

INTERLOCAL AGREEMENT

regarding

MEMORIAL STADIUM

between

SEATTLE PUBLIC SCHOOL DISTRICT

and

THE CITY OF SEATTLE

NOTE: This draft does not bind SPS or the City until a complete agreement is approved by each Party's authorized legislative body and the agreement is fully signed.

This Interlocal Agreement regarding Memorial Stadium ("Interlocal Agreement") is by and between Seattle School District No. 1 ("SPS") and The City of Seattle, a first-class city of the State of Washington (the "City"). SPS and the City are also referred to individually as "a Party" and collectively as "the Parties."

In consideration of the mutual obligations and promises herein, SPS and the City agree as follows:

RECITALS

A. SPS and the City have a long history of collaboration to enrich the lives of Seattle's youth and families, including sharing their respective facilities for education and recreational purposes, the City's levy programs and funding for student enrichment, summer programming, programs to further racial equity, student health, and family support.

B. In 1946, the City quitclaimed to SPS certain real property adjacent to the existing Seattle Center campus conditioned upon SPS's construction, use, operation, and maintenance of an athletic stadium on the property. SPS constructed Memorial Stadium on the property and has continued to maintain and use it for student athletics, SPS events, and community use, including the City's Bumbershoot festival.

C. While Memorial Stadium has a long history of successfully serving SPS students and community groups, the stadium is in need of new capital investment.

D. The 2008 Seattle Center Century 21 Master Plan envisioned that SPS and the City would partner to integrate a new Memorial Stadium into the Seattle Center campus as an active contributor to the vibrancy of Seattle Center, expanding open space in the heart of campus and consolidating Seattle Center maintenance shops.

E. Located adjacent to the stadium, the Memorial Wall, designed by Garfield High School student Marianne Hanson, was dedicated in 1951 to commemorate the lives of 762 students from Seattle Public Schools and King County schools who lost their lives in WWII. The Memorial Wall was designated a landmark by the Seattle Landmarks Preservation Board on October 4, 2023.

F. In 2016, the Seattle Center Foundation, SPS, and City representatives convened a workshop attended by a wide group of community representatives that resulted in a report released in December 2016 titled “Seattle Center: What’s Next,” which emphasized the need to “establish common ground between the City of Seattle and Seattle Public Schools” and noted a common interest to “connect Memorial Stadium with the rest of Seattle Center.”

G. Since the 2016 report, SPS and the City have continued to work and plan for a joint project to replace the existing Memorial Stadium, which efforts included a letter of intent between the SPS Superintendent and the Mayor in October 2021 that anticipated SPS’s inclusion of Memorial Stadium in its upcoming Building, Technology & Academics/Athletics (“BTA V”) levy in 2022.

H. In February 2022, Seattle voters approved \$66.5 million in the BTA V levy for a basic student athletic facility to replace Memorial Stadium. As part of the City’s 2025-26 biennial budget, the Seattle City Council allocated \$40 million for an enhanced Memorial Stadium project in the City’s Capital Improvement Plan.

I. On November 22, 2022, the SPS Superintendent and the Mayor entered into a Memorandum of Agreement outlining their intent to jointly issue a request for proposals (“RFP”) seeking proposals from qualified parties to invest in and lead the redevelopment, operation, and maintenance of a new financially sustainable Memorial Stadium as a state-of-the art multi-purpose sports, educational, and entertainment stadium.

J. The RFP was released in March 2023 through the City’s bidding platforms and was advertised in the Daily Journal of Commerce.

K. SPS and the City convened an RFP evaluation panel (“RFP Panel”) with subject matter experts and community representatives to review and evaluate the proposals in response to the RFP and to provide recommendations regarding selection to the SPS Superintendent and Mayor for their final decision.

L. One Roof Partnership (“One Roof”) submitted a proposal in response to the RFP, setting out One Roof’s vision for a student-centered community stadium, embodying the philosophy that “no one profits and everyone benefits.”

M. Of the two proposals received and evaluated, the RFP Panel unanimously found that the proposal submitted by One Roof better met the shared goals and evaluation criteria of the City and SPS as established in the RFP.

N. On June 15, 2023, the SPS Superintendent and the Mayor jointly provided notice of their determination that One Roof’s proposal better met the goals and interests of SPS and the City as described in the RFP and that One Roof was selected for further negotiation of the terms and conditions of a joint Memorial Stadium development project between SPS, the City, and One Roof.

O. To execute the non-commercial vision for the Project, the One Roof team established a new entity, Memorial Stadium Redevelopment LLC (“MSR”), which is a partnership among One Roof Foundation, the Seattle Kraken, and Oak View Group, and MSR is committed to delivering a student and community-based stadium that is based on a not-for-profit model where MSR will seek no financial gain from the stadium’s operation.

P. The City and SPS have successfully negotiated an agreement whereby MSR will provide private funding to supplement public funding and will lead the design, permitting, and construction of the new Memorial Stadium (the “Development Agreement”) and the Parties have further agreed upon the basic terms on which MSR will operate the stadium for a term upon its completion.

Q. The new Memorial Stadium will serve as SPS’s premier venue for interscholastic sports events, provide new public open space and campus connections, be welcoming to all, and offer unparalleled athletic, educational, cultural, entertainment, and community opportunities in the heart of Seattle for generations to come.

R. The schedule for construction of the new stadium has been developed with the goal of managing the duration of SPS displacement from stadium use to a period of two football seasons and two graduation cycles.

S. Concurrent with the development of the new Memorial Stadium and to facilitate permitting requirements, Seattle Public Utilities will have MSR complete a replacement and upgrade of a sanitary sewer main owned by Seattle Public Utilities (“SPU”) that is currently located within the Development Site.

T. As authorized by the Interlocal Cooperation Act (RCW Chapter 39.34), SPS and the City have determined it is in their mutual best interest to jointly carry out the development of a new Memorial Stadium and associated improvements to the Seattle Center campus, and to provide for the shared and collaborative operation, maintenance, and programming of the new Memorial Stadium and associated Seattle Center improvements following completion.

In consideration of the mutual obligations and promises herein, SPS and the City agree as follows:

ARTICLE I

Memorial Stadium Project; Purpose of Agreement

1.1 Memorial Stadium Project. The Memorial Stadium Project (the “Project”) means the design, permitting, demolition, site work, and construction necessary to (i) complete replacement of the existing stadium with a new Memorial Stadium, including Seattle Center replacement warehouse and shops space and associated open space improvements, (ii) restore and preserve the Memorial Wall, and (iii) make certain improvements to the SPS Parking Lot. The Project is described in more detail in Section 4.1 and in the Development Agreement.

1.2 Purpose of Agreement. The purpose of this Interlocal Agreement is to establish and confirm SPS’s and the City’s shared commitment to carry out the Project as a joint undertaking under RCW Chapter 39.34. This Interlocal Agreement establishes SPS’s and the City’s mutual roles and responsibilities with respect to the Project, recognizing that SPS will own the stadium facility and that SPS and the City will remain the owners of their respective real property on which the new Memorial Stadium and associated improvements will be constructed. Additionally, this Interlocal Agreement sets out SPS’s and the City’s commitment to provide for the long-term maintenance and operation of the new Memorial Stadium and associated improvements through one or more agreement(s) described herein, for the benefit of SPS students, the community, and in a manner that is coordinated and integrated with the Seattle Center campus and operations.

Article II

Effective Date; Term; Definitions; Exhibit

Section 2.1 Effective Date.

This Interlocal Agreement shall be effective on the day when last signed by a representative of each Party following authorization of the Seattle City Council and the Board of Directors of Seattle Public Schools (“Effective Date”).

Section 2.2 Term.

This Interlocal Agreement shall be in effect for a term that begins on the Effective Date and continues until the following conditions are met: (i) SPS and the City have issued Final Acceptance of the Project, (ii) SPS, the City, and MSR have entered into the Operating Agreement described in Section 11.1, and (iii) the Parties have entered into the Property Agreements described in Section 8.3, unless terminated as provided herein. Notwithstanding the foregoing, certain Sections survive the termination or expiration of this Interlocal Agreement, as provided herein.

Section 2.3 Definitions.

Any capitalized term used in this Interlocal Agreement that is defined in the Development Agreement and not otherwise defined in this Interlocal Agreement shall have the meaning provided in the Development Agreement.

“City Representative” is defined in Section 3.2.B.

“Commerce Grant Agreement” is defined in Section 5.2.

“Development Agreement” means the Development Agreement regarding Memorial Stadium between The City of Seattle and Memorial Stadium Redevelopment LLC attached as Exhibit A and made a part of this Interlocal Agreement.

“Development Site” means the physical location for the permitting and development of the Project on property owned by SPS and the City. The Development Site is depicted in Exhibit A to the Development Agreement.

“Director” means the Director of the Seattle Center.

“Excused Delay” means a day-for-day delay of the Project resulting from SPS’s failure timely to provide a review, approval, or written response as required under this Agreement.

“Final Acceptance” means written acceptance of the Project as complete as described in more detail in Section 7.5 of the Development Agreement.

“Final Project Design” means the for-construction Project plans, drawings and construction specifications that have been approved in writing by the City following the design review process described in Section 5.2 of the Development Agreement and approved in writing by SPS as described in Section 6.1 of this Agreement.

“Licensed Area” is depicted in Exhibit A to the Development Agreement.

“MSR” means Memorial Stadium Redevelopment LLC.

“Notice to Proceed” means written confirmation from the Director issued to MSR, following consultation and approval by SPS as provided herein, that each of the conditions precedent for commencement of demolition and construction in Section 6.2 of the Development Agreement have been met or waived.

“Operating Agreement” means the Operating and Maintenance Agreement among MSR, SPS, and the City described in more detail in Article XI.

“Operating Agreement Terms” means the material terms of the future Operating Agreement. The Operating Agreement Terms are attached as Exhibit J to the Development Agreement.

"Perimeter Area" means an open space area within the Development Site which includes both SPS-owned property and City-owned easement areas as depicted in Exhibit A to the Development Agreement.

"Project" is defined in Section 1.1.

"Project Principals" means the Director and the SPS Chief Operations Officer (SPS COO).

"Project Representatives" means the SPS Representative and the City Representative appointed as described in Section 3.2.

"Property Agreement(s)" are defined in Section 8.3.

"SPS Principal" means the SPS Chief Operations Officer.

"SPS Representative" is defined in Section 3.2.A.

"SPU" means Seattle Public Utilities.

2.4 Exhibit.

Exhibit A Development Agreement (including all exhibits)

ARTICLE III
Development Agreement; Representatives; Reviews and Approvals

3.1 Development Agreement with MSR.

A. City Contracting Entity. The City and SPS agree that their mutual Project objectives are best achieved through an agreement between the City and MSR that utilizes the MSR team's expertise and qualifications to design, permit, and complete the Project with capped funding provided by SPS, the City (including SPU funding for the sanitary sewer work) and with all additional funds provided through private, philanthropic funds raised by MSR. Accordingly, SPS and the City have jointly negotiated the Development Agreement with MSR, and SPS has designated the City to act as the contracting entity and Development Agreement administrator for the Project.

Concurrent with this Interlocal Agreement, the City shall enter the Development Agreement with MSR. SPS acknowledges that it has had the opportunity to review, negotiate, and contribute to the Development Agreement and approves the City entering into the Development Agreement to carry out the joint Project, subject to the terms of the Development Agreement and this Interlocal Agreement.

B. Development Agreement Administration. The City shall administer the Development Agreement consistent with its terms for the mutual benefit of SPS and the City and

shall act in good faith to cause MSR to complete its contractual obligations under the Development Agreement. Except as otherwise specifically provided under this Interlocal Agreement or the Development Agreement, SPS and the SPS Representative shall direct Project-related communications, design reviews and approvals, and other communications regarding the Project through the City Representative. SPS shall not issue any direction to MSR with respect to the Development Agreement unless expressly authorized by the terms of this Interlocal Agreement, the Development Agreement, or in writing by the City Representative. As provided in Subsection 3.1.F of this Interlocal Agreement, the City shall, through the person with the role designated in the Development Agreement, secure SPS review and approval before issuing the applicable approvals, including but not limited to Notice to Proceed and Final Acceptance, under the Development Agreement.

C. Limited Liability of City for MSR Default. Provided that the City has used reasonable and good faith efforts to cause MSR to comply with its obligations under the Development Agreement, and provided further that the City has complied with its obligations under the Development Agreement, the City shall have no liability to SPS for MSR's failure to comply with the Development Agreement.

D. Project Reviews, Approvals, and Deliverables; Limited Liability. Certain Project reviews, approvals, and deliverables in the Development Agreement are specified for SPS and the City to provide jointly or individually under this Interlocal Agreement and the Development Agreement. In all cases, each Party shall carry out its reviews and approvals and provide its deliverables in the timeline and according to the standards specified in the Development Agreement and this Interlocal Agreement and consistent with the milestones in the Project Schedule. Provided that each Party has complied with timelines established in the Development Agreement and this Interlocal Agreement for review, approvals, and deliverables, neither Party shall have any liability to the other for MSR's failure to achieve Notice to Proceed or to meet the Project Schedule.

E. SPS Third-Party Beneficiary. SPS is designated as a third-party beneficiary of certain provisions of the Development Agreement as outlined in Section 3.3.C of the Development Agreement. Before exercising any right as a third-party beneficiary under the Development Agreement, the SPS Principal shall provide the Director written notice describing the provision of the Development Agreement that SPS seeks to enforce, and the Parties shall endeavor to agree upon a course of action. If there is a dispute between SPS and the City regarding the enforcement of SPS third-party rights under the Development Agreement, the dispute resolution procedures under Article XII herein shall apply.

F. Consents and Approvals; City Reserved Rights. The Development Agreement includes requirements that the City provide, through the City Representative or Director, an approval, determination, or consent with respect to a variety of plans and actions. The Parties agree that it is in their mutual best interest to coordinate so that such approvals, determinations, and consents are provided within the time frames specified in the Development Agreement in order to achieve the Project Schedule. The City shall secure the concurrence of SPS before granting any approval or consent under the Development Agreement that is described in (1) through (16) below. Notwithstanding the foregoing, if SPS fails within the applicable timeframes

below to either (i) provide concurrence or (ii) provide written objection based upon the standards under the Development Agreement (if any), the City is authorized to provide the determination, approval, or consent as the City deems in the best interest of the Project and consistent with the Development Agreement. SPS releases the City from any claims or liabilities with respect to any approval, determination, or consent the City grants in the absence of SPS's concurrence or objection in the time required. SPS shall be responsible for any additional costs or claims MSR is entitled to under the Development Agreement by virtue of an Excused Delay or otherwise to the extent the Excused Delay or additional cost is caused by the action or inaction of SPS, including but not limited to failure to provide concurrences and approvals within the time periods and consistent with any standards established under the Development Agreement.

The referenced sections under the Development Agreement that are subject to SPS review and concurrence are as follows:

- (1) Section 2.3.A (Approval of Final Project Budget subject to the parameters in Section 2.3.A),
- (2) Section 2.4 (Approval of Final Project Schedule subject to the parameters in Section 2.4),
- (3) Section 3.1.E (Verification of MSR secured funding as condition precedent of NTP, Parties to review jointly and the Director to obtain SPS concurrence before confirming MSR compliance with the requirements in Section 3.1.E),
- (4) Section 4.5.B (SPS Representative to participate in job site walk-through, review pay applications and notify City Representative within 3 business days for any proposed adjustment to MSR pay application),
- (5) Section 5.2 (Milestone and Final Project Design Reviews, SPS to review and provide approval or written objections to City within 10 business days),
- (6) Section 5.3 (Memorial Wall Design Review, SPS to provide input as to whether Final Project Design must be modified to secure LPB approval, timeline as reasonable under the circumstances),
- (7) Section 5.5 (Modifications to Final Project Design, SPS to review and provide approval or written objections to City within 10 calendar days),
- (8) Section 6.2 (Satisfaction or Waiver of Conditions Precedent for Commencement of Demolition and Construction, Parties to complete reviews and deliver Notice to Proceed or notice of unsatisfied conditions within 5 business days),
- (9) Section 6.3.A (Approval of form of Construction Bond),
- (10) Section 6.3.B (Approval of form of Completion Bond),
- (11) Section 6.7.C (Contractor Default; Termination Concurrence, SPS to approve MSR plan for Project completion within 5 business days),
- (12) Section 7.1.B (Punch List Process, SPS to provide written approval of, or comments on and objections to, punch list items to City within 10 business days and acceptance or non-acceptance of Physical Acceptance within 10 business days),
- (13) Section 7.4 (Approval of alternate deadline for completion of restoration of damage, timeline as reasonable under the circumstances),

- (14) Section 8.2.A (Hazardous Substance Plans) and 8.2.C (Remedial Work Plans) (in both cases, timelines as expeditiously as reasonable under the circumstances),
- (15) Section 10.2 (Approval of condition of Project after repair and restoration following casualty, timeline as reasonable under the circumstances), and
- (16) Section 16.2 (MSR's Assignment of Development Agreement, timeline reasonable under the circumstances).

In addition to the above, City agrees to obtain the concurrence of SPS Principal before exercising any of the following rights under the Development Agreement: (i) termination of the Development Agreement under Section 5.7.D; (ii) satisfaction of the conditions for Final Acceptance under Section 7.5 (Final Acceptance), as set forth in Section 8.1 of this Interlocal Agreement; (iii) termination of the Development Agreement by the City under Section 10.2; (iv) modification or amendment of the Development Agreement under Section 16.7, (v) rights and remedies upon a MSR Default Event under Section 13.2; and (vi) termination of the Development Agreement for an MSR Default Event under Section 13.5 or for a Force Majeure Event under Section 13.7.B.

If SPS provides objections or withholds approval as to any matter above that the City reasonably determines is inconsistent with the standards or requirements provided in the Development Agreement, the City shall utilize the dispute resolution process under Article XII.

3.2 Appointment of Project Representatives.

A. SPS Representative. SPS shall appoint an owner's representative with the capacity and qualifications to represent and manage SPS's interests throughout design, permitting, demolition, and construction of the Project (the "SPS Representative"). The SPS Representative shall be responsible for coordinating and communicating with SPS stakeholders and decision-makers throughout the design, pre-construction, and construction of the Project so that decisions and approvals are communicated effectively and in a timely manner to the City Representative. SPS shall delegate to the SPS Representative the authority to communicate SPS's decisions with respect to all Project approvals and Project-related decisions to be made by SPS as provided in this Interlocal Agreement and where specifically referenced in the Development Agreement, except in cases where such consents or approvals are designated for the SPS Principal. The SPS Representative may be changed from time to time by notice to the City, subject to Subsection 3.2.D.

B. City Representative. The City will appoint a representative with the capacity and qualifications to represent and manage the City in its non-regulatory capacity throughout the design, permitting, and construction of the Project (the "City Representative"). The City Representative shall be responsible for coordinating and communicating with City stakeholders and decision-makers throughout the design, pre-construction, and construction of the Project. The City shall delegate to the City Representative the authority to communicate the City's decisions with respect to all Project approvals and Project-related decisions to be made by the City in its non-regulatory capacity as provided in this Interlocal Agreement and in the

Development Agreement, except in cases where such consents or approvals are designated for the Director.

C. Contact Information. The SPS Representative and City Representative are referred to as the “Project Representative(s)”. Within five (5) business days of the Effective Date, the Project Principals shall exchange the name, email address, and business and emergency phone telephone numbers of their appointed Project Representative. At all times during the Project prior to Final Acceptance, each Party shall keep the contact information of its Project Representative current. If either Project Representative is anticipated to be unavailable for more than twenty-four hours, a substitute representative must be appointed, and the other Party’s Project Representative must be notified of the substitute representative’s contact information. The City shall provide the SPS Representative’s contact information to MSR.

D. Project Representatives are Key Personnel. The Parties agree and acknowledge that the appointment of qualified Project Representatives with sufficient capacity for the Project and sufficient speaking authority to represent the interests and decisions of their respective Party is key to the success of the Project. Accordingly, if any concerns should arise during the Project regarding the capacity or qualifications of either Project Representative, such concerns shall be elevated to the Project Principals for resolution. The Project Representatives are designated as key persons under this Interlocal Agreement for the coordination and management of each Party’s roles and responsibilities with respect to the Project. Accordingly, if either Party changes its designated Project Representative, the new representative shall have comparable qualifications and required speaking authority, and the appointment shall be subject to the written approval of the other Party, which shall not be unreasonably withheld.

ARTICLE IV

Additional Project Information; Site and Access Rights

4.1 Project Scope, Budget, and Schedule.

A. Minimum Scope of Project. As outlined in the Development Agreement, the minimum required scope (“Minimum Scope”) for the Project is: a new stadium with capacity of 8,000 attendees (with seating capacity of 6,500 and an additional 1,500 attendees on the west berm seating and concourses and pavilions); four (4) approximately equal-sized locker rooms; stands covered on both sides; ticket booths; team training facilities; officials and coaches space; concessions areas; restrooms; Title IX compliant accommodations; first aid/guest services; synthetic turf playing field with cork infill and sewn-in striping at field perimeter only; restoration of Memorial Wall; press box/coaches booth; stadium storage; stadium lights; audio system; video system; security/admin; loading and staging area; improvements and plans for site circulation and access, including improvement of the pedestrian access route between Republican St. and Harrison St.; expanded open space; landscaping within the Development Site; and the Shop/Warehouse Space (as defined below).

a. City Shop and Warehouse Space. The Minimum Scope includes on-site space to house Seattle Center’s trade shops, event support, and building and grounds laborers as described in more detail in the Seattle Center Design Requirements in Section 5.1.C of the

Development Agreement and Exhibit E to the Development Agreement (the “Shop/Warehouse Space”).

b. Sanitary Sewer Replacement. The Project shall include the replacement and upgrade of a sanitary sewer main owned by SPU that is currently located within the Development Site and as further described in Section 2.1.A.b of the Development Agreement (the “Sewer Replacement Work”). SPU shall pay for the Sewer Replacement Work as further described in Development Agreement and shall bear any environmental and geotechnical risks and associated costs of the Sewer Replacement Work and any Sewer Replacement Remedial Work not covered by indemnification, all as further described in the Development Agreement.

B. Approved DD+ Design. Prior to or upon signature of this Agreement, SPS, the City, and MSR have each approved the DD+ Design and determined it is consistent with the Minimum Scope for the Project and meets the Design Standards at the applicable design stage. The DD+ Design will be further developed into the Final Project Design through the design process described in Article V of the Development Agreement.

C. Project Budget. The Estimated Project Budget is detailed in the Development Agreement (reference Section 2.3 and Exhibit B). SPS acknowledges that the Project Budget remains subject to change throughout the design process and the City shall cause MSR to provide SPS with copies of updates to the Project Budget at the same time the updates are provided to the City as outlined in the Development Agreement. Before providing MSR with approval of the Final Project Budget, the City Representative shall obtain the written concurrence of the SPS Representative through the verification of funding process under Section 3.1.E of the Development Agreement.

D. Project Schedule. The Project Schedule is detailed in the Development Agreement (reference Sections 2.4 and Exhibit C). The Parties acknowledge and agree that MSR’s ability to complete the Project according to the Project Schedule is dependent upon compliance with the timelines specified in Section 3.1.F of this Interlocal Agreement. The City shall carry out its obligations to review and provide approvals in good faith and in the time and according to the terms of the Development Agreement. SPS, in turn, commits to the City that SPS shall carry out the reviews and approvals that are designated to be provided by SPS in this Interlocal Agreement in good faith and in a time and manner that allows the City to administer the Development Agreement according to its terms.

4.2. Project Development Site and Access Rights.

A. Project Development Site. The Project will be primarily constructed on real property owned by SPS, with a portion of the Project being constructed on real property owned by the City of Seattle. The Development Site is depicted in Exhibit A to the Development Agreement.

B. License for Development Site. Between the Effective Date of this Interlocal Agreement and the date of Notice to Proceed, SPS will grant MSR and the City the right to access the SPS-owned and controlled portions of the Development Site and the SPS parking lot for Project-related investigations and pre-construction activities with the approval of the SPS

Representative subject to MSR's compliance with the insurance and indemnification provisions under the Development Agreement. Effective as of the date when the Director issues Notice to Proceed under Section 6.2 of the Development Agreement following the SPS Principal's written concurrence that the conditions to issue Notice to Proceed have been waived or satisfied and continuing until the end of the Term of the Development Agreement, SPS grants the City and MSR and their respective employees, agents, representatives, contractors, and licensees a right and license to use, occupy, and access the SPS-owned and controlled portions of the Licensed Area as further described under Section 2.2.A.b of the Development Agreement. Revocation of this right and license by SPS before the end of the Term of the Development Agreement shall be a Default subject to the provisions of Article XIII of this Interlocal Agreement and Article XIII of the Development Agreement.

ARTICLE V

Project Funding; Commerce Grant

5.1 Project Funding. The respective funding obligations of the City (including funding from SPU), SPS, and MSR, and the conditions applicable to disbursing Project funding are described in detail in Article IV of the Development Agreement. To carry out the Project as a joint Project under this Interlocal Agreement, SPS and the City shall comply with their respective funding obligations outlined in Article IV of the Development Agreement. If SPS (i) does not participate in a regularly scheduled monthly job walkthrough under Section 4.5.B of the Development Agreement, or (ii) does not provide an objection to the draft pay application within three (3) business days of the job walkthrough, the City Representative shall approve or adjust the pay application in good faith, and SPS shall pay its proportionate share as described in Section 4.5.B of the Development Agreement. If either Party delays or fails to provide its funding in the time required under the Development Agreement, that Party shall be responsible for additional Project costs, if any, resulting from the failure or delay. It is understood and agreed that SPS and the City shall have no funding obligations to the Project other than those outlined in this Interlocal Agreement and the Development Agreement. Neither SPS nor the City shall be in breach of this Interlocal Agreement for failure to provide any funding to the Project in excess of what is required under the Development Agreement.

5.2 Commerce Grant. The City has been awarded grant funding from the Washington State Department of Commerce (the "Commerce Grant"). Conditions applicable to the Commerce Grant are described in detail in Section 4.4 of the Development Agreement, including the execution of an agreement with the Washington State Department of Commerce ("Commerce Grant Agreement"), and SPS acknowledges that the disbursement of the Commerce Grant funding is conditioned on such conditions. SPS agrees to provide such documents as may be requested by the City for the purposes of complying with the conditions for the Commerce Grant funding and Commerce Grant Agreement. To the extent compliance with the Commerce Grant Agreement may conflict with the terms and conditions of this Agreement, and if required by the Washington State Department of Commerce, the Parties shall execute a mutually-agreed addendum to this Agreement as needed to comply with the Commerce Grant Agreement.

5.3 Donor Information; Public Records. SPS shall comply with the requirements under Section 3.1.E of the Development Agreement with respect to donor personal information. If SPS receives a request for donor information or other Project-related public records pursuant to the Public Records Act, Chapter 42.56 RCW (the “Public Records Act”), SPS shall comply with the requirements under Section 4.8 of the Development Agreement and shall copy the City on any notice to MSR.

ARTICLE VI

Preconstruction Activities

6.1 Project Design. The Project Design Standards and the Project design review and approval process are both outlined in detail in Article V of the Development Agreement. Throughout the design review, comment, and approval process, the SPS Representative shall coordinate with all SPS stakeholders and shall ensure that the SPS reviewers complete their review in compliance with the Design Standards and in the timelines provided under the Development Agreement. The SPS Representative shall coordinate with the City Representative at each phase of the design review process to enable the City and SPS to provide MSR coordinated comments and direction regarding design. The Director shall not provide MSR written approval of the Final Project Design until the City has obtained the SPS Representative’s written concurrence.

6.2. Siting of City Art. As provided under the Development Agreement, a portion of the City’s funding for the Project is reserved to fund works of art in a manner that is consistent with the City’s 1% for Art program. During the Project design process, the City and SPS will work collaboratively with MSR to identify locations in the Perimeter Area or within publicly accessible areas of the Development Site for the installation and siting of art, at City’s expense. The City will keep SPS informed as the process of selecting and/or commissioning artwork progresses and will consider input from SPS as to the appropriateness of the artwork for installation in the vicinity of a student-centered facility. Any artwork installed as part of the Project with the City’s funds reserved for artwork under the Development Agreement shall be owned by the City and the City shall be responsible for its maintenance and care at City cost. Upon the later of the termination or expiration of this Interlocal Agreement or the installation of the artwork, SPS and the City shall enter an agreement granting the City the long-term right to site the artwork on the SPS property (subject to the City’s obligation to remove the artwork, upon notice from SPS, in the event of redevelopment or reuse of that area by SPS) and providing for the City’s ownership, maintenance, and eventual removal or surrender of the artwork, which agreement may be included in one of the anticipated Property Agreements or may be in the Operating Agreement.

6.3 Memorial Wall. Section 5.3 of the Development Agreement addresses the process for preserving the landmarked features of the Memorial Wall and for compliance with the landmark’s preservation process required under Chapter 25.12 of the Seattle Municipal Code. SPS shall work directly with the City Representative and MSR’s designated representatives to comply with the process and requirements applicable to the Memorial Wall as outlined in Section 5.3 of the Development Agreement.

6.4 Community Engagement. In collaboration with MSR, SPS shall be responsible for carrying out the community engagement activities designated to SPS and outlined in Section 5.4 of the Development Agreement. The City shall not be responsible for independently completing any activities under Section 5.4 of the Development Agreement.

6.5. Environmental Review. Section 5.7 of the Development Agreement provides for the environmental review of the Project. SPS and the City acknowledge and agree that the Final Project Design and the Project mitigation requirements are subject to the environmental review of Seattle Department of Construction and Inspections, acting in its regulatory capacity. If the City and SPS are unable to agree with MSR on a Final Project Design that is consistent with environmental review, the City will obtain SPS's written concurrence as a condition precedent to terminating the Development Agreement under Subsection 5.7.D of the Development Agreement.

ARTICLE VII Construction

7.1 SPS Approval of Notice to Proceed. The conditions precedent for the Director's issuance of Notice to Proceed to MSR allowing commencement of demolition and construction of the Project are described under Section 6.2 of the Development Agreement. Before issuing Notice to Proceed, the City shall obtain the written concurrence of the SPS Principal.

7.2 Cooperation During Construction. The City shall administer the requirements of the Development Agreement applicable to construction of the Project as described in Article VI of the Development Agreement, including monitoring compliance with Social Equity Requirements and administering the SPS Student and Community Workforce Agreement. The SPS Representative will be given the opportunity to participate in construction team meetings and receive construction communications. If at any point during the construction of the Project the City requires SPS's participation in Project-related decisions, including addressing Latent Conditions as described in Article VIII of the Development Agreement, dispute resolution as provided under Article XII of the Development Agreement or as otherwise required under the Development Agreement, SPS shall work expeditiously and in good faith with the City Representative, the Director, and other City representatives to facilitate decision-making and the City's ability to administer and carry out the applicable provisions of the Development Agreement.

7.3 Commissioning. SPS shall be responsible for coordinating directly with MSR for access to the Development Site during MSR's building systems commissioning. SPS shall cause its consultants and employees to conform to the review and inspection schedule and timelines established by MSR.

ARTICLE VIII Final Acceptance; Project Ownership; Property Agreements; Project Records

8.1 Final Acceptance. The process and terms for Project close-out and Final Acceptance are outlined in Article VII of the Development Agreement. The SPS Representative shall participate in the punch list process as outlined in the Development Agreement. Before issuing written notice of Final Acceptance of the Project to MSR, the City shall obtain written concurrence of the SPS Principal. SPS shall grant its concurrence provided that all conditions for Project close-out and Final Acceptance outlined in the Development Agreement are met in the reasonable judgment of SPS. SPS shall be responsible for any additional costs or liabilities arising due to any delay in issuance of Final Acceptance to the extent attributable to the actions or inaction of SPS, provided that MSR has met the terms for Final Acceptance under the Development Agreement.

8.2 Ownership of Project Improvements. Upon completion of the Project, Memorial Stadium will be owned by SPS with primary use by SPS for athletics, arts and other educational purposes consistent with stadium use and the 1946 quitclaim deed conveying the property to SPS. The City shall own all fixtures, furniture, and equipment in the Shop/Warehouse Space. The City shall have property rights to the Shop/Warehouse Space that shall be established consistent with Section 8.3.

8.3 Property Agreements.

A. Anticipated Property Agreements. No later than Final Acceptance of the Project, the Parties shall enter into one or more agreements to provide for reciprocal property rights (the "Property Agreements") as follows: (i) SPS's right to use City property that is within the Development Site for the new Memorial Stadium; (ii) any access rights needed for the City to carry out roles and responsibilities in the Perimeter Area owned by SPS or other locations provided under the agreements set forth below; and (iii) the City's right to use and occupy the Shop/Warehouse Space which is incorporated into the stadium building or otherwise sited on SPS property. The Property Agreement(s) are anticipated to be in the following form:

(1) An easement granted to SPS for those portions of the Project located on City Property on the North side of the Development Site for a term that is no less than the useful life of the improvements;

(2) A mutual and offsetting benefits facility lease from SPS to the City giving the City the exclusive use and occupancy rights to the Shop/Warehouse Space that is incorporated into the stadium facility or otherwise located on SPS-owned property for a term that is no less than the useful life of the improvements;

(3) A non-exclusive easement or license agreement granting the City the right to access and use the portions of the Perimeter Area owned by SPS for purposes of maintenance, temporary events, and other activities mutually agreed upon for an initial term of twenty-five years with further extension by mutual agreement; and

(4) A license or other appropriate agreement granting the City or its designee the right to use Memorial Stadium for community events no less than eight (8) days of full facility/field use annually for a term that is no less than the useful life of the improvements, including for Bumbershoot or other Seattle Center events, and a minimum of forty (40) days of operational space/back of house use annually for such events as Folklife, PrideFest, Bite of Seattle, Bumbershoot or their successors.

B. Terms and Conditions of Property Agreements. Recognizing that the Operating Agreement will initially be for a shorter term than the life of the improvements, each Property Agreement shall make appropriate accommodation for operation, maintenance, indemnity, and insurance by the grantee therein and shall be in form and substance acceptable to the Parties, each in its discretion. The mutual exchange of property rights is conditioned upon completion of the Project. The Property Agreements will include mutual commitments to quality maintenance standards.

8.4 Project Records. As provided under Section 4.8.A of the Development Agreement, within sixty (60) days of Final Acceptance of the Project, subject to Excused Delay and Force Majeure, MSR shall deliver all of the Project Financial Records, Social Equity Records, and other MSR Project-related records in an electronically compatible format to SPS (the “Records Delivery”). SPS shall accept the Records Delivery and thereafter shall maintain the Project Financial Records and Social Equity Records in a location accessible to both Parties in King County for a minimum of six years following the Final Acceptance of the Project.

Article IX

Development Site Condition; Costs to Remedy Latent Conditions

9.1 Development Site Conditions. Article VIII of the Development Agreement governs pre-existing Development Site conditions, including Latent Conditions and treatment of Hazardous Substances (as defined in the Development Agreement). SPS shall work expeditiously and in good faith to support the City’s administration of Article VIII with respect to 1) approving the Hazardous Substances Plan, 2) any Remedial Work Plan that may be required, and 3) addressing any Latent Condition.

9.2 Costs to Remedy Latent Conditions. If additional Project costs are incurred as a result of one or more Latent Conditions and the costs may not be addressed within the Final Project Budget or are not otherwise MSR’s obligation to remedy at its cost, SPS shall be responsible for costs associated with addressing any Latent Condition on SPS-owned property and the City shall be responsible for any costs associated with addressing any Latent Condition on City-owned property. Notwithstanding the foregoing, this provision shall not be deemed to be a waiver of either Party’s right to seek contribution from any responsible party or entity who is liable for the violation of any Environmental Laws or the release or exacerbation of any Hazardous Substances in, on, beneath, affecting, migrating to or migrating from the Licensed Areas.

Article X

Indemnification; Insurance

10.1 City Indemnification. To the extent permitted by law, the City shall defend, indemnify, and hold SPS and its respective officers, agents, employees, and elected officials harmless from and against all claims, suits, losses, damages, fines, penalties, liabilities, and expenses (including actual and reasonable personnel and overhead costs and attorneys’ fees

incurred in connection with claims, regardless of whether such claims involve litigation) of any kind to the extent arising out of (i) the negligent acts and omissions of the City, its elected officials, employees, agents, tenants, invitees, contractors, and consultants of any tier, or (ii) City's Default under this Interlocal Agreement, or (iii) City's default or other action or failure to act under the Development Agreement.

10.2 SPS Indemnification. To the extent permitted by law, SPS shall defend, indemnify, and hold City and its respective officers, agents, employees, and elected officials harmless from and against all claims, suits, losses, damages, fines, penalties, liabilities, and expenses (including actual and reasonable personnel and overhead costs and attorneys' fees incurred in connection with claims, regardless of whether such claims involve litigation) of any kind to the extent arising out of (i) the negligent acts and omissions of SPS, its elected officials, employees, agents, tenants, invitees, contractors, and consultants of any tier or (ii) any SPS Default under this Interlocal Agreement or exercise of third-party beneficiary rights under the Development Agreement or other SPS action or failure to act with respect to the Project that is contrary to the standards or terms of the Development Agreement or this Interlocal Agreement that results in any claim against the City or any City liability under the Development Agreement.

10.3 Limitation under RCW 4.24.115. To the extent necessary to comply with RCW 4.24.115 as in effect on the date of this Interlocal Agreement, each Party's obligation ("Indemnitor") to indemnify the other ("Indemnitee") 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 Project, shall not apply (i) to damages caused by or resulting from the sole negligence of the Indemnitee; or (ii) to the extent caused by or resulting from the concurrent negligence of (A) the Indemnitor and (B) the Indemnitee (including any of its officers, elected officials, employees, designers, agents, or contractors of any tier, as applicable); provided, however; the limitations on indemnity set forth in this Section 10.3 shall automatically and without further act by either City or SPS be deemed amended so as to remove any of the restrictions contained in this Section which are no longer required by then applicable law.

10.4 Title 51 Waiver. Each Party agrees that its defense and indemnity obligations under this Interlocal Agreement extend to any claims and any negligence of a Party's own employees. Accordingly, each Party's agreement to the obligations under Article X are specifically intended to be a waiver of immunity under Washington's Industrial Insurance Act, RCW Title 51, but only with respect to the other Party and to the extent necessary to fulfill their respective defense and indemnity obligations under this Agreement.

10.5. Survival. Each Party's obligations under Article X shall survive the termination or expiration of this Interlocal Agreement.

10.6 Insurance. SPS has approved the insurance MSR is required to maintain according to the terms of the Development Agreement. The City shall verify evidence of MSR's insurance required under the Development Agreement before allowing the commencement of any pre-construction access by MSR or any demolition or construction activities on the

Development Site. Prior to Notice to Proceed, the City shall provide SPS with MSR's proof of insurance.

Article XI

Operating Agreement Terms

11.1 Operation of Memorial Stadium. Upon Final Acceptance, it is a fundamental purpose of this Interlocal Agreement that SPS and the City provide for sustainable maintenance, operation, and ongoing capital needs of the new Memorial Stadium for the duration of its useful life. Additionally, the City's willingness to enter this Interlocal Agreement and provide funding to the Project is conditioned, in part, on assurances that the new Memorial Stadium will be operated and managed in a manner that prioritizes student-centered use and enhances student learning while providing for Seattle Center use of the facility and integrating Memorial Stadium with the Seattle Center campus. Accordingly, SPS and the City agree to enter a three-party operating agreement with MSR whereby MSR will operate and maintain the new Memorial Stadium and adjacent SPS parking lot for an initial period of five years and without a management fee ("Operating Agreement"), consistent with the terms outlined in the Operating and Maintenance Agreement Term Sheet attached as Exhibit J to the Development Agreement ("Operating Agreement Terms"). SPS and the City each agree to commit the staff resources necessary to negotiate in good faith with MSR in order to complete a final Operating Agreement that is consistent with the Operating Agreement Terms and that is executed by SPS, the City, and MSR so that MSR is positioned to operate the new Memorial Stadium upon Substantial Completion. If MSR, the City, and SPS have not substantially negotiated the Operating Agreement, including the initial operating budget, by August 31, 2026, any disputed or unresolved terms and conditions shall be referred to the Director, the MSR Principal, and the SPS Principal for resolution.

11.2 Parties to Consider Public Entity. Prior to the completion of the initial term of the Operating Agreement provided for under Section 11.1, SPS and the City agree to work with MSR to explore the establishment of a City-chartered public corporation, a public facilities district, an interlocal agreement, or creation of a non-profit operator as a strategy for addressing the new Memorial Stadium's long-term operations, capital replacement needs, and financial sustainability. Under any such scenario, SPS would continue to be the owner of the stadium facility and portions of the Development Site owned by SPS as of the Effective Date unless otherwise agreed in writing by SPS, and, unless otherwise agreed in writing by the City, the City would continue to have non-revocable use and occupancy rights to the Shop/Warehouse Space, the use of the stadium facility for community events no less than eight (8) days of full facility/field use annually, minimum of forty (40) days of operational space/back of house use annually for such events as Folklife, PrideFest, Bite of Seattle, Bumbershoot or their successors, and year-round non-exclusive use of the Perimeter Area.

11.3 Event Curbside Management. The Seattle Center has oversight for the Seattle Center campus, which includes Climate Pledge Arena and numerous other venues and resident organizations. Seattle Center operates the campus as a whole, including agreements regarding the use of parking garages and curbspace. The Department of Transportation and the Seattle Center have an interdepartmental Memorandum of Agreement for Event Curbside Management,

a copy of which is attached as Exhibit H to the Development Agreement and made a part of this Interlocal Agreement (the “Memorandum”). The new Memorial Stadium will be both a venue and a resident organization and Seattle Center will be responsible for working directly with SDOT on reserving curbspace for Memorial Stadium, including school buses, on behalf of its operator (MSR) and its tenants, including SPS. The Operating Agreement will outline the specific order of operations of how SPS, Seattle Center and MSR will apply for and secure curbspace for the operational needs of Memorial Stadium.

Article XII Dispute Resolution

12.1 General Approach to Dispute Resolution. The SPS Representative and the City Representative shall make best efforts to resolve any disputes relating to this Interlocal Agreement as expeditiously as possible in a manner that protects their respective rights and obligations while facilitating the timely completion of the Project. Additionally, if any dispute between the City and MSR under the Development Agreement arises from or relates to SPS’s reviews and approvals or SPS’s interests as a third-party beneficiary under Section 3.3.C of the Development Agreement or any other matter that in any way relates to the rights and obligations of the Parties under this Interlocal Agreement, then upon request of the City Representative, SPS will also participate in dispute resolution as outlined in the Development Agreement.

12.2 Referral to Project Principals. If the Project Representatives are unable to resolve any dispute within a time that is reasonable taking into consideration the nature of the dispute and impacts on the Project, then upon written request of either Project Representative (which request may be by email), the matter shall be referred to the Project Principals. As soon as reasonably possible, the Project Principals shall meet, whether virtually or in person, and shall use good faith efforts to resolve the dispute.

12.3 Non-binding Mediation. If the Project Principals are unable to resolve the dispute within a timeframe reasonable under the circumstances, but in any case, no later than thirty (30) days following referral to them, then upon the written request of either Party, the Parties shall proceed to non-binding mediation. Within ten (10) business days of receipt of a written request for mediation, the Parties will agree to a third-party neutral to mediate the dispute. If the Parties are unable to agree upon a mediator within ten (10) business days, then at the written request of either Party, the Parties agree to have a mediator appointed by the Seattle Office of Judicial Dispute Resolution, LLC, or any similar organization. Mediation shall be scheduled at a mutually agreed-upon time and both Parties shall participate in good faith and shall equally share the cost of the mediation. If a dispute remains unresolved following mediation, either Party is free to pursue a lawsuit or other legal means of resolution.

12.4 Limitation. Notwithstanding the existence of any dispute between them arising under this Interlocal Agreement, or any dispute under the Development Agreement that requires performance of this Interlocal Agreement, the Parties shall continue to carry out, without unreasonable delay, all their respective responsibilities under this Interlocal Agreement that are not affected by the dispute. The Parties agree to follow each of steps in this Article prior to filing

a lawsuit or seeking legal relief with one exception: if the nature of the dispute is such that there is imminent risk to the legal rights of either Party, life, or property, then either Party may proceed to exercise its remedies outside of this Article XII.

Article XIII

Default and Remedies

13.1 Default Defined. As used in this Interlocal Agreement, “Default” means any of the following conditions or circumstances that is not cured within the time specified:

(1) If either Party fails to disburse or pay any undisputed amount of funding as committed to provide the Project under Section 5.1 of this Interlocal Agreement and in the time required under the Development Agreement, if such failure continues for more than ten (10) business days following the other Party or MSR’s written demand.

(2) If either Party has failed to comply with or has violated any other term of this Interlocal Agreement if such failure or violation continues after the other Party’s written notice specifying the failure or violation, the requested cure, and a timeline for completion that is appropriate and reasonable given the nature of the failure or violation, which in any case shall not be more than thirty (30) calendar days; provided, however, that if the nature of the failure or violation reasonably requires more than the requested time to cure, a Party shall not be in breach if it has commenced the cure and thereafter reasonably pursues it to completion.

(3) If the City receives written notice of Default from MSR pursuant to the terms of the Development Agreement, if such Default is attributable to SPS’s failure to comply with or violation of any term under this Interlocal Agreement, and if such failure or violation is not timely cured by SPS following written notice from the City providing a copy of the MSR notice, along with the specified cure and MSR specified timeline, provided that if the nature of the failure or violation reasonably requires more than the requested time to cure, SPS shall not be in Default if it has commenced the cure and thereafter reasonably pursues it to completion consistent with the applicable requirements under the MSR notice.

(4) If the City fails to administer the Development Agreement in accordance with its requirements, and if such failure is not timely cured by the City following written notice from SPS, along with the specified cure and specified timeline, provided that, if the nature of the failure or violation reasonably requires more than the requested time to cure, the City shall not be in Default if it has commenced the cure and thereafter reasonably pursues it to completion, unless such additional delay is reasonably likely to result in additional costs, liability or damages to SPS and SPS has provided the City written notice specifying the risk to SPS and SPS’s requested cure.

13.2 Remedies. Upon the occurrence and during the continuance of a Default, then subject to the Dispute Resolution provisions of Article XII, which shall apply to any alleged

Default disputed in good faith, the non-defaulting party shall have the following non-exclusive rights and remedies, at the Party's discretion:

- (1) Pursue monetary damages;
- (2) Seek specific performance, injunctive relief, or any other equitable remedy;
- (3) Terminate this Interlocal Agreement, provided that any termination after Notice to Proceed shall be subject to approval by resolution of Seattle City Council and the Seattle Public School Board. Notwithstanding the foregoing, if this Interlocal Agreement is terminated for Default, neither Party shall be relieved of any of its obligations that survive termination. Additionally, this Interlocal Agreement shall not be terminated for Default after Notice to Proceed has been issued but prior to Final Acceptance and entry into Property Agreements and an operating agreement unless the Council and Board resolutions approving the termination include a plan for either (i) completion of the Project, exchange of agreed-upon property rights, and ownership and management of the improvements, or (ii) a mutually agreed-upon property disposition plan.

13.3 Remedies Cumulative. The remedies specified in this Interlocal Agreement are cumulative, and neither Party shall be deemed to have waived the right to any remedy allowable at law or equity by virtue of exercising any right specified in this Interlocal Agreement.

13.4 Force Majeure. Neither Party shall be liable or responsible to the other Party or be deemed to have defaulted under or breached this Interlocal Agreement for any failure or delay in fulfilling or performing its obligations under this Interlocal Agreement when and to the extent the failure or delay is caused by Force Majeure. For the avoidance of doubt, the occurrence of a Force Majeure event or condition shall excuse performance of the obligations of the affected Party(ies) only for the duration and to the extent performance is prevented or limited by the Force Majeure event or condition. Force Majeure shall not provide either Party the ability to unilaterally terminate this Interlocal Agreement.

Article XIV

MSR Default; Termination of Development Agreement

14.1 SPS shall have the independent right as a third-party beneficiary of the Development Agreement to enforce the specific terms identified in Section 3.3.C of the Development Agreement.

14.2 Termination of Development Agreement.

A. Termination Before Notice to Proceed. If the Development Agreement is terminated by the City (with SPS concurrence) prior to Notice to Proceed (whether pursuant to Section 5.7.D of the Development Agreement or otherwise), each Party shall bear its own costs and the Project Principals shall meet as soon as reasonably practical to explore in good faith options for

an alternative joint stadium redevelopment that meets the shared goals and vision for Project outlined in the Recitals, to the greatest extent feasible.

B. Termination After Notice to Proceed. If the Development Agreement is terminated by the City for MSR Default pursuant to Section 13.2 of the Development Agreement (with the concurrence of SPS) at any time after the Director's issuance of Notice to Proceed, the City shall have the option, but not the obligation, to complete the Project by providing written notice to SPS within thirty (30) business days of the City's notice of termination to MSR. If the City exercises the right to complete the Project, the City shall have the following rights: (i) to obtain assignment and disbursement of the committed donor funds as provided under Sections 3.1.E and Section 13.5.C of the Development Agreement, and (ii) to either accept assignment of any or all Project-related contracts to be assigned under the Development Agreement or to procure new contracts. If the City exercises the right to complete the Project, SPS shall reimburse the City for Project costs using the same process outlined for payments to MSR under Section 4.5.B of the Development Agreement, up to the total SPS funding committed under the Development Agreement. If the City reasonably determines that it is necessary to make adjustments to the Final Project Design in order to complete the Project with the available donor funds plus the capped funding amounts committed by SPS and the City pursuant to Article IV of the Development Agreement, the City may condition the exercise of its option to complete the Project upon the mutual agreement of the Parties on adjustments to the Final Project Design that will allow completion of the Project within the available funding. The Parties shall utilize the dispute resolution process if necessary to agree to such adjustments. If the Parties fail to come to agreement regarding adjustments to the Final Project Design, the City may, in its discretion and without liability, revoke its exercise of the option to complete the Project.

C. Alternative to City Completion. If the City does not exercise its right to complete the Project, or if the Parties fail to agree on adjustments to the Final Project Design with the result that the City revokes its option to complete the Project, SPS shall have the right to complete the Project. SPS may make such modifications to the Final Project Design as SPS deems appropriate, provided, however, that SPS shall ensure that the City Shop/Warehouse Space and the open space elements of the Final Project Design are completed in a manner consistent with the Seattle Center Design Requirements under the Development Agreement, and the City shall reimburse SPS for Project costs using the same process outlined for payments to MSR under Section 4.5.B of the Development Agreement.

Article XV

Notices; Project Administrative Communications

15.1 Agreement Notices. All notices, requests, and demands relating to or affecting a Party's legal rights under this Interlocal Agreement ("Notices") shall be in writing and delivered to the designated representative and addressed as follows:

If to City:

Seattle Center
Attn: Seattle Center Director
305 Harrison Street
Seattle, WA 98109
Marshall.Foster@seattle.gov

With Copy to:

Seattle City Attorney's Office
Attn: Civil Division Chief
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7095
Tom.Kuffel@seattle.gov

If to SPS:

Seattle Public Schools
Executive Director of Capital Projects and Planning
2445 3rd Ave. South
MS 22-332
PO Box 34165
Seattle, WA 98124-1165
rlbest@seattleschools.org

With Copy to:

Seattle Public Schools
Office of the General Counsel
2445 3rd Ave. South
MS 32-151
PO Box 34165
Seattle, WA 98124-1165
gcnarver@seattleschools.org

Notices may be delivered by email (with electronic confirmation of delivery), personal delivery, Federal Express or other overnight courier service, or United States mail postage prepaid with delivery confirmation. Notices shall be deemed received upon receipt, or attempted delivery to the address provided in this Section where delivery is not accepted, as follows: (i) date of personal delivery, (ii) first business day after the date of deposit with FedEx or overnight courier, or (iii) three (3) business days after deposit in U.S. mail. Each Party may change its representative and address for notice by providing written notice to the other Party as provided in this section.

15.2 Project-Related Communications. As used in this Article 15, “Project Administrative Communications” means communications relating to design-review, conditions for Notice to Proceed, construction inspections and reviews, punch-list activities and any other matter designated to be carried out by the Project Representatives under this Interlocal Agreement. Project Administrative Communications may be made by email and may be made orally with follow-up confirmation in writing as soon as reasonably practicable.

Article XVI

General Terms and Conditions

16.1 Relationship of Parties. Notwithstanding the fact that SPS and the City are undertaking the Project as a joint action under RCW Chapter 39.34, the Parties do not intend to create a partnership or separate legal entity, rather they intend that their relationship be that of two independent public agencies, each reserving all rights not expressly addressed under this Interlocal Agreement. Neither Party shall have the right, power, or authority to: (i) direct the employees of the other Party; (ii) waive any right, grant any release, make any contract or other agreement, other than the Development Agreement, that binds the other Party; or (iii) assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other Party.

16.2 Entire Agreement. This Interlocal Agreement, including the exhibit listed in Section 2.4 and any document which by its reference forms a part hereof, constitutes the entire agreement between the Parties concerning the subject matter herein. If there is any conflict between an exhibit and the body of this Interlocal Agreement, the body of this Interlocal Agreement shall govern to the extent necessary to resolve the conflict.

16.3 Relationship to Development Agreement; Order of Precedence. It is the City’s intent that this Interlocal Agreement be interpreted consistent with the City’s and MSR’s rights and obligations under the Development Agreement and with SPS’s rights as a third-party beneficiary to the maximum extent possible. SPS acknowledges that the City has provided SPS the opportunity to review and provide input regarding the Development Agreement and both Parties intend to avoid conflicts. However, if there should be a conflict between this Interlocal Agreement and the Development Agreement, with respect to the rights and obligations of MSR and the City, the Development Agreement shall take precedence, and with respect to the rights and obligations between the City and SPS, this Interlocal Agreement shall take precedence, but in both cases, only to the extent necessary to resolve the conflict.

16.4 Amendments. This Interlocal Agreement may not be modified or amended, except by a written instrument executed by SPS and the City, which may be subject to additional approvals of the legislative bodies of SPS and the City.

16.5 Governing Law; Jurisdiction and Venue. This Interlocal Agreement is governed by and shall be construed in accordance with the laws of the State of Washington. Unless otherwise required by applicable law, jurisdiction and venue for any action under this Interlocal

Agreement shall be in the Superior Court of the State of Washington for King County and each Party consents to such jurisdiction and venue by entering into this Interlocal Agreement.

16.6 Severability. If any part, provision, term or exhibit of this Interlocal Agreement is held to be invalid, unenforceable, or in conflict with any governmental restrictions, or is otherwise rendered unenforceable or ineffectual, the remainder of this Interlocal Agreement shall continue in effect and remain enforceable to the fullest extent permitted by law; provided, that upon such determination, the Parties will negotiate in good faith to modify this Interlocal Agreement so as to maintain the original intent of the Parties as closely as possible in an acceptable manner to the end that rights and obligations contemplated under this Interlocal Agreement are fulfilled to the greatest extent possible.

16.7 Time of the Essence. Time is of the essence of this Interlocal Agreement and all deadlines and covenants herein.

16.8 No Waiver. A Party's failure to complain or object to any act, omission or breach of this Interlocal Agreement by the other Party shall not be deemed a waiver of the express terms of this Interlocal Agreement, nor shall it operate to excuse a breach of any other provision of this Interlocal Agreement. If any action of any Party requires the consent or approval of another, consent or approval given on one occasion shall not be deemed a consent to or approval of that action on any other occasion. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

16.9 Interpretation. The captions and headings in this Interlocal Agreement are only for convenience and do not define, limit or describe the scope or intent of any of the provisions of this Interlocal Agreement.

The Parties hereto have executed this Agreement by having their authorized representatives affix their respective signatures below.

SEATTLE SCHOOL DISTRICT NO. 1

THE CITY OF SEATTLE

By: _____

By: _____

Date: _____

Date: _____