seattle's ability to extend our own JCEO to tenants at the end of their lease term. We support adjustments to RCW 59.18.440 to address eligibility barriers to qualify for relocation assistance when renters are displaced by



demolition, substantial rehabilitation, or change of use. We support reform of the unlawful detainer (eviction) process as well as giving the courts the ability to stay writs of restitution upon good cause. We support state efforts to make homelessness rare, brief, and one-time, and support utilizing health care reform opportunities to prevent and end homelessness, including a statewide solution to the benefit gap that impacts households that are reliant on federal disability insurance benefits to access and maintain stable housing.

As the federal government changes the process by which it allocates funds for homelessness programs from formulaic to competitive, we support modifications in state law that will provide us with better tools to compete for federal funds.

We also support preserving and expanding protections for renters, including banning discrimination based on a prior criminal record, and aligning state and federal law to ensure housing access for disabled residents with service animals.

We support providing the public with a full, fair, and transparent accounting of governance while ensuring City business continues on course.

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Legislative	Asha Venkataraman/4-5382	Robin Koskey/4-0312

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** A RESOLUTION setting forth The City of Seattle's 2021 State Legislative Agenda.

**Summary and background of the Legislation:** The resolution adopts the City's State Legislative Agenda, that sets out the list of City interests and priorities for the 2021 state legislative session. The Legislative Agenda is developed annually with input from City departments, elected officials, Seattle state legislative delegation, regional governmental agencies, statewide interest groups, and advocates. The City will advocate to the Legislature for items included in the Legislative Agenda.

### **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?** ☐ Yes ☒ No  
If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

### **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?** ☐ Yes ☒ No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

If so, describe the nature of the impacts. This could include increased operating and maintenance costs, for example.

No

**Is there financial cost or other impacts of *not* implementing the legislation?**

Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.

No

### **4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.).

This legislation has tangential effects on all City Departments and Department heads are all aware of it.

**b. Is a public hearing required for this legislation?**

If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned/required in the future?

No

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

If yes, please describe the measures taken to comply with RCW 64.06.080.

No

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

For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.

No

**e. Does this legislation affect a piece of property?**

If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

No

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities. If any aspect of the legislation involves communication or outreach to the public, please describe the plan for communicating with non-English speakers.

The City advocates for policies that can benefit historically disadvantaged communities.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

This answer should highlight measurable outputs and outcomes.

No

**List attachments/exhibits below:**