PIKE PLACE MARKET
PRESERVATION & DEVELOPMENT
AUTHORITY

SPECIAL CHARTER DISCLOSURE & REVIEW PROCESS
FOR HERITAGE HOUSE ACQUISITION

WRITTEN ANALYSIS – OCTOBER 18TH, 2013
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Special Disclosure & Review Process

Article XV of the Pike Place Market Preservation and Development Authority (PDA) Charter (Charter) requires a Special Disclosure and Review process for “actions that may have substantial effect on the merchants, tenants, residents, lessees, licensees, and social organizations in the Market Historical district. “The Action”, acquisition of Heritage House from SHA, includes actions mandating PDA Special Disclosure and Review process, including the following:

- Acquisition of real property in the Pike Place Market Historic District;
- Entering into a real property lease agreement (excluding individual Market tenant leases) for a term longer than one year.

The PDA Council will consider the actions listed above that are necessary components of the Action. The PDA Special Disclosure and Review process requires the following:

- A 45-day community notification prior to any vote of the PDA Council on each proposal of the type described above;
- A written analysis of the possible impacts of the proposal on the merchants, tenants, residents, lessees, licensees, and social organizations made available at the PDA office, as well as written summary sent to each community group, at least 31 days in advance; and
- A compilation of public comments received and a written report responding to comments made, at least 5 days in advance.

This written analysis includes the following components:

- A complete description of the Action
- A description of the anticipated financial impacts of the proposal, cash-flow and maintenance reserve projections, and the financial effect, if any, upon tenants in the Market;
- An explanation of the reasons for the proposal as they relate to the general purposes and responsibilities of the PDA as described in Article IV of the Charter, the Pike Place Market Historical District Ordinance 100475 as amended, and the Pike Place Market Urban Renewal Plan as amended;
- A review of how the Action complies with applicable state and local laws and deed restrictions that govern uses of PDA properties in the Market Historical district;
• A discussion of possible alternatives and options, and of the advantages and disadvantages of the Action; and

• A schedule of opportunities for public response and expected timing of the PDA decision.

1. Description of the Action

The descriptions below and the overview describe in detail the work that is proposed in this project.

1.1 Changes of Ownership
The action proposes the transfer of ownership of the three story Heritage House condo unit 2 of the PC1S Condominium from the Seattle Housing Authority (SHA) to the PDA. The Heritage House was built by the PDA in 1989 and sold to SHA in 1990 when construction was completed and the current condominium structure was established. The condominium consists of 5 units consisting of the garage, retail space on western, office space on the first floor of the Heritage House, Heritage House and the Heritage Center currently serving as the playground for the Pike Market Childcare and Preschool. Units 2 and 3 are currently owned by SHA and Neighborcare Health respectively. Units 1, 4 and 5 are owned by the PDA.

1.2 Right of First Offer of Refusal
The terms of ownership as outlined in the condominium agreement (Exhibit E) for Unit 2 include a Right of First Offer and Refusal that is granted to the PDA should SHA desire to sell their ownership interest. SHA has expressed their desire to sell Heritage House (Unit 2) and has offered terms and conditions for the PDA to consider.

1.3 Overview
The PC1S condominium is bordered by PC1N to the north, Western Avenue to the East, The Fix Building to the South and the Alaskan Way Viaduct and Waterfront to the West. The entire property is included within the Pike Place Market Historical District of the City of Seattle. The Condominium includes the following 5 units and uses:

Unit 1 – Market Parking Garage containing 156,000 sq/ft parking garage, storage, the Foodbank, and access from the Waterfront and Western Avenue.

Unit 2 – Heritage House – containing 38,800 sq/ft Senior Assisted Living facility with including, 60 residential units (two double occupancy) a main floor community room, dining room and lobby. Heritage House is currently operated by Providence Housing Services Inc. (Providence) under at 10 year lease/lease of which 9 years remain.

Unit 3 – Neighborcare Offices – containing 1440 sq/ft of office space.

Unit 4 – Containing approximately 1155 sq/ft of retail space on Western Avenue.
Unit 5 – Heritage Center – containing approximately 1600 sq/ft indoor/outdoor playground for the Pike Market Pre-School and Childcare.

Key Action elements include:

- Transfer of Ownership of Unit 2 from SHA to the PDA

**Transfer of Ownership**
The transfer of ownership between SHA and the PDA would occur following review and approval by the PDA Council and SHA Board as well as the completion of this process outlined in this analysis. The terms of transfer proposed by SHA include a covenant restricting the continued use to Senior Low-Income Housing in lieu of a fee, the transfer of current maintenance reserve for the building of approximately $180,000.00 and the current lease with Providence for a 10 year period which commenced November, 2012..

1.4 Cost and Financing the Action
The cost for acquisition will include a restriction on use to retain senior low-income housing without additional monetary consideration and is subject to the assumption of the existing lease between SHA and Providence. The transfer of ownership will also include a maintenance reserve of approximately $180,000.00. The PDA estimates approximately $500,000 in building maintenance will be needed in 2 years. The current lease agreement assigns responsibility for routine maintenance and upkeep of interior finishes, fixtures and equipment to the tenant while the landlord is responsible for capital improvements and repairs. The tenant is also responsible for all routine operating costs of their program including staffing, licensing requirements and utilities. Projected cash flow and contributions to the maintenance reserve are included in Exhibit G. As current rental income is insufficient to cover expected future capital needs, supplemental funding will need to be covered by contributions including philanthropic efforts led by the Market Foundation or from the PDA’s capital reserves.

2. Explanation of the Reasons for the Program
The explanation for the reason for the Program is based upon the general purposes and responsibilities of the PDA as described in Article IV of the Charter, the Pike Place Market Historical District Ordinance 100475 as amended, and the Pike Place Market Urban Renewal Plan as amended.

The primary reason for the Program is to fulfill the PDA’s Charter mandates, specifically to preserve and rehabilitate the properties in the Pike Place Market Historic District. In addition the Action is supportive of service for low and moderate income persons with low-income housing and senior assisted living.

In 1986 the PDA submitted a proposal (Exhibit A) to SHA for development of a congregate care facility on the top of the PC1S garage. In 1987 the Seattle City Council approved Ordinance 113639 (Exhibit D) authorizing the sale of PC1S, the issuance of bonds to support construction of the garage and authorizing the creation of a
condominium with one portion to be developed as a congregate care facility, to be transferred to SHA. SHA formally accepted the PDA’s proposal in 1988 and the building was constructed in 1989. The opportunity to assume ownership of PC1S was contemplated when the original condominium structure was established in 1990. This transfer of ownership back to the PDA is consistent with these earlier agreements and consistent with the Charter mandated responsibilities of the PDA to maintain housing for low-income populations. Further, the direct ownership of Heritage House will help facilitate the continued support, continuity and stability for the Markets senior residents that are aging in place.

Ownership of the Heritage House property will make future operation of the PC1S condominium more efficient as the PDA will be able to coordinate maintenance and alterations of both the garage and residential portions of the facility.

3. **Review of the Program**

3.1 **Compliance with state and local laws**
The Program will comply with all generally applicable Federal, State and City laws as described below.

The PDA is governed by the terms of its Charter and will develop the Program in compliance with all terms and conditions of the Charter. In addition to the Special Disclosure and Review Process required by the Charter (“Charter Notice”), RCW 35.21.747 (Public Corporations Act) requires the PDA to provide certain statutory notices, including notice pursuant to RCW 42.30.080 (Open Public Meetings Act), (collectively, “Statutory Notice”) before selling or encumbering property obtained from the City of Seattle. Since the Program involves a number of actions requiring notice, the PDA is providing the Statutory Notice and the Charter Notice for the entire Project (including all actions described herein) through a consolidated notice process (collectively, “Consolidated Notice Process”). The Program will be developed in compliance with all other applicable state law requirements.

The PDA will comply with all applicable land use, building, and construction code requirements, including obtaining all permits required for the Program.

In addition, there are Seattle Municipal Code requirements that apply to the Action. The properties in the Program are part of the Pike Place Market Historical District (“Historical District”), which was established for the purpose of preserving the architectural, cultural, economic and historical value of the Market. See SMC 25.24 et. al. The code authorizes the PPMHC to monitor and approve projects involving demolishing, building, renovating, altering, modifying, changing, or improving or changing a permitted use of property located in the Historical District. See SMC 25.24.030.

The PDA will also comply with all aspects of City of Seattle Ordinance 124122 for use in this Program subject to the MOU Agreement between the PDA and the City approved in the Ordinance.
The PDA will comply with any other applicable statutory or regulatory requirements.

The operation of a licensed assisted living/elderly residence is covered by a variety of local, state and federal regulations. Obligations for continued compliance will remain with Providence under the lease.

4. Impacts on Existing Tenants & Public

There are no anticipated negative impacts to existing tenants or the Public. There are potential benefits that may be realized by senior residents of the Market as they age in place and require additional medical support and transition from independent living to assisted living. The proposed acquisition assumes continued operation of a facility that has been active for over 20 years.

5. Discussion of Possible Alternatives & Options

The PC1N site has been studied for over 30 years with efforts only progressing to the point of rough concept due to lack of adequate funding sources. Physical site constraints, historical district regulations on potential uses, and height restrictions have proved to be significant obstacles to any plans for site improvement.

Waive Right to Purchase

The PDA could elect not to assume ownership of Heritage House. In this scenario SHA may sell the building to a private entity which could preclude any direct PDA involvement and limit in-part or completely, the ability of the PDA to ensure the continued use of the building for low-income senior housing.

The PDA would not assume obligations for continued maintenance of the facility but could not assure that ongoing minimum maintenance was performed, other than through condominium covenants. The coordination of operations among different users of the property (PDA tenants, Child Care, Food Bank and Garage) would be with a different ownership entity.


The required public information on the proposed action will be available and distributed no later than October 18th, 2013. A full written analysis will be available at the PDA offices and a summary analysis will be distributed to the community.

Community written questions and comments will be accepted until November 7, 2013 at 5:00 p.m., in order to be included in the PDA written response to any such comments. The PDA’s written responses to community questions and comments will be available at the PDA offices no later than November 14, 2013.

Notice is also hereby given that, consistent with the PDA’s Charter, the PDA Council will consider the written response to written questions and comments prior to taking
action on the proposed specific actions at its meeting on November 21, 2013 at 4:00 p.m. in the Elliott Bay Room.
EXHIBIT A: 1986 PDA Congregate Care Facility Proposal to SHA Cover and Summary
Proposal to the

SEATTLE HOUSING AUTHORITY

to

Develop a

CONGREGATE CARE RESIDENCE

Volume I: Proposal Narrative

Prepared by

THE PIKE PLACE MARKET
PRESERVATION AND DEVELOPMENT AUTHORITY

in cooperation with

THE PIKE MARKET COMMUNITY CLINIC

THE BUMGARDNER ARCHITECTS

WALSH CONSTRUCTION CO.

January 17, 1986
PROJECT OVERVIEW

The Pike Place Market Preservation and Development Authority (PDA), in cooperation with the Pike Market Community Clinic (PMCC), The Bumgardner Architects and Walsh Construction Co. propose to build a 51-unit Congregate Care Residence (CCR) on property immediately west of the Market Historical District. The property, referred to as "PC-1" in the Market Urban Redevelopment Plan, will be purchased from the City by the PDA. The Congregate Care Residence will be constructed on the northern portion of the site, atop a two-level parking garage.

The Pike Market Congregate Care Residence will serve frail elderly who are no longer able to live independently in their own homes. Both the structure of the building and the social and health service program will be designed to assist tenants in remaining as independent and self-sufficient as possible for as long as possible. While some tenants may pay a monthly rental and service fee without subsidy, a majority will be sponsored by the State Department of Social and Health Services. The facility will be licensed by the State as a Boarding Home and contracted to DHHS to provide services under the Congregate Care Facility program and the Community Options Program Entry System (COPES).

The PDA, with extensive experience in managing residential buildings for low income seniors, will manage the new Pike Market Congregate Care Residence. The PDA's well-developed management, maintenance and security systems will extend to the new CCR, allowing it to bypass start-up difficulties normally experienced by projects of this nature. The Pike Market Community Clinic, which has been a stable anchor for human services in and around the Market for seven years, will manage and coordinate social and health services to the residents. The Clinic will maintain a satellite facility in the building, for convenient service to CCR residents as well as to tenants of the Seattle Housing Authority's (SHA) Ross Manor and Market House, and to other elderly and low-income Market residents.

In-house services in the Pike Market Congregate Care Residence will include three meals a day prepared and served in the facility; laundry service; housekeeping services; personal care support for bathing, dressing, etc.; nursing assessment and medication management; transportation services; and planned activities. The satellite PMCC clinic will provide complete primary health services to residents, including mental health counseling, podiatry, and foot care.

Cooperative arrangements will be developed with the Seattle-King County Division on Aging (DOA) for case management services; with the Pike Market Senior Center for Market-based social activities; with Seattle-King County Department of Public Health for dental services; with Seattle-King County Visiting Nurse Services for intensive nursing care; with Seattle Personal Transit and METRO for transportation; and with Norwest/Capitol Hill Day Care for adult day care services.
This proposal is fully responsive to the Seattle Senior Housing Program's RFP4. The PDA, the Pike Market Clinic, The Bumgardner Architects and Walsh Construction Co. have jointly developed the housing and service programs described here. They have together explored the special needs of the target population and the issues inherent in developing and implementing a combined residential/human service program to meet those needs.

Reviewers will find this proposal organized in roughly the same manner as Chapter III, Section G and Chapter VIII of the RFP4 Developers Guide. Illustrations and attachments to the narrative proposal are contained in a separately bound Volume II: Appendices. A third volume of architectural drawings completes the Pike Market Congregate Care Residence proposal.
EXHIBIT B: 1987 City Council Ordinance 113639
AN ORDINANCE relating to the Pike Place Market Preservation and Development Authority; authorizing the City to guarantee the issuance of not to exceed $8.4 million ($8,400,000.00) in tax-exempt bonds; authorizing the issuance of said bonds; providing for the sale of certain real property to the Authority; authorizing an agreement for the development, construction and management of a public parking facility; and certain other matters in connection therewith.

REPORT OF COMMITTEE

Honorable President:

Your Committee on Urban Redevelopment

to which was referred the within Council Bill No. 106309 report that we have considered the same and respectfully recommend:

12. Do Pass as amended (2-0; Pugh).

Contract sum $228,140.00.

9/17 Finance & Personnel Committee
PASS AS AMENDED

9/21/87 Held over week

[Signature]
Committee Chair
The City of Seattle—Legislative Department

REPORT OF COMMITTEE

Honorable President:

Your Committee on Urban Redevelopment

to which was referred the within Council Bill No. 106309
report that we have considered the same and respectfully recommend that the same:

9/12. De Pass as amended (2-0; Pr. 214) Favorable report on

9/17. Finance & Personnel Committee

PASS AS AMENDED

9/21/87 Held one week

Committee Chair
AN ORDINANCE relating to the Pike Place Market Preservation and Development Authority; authorizing the City to guarantee the issuance of not to exceed $8.4 million ($8,400,000.00) in tax-exempt bonds; authorizing the issuance of said bonds; providing for the sale of certain real property to the Authority; authorizing an agreement for the development, construction and management of a public parking facility; and certain other matters in connection therewith.

WHEREAS, the Pike Place Market Preservation and Development Authority ("Authority") was chartered pursuant to Seattle Municipal Code ("SMC") Ch. 3.110 (Ordinance 103387 as amended), and RCW 35.21.730 et seq., to undertake "renewal, rehabilitation, preservation, restoration and development of structures and open spaces" in the Pike Place Public Market ("Market") "in a manner which affords a continuing opportunity for Market farmers, merchant residents, shoppers and visitors to carry on their traditional market activities" and, among other activities, "preserve and expand the residential community, especially for low-income people;" and

WHEREAS, there exists a critical need for public parking to serve the Market and the Central Waterfront in order to preserve the viability of the Market as a retail center and to support redevelopment of the Central Waterfront for public recreational and park uses; and

WHEREAS, the City Council and the Seattle Housing Authority have approved the allocation of $2,500,000 in Senior Housing funds under the Seattle Senior Housing Bond Fund program to the Authority for the development of approximately 50 units for congregate care housing for the frail elderly on the PC-1 site in conjunction with other development thereon; and

WHEREAS, the provision of parking for such uses is an important, traditional, and well recognized public purpose; and

WHEREAS, the City-owned property within the Pike Market Urban Renewal Project, known as PC-1, long has been considered the preferred location for the development of additional parking and the City and the Authority have been working toward the development of parking on such site for many years; and

WHEREAS, sale of a portion of the PC-1 site to the Authority for development of the parking and, in conjunction therewith, a congregate care housing facility would help achieve that objective; and
WHEREAS, in order to obtain affordable financing to construct and operate said public parking facility, the Authority requires the City's guarantee of the payment of principal of and interest on the tax-exempt bonds it intends to issue as well as additional City financial assistance; and

WHEREAS, the Authority and the City propose to develop the facility pursuant to a detailed and careful process designed to preserve as much of the site as possible for future development for other public purposes and uses and to produce a sensitive, attractive structure which fulfills a number of public objectives; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the following findings:

An urgent need exists for additional public parking to serve the Pike Place Market ("Market") and the Central Waterfront. Development of a substantial amount of additional public parking is necessary to preserve the Market's viability as a retail center and to support redevelopment of the Central Waterfront for public recreational and park uses. Additional congregate care housing for frail elderly also is critically needed in the Market neighborhood.

Combining the City's financial and property assets with the assets, experience and expertise of the Pike Place Market Preservation and Development Authority ("Authority") will produce a facility neither the City nor the Authority could develop on its own and one which will meet a variety of public needs.

The Authority, on its own, is unable to obtain financing for this needed public parking facility on terms and conditions that would make it economically and financially feasible to build and operate such a facility. The pledge by the City of its full faith and credit to guarantee payment of the principal of and interest on tax-exempt bonds not to exceed Eight Million Four Hundred Thousand Dollars ($8,400,000.00) to be issued by the Authority to finance
development of this public facility together with the
provision to the Authority of Four Hundred Ten Thousand
Dollars ($410,000.00) in City funds should enable such public
facility to be self-supporting based on the parking revenues
it would generate.

The City concludes that the most appropriate method of
assisting in the construction and operation of this public
facility is to provide financial assistance to the Authority
and to pledge its full faith and credit to guarantee the full
payment of the principal of and interest on not to exceed
Eight Million Four Hundred Thousand Dollars ($8,400,000.00) in
tax-exempt bonds issued by the Authority.

The City affirms that the Pike Place Urban Renewal Project
("PC-1") site is the appropriate location for the development
of such a public parking and congregate care housing facility
and concludes that the sale of a portion of the site to the
Authority for development of the facility is necessary to
enable the Authority to undertake the project.

Based on the foregoing facts and findings, the City
Council further finds that the public interest will be served
in having the Authority undertake construction and operation
of a public parking, and, in conjunction therewith, congregate
care housing facility. The City shall provide financial
assistance, sell a portion of the PC-1 site to the Authority
and pledge its full faith and credit to guarantee the payment
of the principal of and interest on tax-exempt bonds issued
by the Authority to develop such a parking facility. Such
assistance, sale and guarantee shall be undertaken and
provided in the manner hereinafter set forth in an agreement
substantially in the form contained in Exhibit A, attached
hereto. The City Council hereby further finds and declares

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that the expenditure of public funds for the construction and
operation of a public parking facility pursuant to this
ordinance is for a public and strictly municipal purpose.

Section 2. The Mayor is authorized to execute, on behalf
of the City, an Agreement with the Authority, a public
corporation chartered by the City, substantially in the form
contained in Exhibit A.

Section 3. The City of Seattle hereby authorizes the
Authority to issue tax-exempt bonds supported by the
guarantee of the City for redemption payments authorized
herein.

Section 4. The City shall provide the sum of Four Hundred
Ten Thousand Dollars ($410,000.00) to the Authority from its
"Pike Project Urban Renewal Close Out Account" or other
sources as necessary, reduced by the amount of any funds
received by the Authority from the City for development
expenses prior to the effective date of the Agreement
authorized herein. Such funds shall be transferred to the
Authority within two weeks of the effective date of such
Agreement. The funds shall be used as provided in such
Agreement.

Section 5. The Mayor is specifically authorized, for and
on behalf of the City, to execute a contract of sale with the
Authority for the disposition of the fee simple estate,
subject to conditions contained in the deed, in the following
described portion of the City's PC-1 property:

Lots 1, 4, 5, 8, 2, 3, 6 and 7 Block "H", ADDITION
to THE TOWN OF SEATTLE, AS LAID OUT BY A.A. DENNY
(COMMONLY KNOWN AS A.A. DENNY'S 4TH ADDITION TO THE
CITY OF SEATTLE), according to plat recorded in
volume 1 of Plats, Page 69, records of King County,
Washington;

EXCEPT that portion taken for Armory Way by King
County Superior Court Cause No. 292884, described
as follows:
That portion of lots 1, 4, 5, and 8, Block "H"
lying Southwesterly of a line 31.25 feet
Southwesterly from and parallel with the
Southwesterly margin of the alley as platted in
said Block "H".

INCLUDING that portion of the alley as platted in
said Block "H" and vacated by Ordinance 16709
beginning parallel to the Northwesterly margins of
lots 1 and 2 and thence Southeasterly to and
parallel to the Southeasterly margins of Blocks 7
and 8.

substantially in the form contained in Exhibit A.

Section 6. The City hereby ratifies and confirms the
provision of Two Million Five Hundred Thousand Dollars
($2,500,000) to the Authority by the Seattle Housing Authority
from the City's Senior Housing program for a development of a
congregate care facility acceptable to the Seattle Housing
Authority and consistent with said Housing Program. The City
specifically approves the location of the congregate care
facility to be developed in conjunction with the parking
facility on the southerly portion of the PC-1 site.

Section 7. The City authorizes the Authority to transfer
to the Seattle Housing Authority the congregate care facility
to be developed, as contemplated in Section 6 upon completion
of the facility. If the Project includes Pike Market
Community Clinic facilities in addition to the clinic planned
for the congregate care facility, the City also authorizes the
Authority to transfer such additional facilities to the Pike
Market Community Clinic upon its completion. The Authority
may subject the PC-1 site to a condominium regime pursuant to
the Horizontal Property Regimes Act, Chapter 64.32 RCW, as now
in effect or hereafter amended, to the extent necessary to
accomplish such transfers.

Section 8. Any acts consistent with and prior to the
effective date of this ordinance are hereby ratified and
confirmed.
Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 28th day of September, 1962, and signed by me in open session in authentication of its passage this 28th day of September, 1962.

Alphonso Lindsey
President of the City Council.

Approved by me this 5th day of October, 1962.

John B. Ayer
Mayor.

Filed by me this 5th day of October, 1962.

(Normal J. Brooks)
Attest:
City Comptroller and City Clerk.

Published

By: Teresa Duncan
Deputy Clerk.
ORDINANCE

AN ORDINANCE relating to the Pike Place Market Preservation and Development Authority; authorizing the City to guarantee the issuance of not to exceed $8.4 million ($8,400,000.00) in tax-exempt bonds authorizing the issuance of said bonds; providing for the sale of certain real property to the Authority; authorizing an agreement for the development, construction and management of a public parking facility; and certain other matters in connection therewith.

WHEREAS, the Pike Place Market Preservation and Development Authority ("Authority") was chartered pursuant to Seattle Municipal Code ("SMC") Ch. 3.110 (Ordinance 103307 as amended), and RCW 35.21.730 et seq., to undertake "renewal, rehabilitation, preservation, restoration and development of structures and open spaces" in the Pike Place Public Market ("Market") "in a manner which affords a continuing opportunity for Market farmers, merchant residents, shoppers and visitors to carry on their traditional market activities" and, among other activities, "preserve and expand the residential community, especially for low-income people;" and

WHEREAS, there exists a critical need for public parking to serve the Market and the Central Waterfront in order to preserve the viability of the Market as a retail center and to support redevelopment of the Central Waterfront for public recreational and park uses; and

WHEREAS, the City Council and the Seattle Housing Authority have approved the allocation of $2,500,000 in Senior Housing funds under the Seattle Senior Housing Bond Fund program to the Authority for the development of approximately 50 units for congregate care housing for the frail elderly on the PC-1 site in conjunction with other development thereon; and

WHEREAS, the provision of parking for such uses is an important, traditional, and well recognized public purpose; and

WHEREAS, the City-owned property within the Pike Market Urban Renewal Project, known as PC-1, long has been considered the preferred location for the development of additional parking and the City and the Authority have been working toward the development of parking on such site for many years; and

WHEREAS, sale of a portion of the PC-1 site to the Authority for development of the parking and, in connection therewith, a congregate care housing facility would help achieve that objective; and
WHEREAS, in order to obtain affordable financing to construct and operate said public parking facility, the Authority requires the City's guarantee of the payment of principal of and interest on the tax-exempt bonds it intends to issue as well as additional City financial assistance; and

WHEREAS, the Authority and the City propose to develop the facility pursuant to a detailed and careful process designed to preserve as much of the site as possible for future development for other public purposes and uses and to produce a sensitive, attractive structure which fulfills a number of public objectives; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the following findings:

An urgent need exists for additional public parking to serve the Pike Place Market ("Market") and the Central Waterfront. Development of a substantial amount of additional public parking is necessary to preserve the Market's viability as a retail center and to support redevelopment of the Central Waterfront for public recreational and park uses. Additional congregate care housing for frail elderly also is critically needed in the Market neighborhood.

Combining the City's financial and property assets with the assets, experience and expertise of the Pike Place Market Preservation and Development Authority ("Authority") will produce a facility neither the City nor the Authority could develop on its own and one which will meet a variety of public needs.

The Authority, on its own, is unable to obtain financing for this needed public parking facility on terms and conditions that would make it economically and financially feasible to build and operate such a facility. The pledge by the City of its full faith and credit to guarantee payment of the principal of and interest on tax-exempt bonds not to exceed Eight Million Four Hundred Thousand Dollars ($8,400,000.00) to be issued by the Authority to finance
development of this public facility together with the
provision to the Authority of Four Hundred Ten Thousand
Dollars ($410,000.00) in City funds should enable such public
facility to be self-supporting based on the parking revenues
it would generate.

The City concludes that the most appropriate method of
assisting in the construction and operation of this public
facility is to provide financial assistance to the Authority
and to pledge its full faith and credit to guarantee the full
payment of the principal of and interest on not to exceed
Eight Million Four Hundred Thousand Dollars ($8,400,000.00) in
tax-exempt bonds issued by the Authority.

The City affirms that the Pike Place Urban Renewal Project
("PC-1") site is the appropriate location for the development
of such a public parking and congregate care housing facility
and concludes that the sale of a portion of the site to the
Authority for development of the facility is necessary to
enable the Authority to undertake the project.

Based on the foregoing facts and findings, the City
Council further finds that the public interest will be served
in having the Authority undertake construction and operation
of a public parking, and, in conjunction therewith, congregate
care housing facility. The City shall provide financial
assistance, sell a portion of the PC-1 site to the Authority
and pledge its full faith and credit to guarantee the payment
of the principal of and interest on tax-exempt bonds issued
by the Authority to develop such a parking facility. Such
assistance, sale and guarantee shall be undertaken and
provided in the manner hereinafter set forth in an agreement
substantially in the form contained in Exhibit A, attached
hereto. The City Council hereby further finds and declares
that the expenditure of public funds for the construction and operation of a public parking facility pursuant to this ordinance is for a public and strictly municipal purpose.

Section 2. The Mayor is authorized to execute, on behalf of the City, an Agreement with the Authority, a public corporation chartered by the City, substantially in the form contained in Exhibit A. Other than provisions of the Agreement related to the transfer of property contemplated in Section 5 herein, the Mayor is further authorized to execute an Agreement which contains provisions which are modifications of the provisions contained in Exhibit A, if he finds that such Agreement, as modified, is in the best interest of the City.

Section 3. The City of Seattle hereby authorizes the Authority to issue tax-exempt bonds supported by the guarantee of the City for redemption payments authorized herein.

Section 4. The City shall provide the sum of Four Hundred Ten Thousand Dollars ($410,000.00) to the Authority from its "Pike Project Urban Renewal Close Out Account" or other sources as necessary, reduced by the amount of any funds received by the Authority from the City for development expenses prior to the effective date of the Agreement authorized herein. Such funds shall be transferred to the Authority within two weeks of the effective date of such Agreement. The funds shall be used as provided in such Agreement.

Section 5. The Mayor is specifically authorized, for and on behalf of the City, to execute a contract of sale with the
Authority for the disposition of the fee simple estate, subject to conditions contained in the deed, in the following described portion of the City's PC-1 property:

Lots 1, 4, 5, 8, 2, 3, 6 and 7 Block "H", ADDITION TO THE TOWN OF SEATTLE, AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S 4TH ADDITION TO THE CITY OF SEATTLE), according to plat recorded in volume 1 of Plats, Page 69, records of King County, Washington;

EXCEPT that portion taken for Armorel Way by King County Superior Court Cause No. 2022-84, described as follows:

That portion of lots 1, 4, 5, and 8, Block "H" lying Southwesterly of a line 11.25 feet Southwesterly from and parallel with the Southwesterly margin of the alley as platted in said Block "H".

INCLUDING that portion of the alley as platted in said Block "H" and vacated by Ordinance 10709 beginning parallel to the Northwesterly margins of lots 1 and 2 and thence Southeasterly to and parallel to the Southeasterly margins of Blocks 7 and 8.

substantially in the form contained in Exhibit A.

Section 6. The City hereby ratifies and confirms the provision of Two Million Five Hundred Thousand Dollars ($2,500,000) to the Authority by the Seattle Housing Authority from the City's Senior Housing Program for a development of a congregate care facility acceptable to the Seattle Housing Authority and consistent with said Housing Program. The City specifically approves the location of the congregate care facility to be developed in conjunction with the parking facility on the southerly portion of the PC-1 site.

Section 7. The City authorizes the Authority to transfer to the Seattle Housing Authority the congregate care facility to be developed, as contemplated in Section 6 upon completion of the facility. If the Project includes Pike Market Community Clinic facilities in addition to the clinic planned
for the congregate care facility, the City also authorizes the Authority to transfer such additional facilities to the Pike Market Community Clinic upon its completion. The Authority may subject the PC-1 site to a condominium regime pursuant to the Horizontal Property Regimes Act, Chapter 64.32 RCW, as now in effect or hereafter amended, to the extent necessary to accomplish such transfers.

Section 8. Any acts consistent with and prior to the effective date of this ordinance are hereby ratified and confirmed.
Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval of the City Council, and shall become a law unless the population of the City shall be reduced to a number less than the population required by this ordinance. The City Council shall have the power to alter this ordinance at any time. This ordinance shall become effective immediately upon its approval by the City Council.

Passed by the City Council the __ day of __, 19__

Approved by me the __ day of __, 19__

Filed by me the __ day of __, 19__

Mayor

By

City Clerk

(Seal)

Notices: If the document in this frame is less clear than this notice, it is due to the quality of the document.
BY HAND DELIVERY

Ms. Lucia Cundy
Staff, Seattle City Council
Seattle Municipal Building
10th Floor
600 Fourth Avenue
Seattle, Washington 98104

Dear Lucia:

I am in receipt of your handwritten memo dated September 24, 1987 regarding the Contract for Sale of Property and Redevelopment between the City of Seattle and the Pike Place Market Preservation and Development Authority. In it you asked us to verify in writing a number of points concerning this Agreement.

Before addressing your specific concerns, I would like to point out that the Authority has committed itself in the Agreement to develop, build, and manage the parking facilities in accordance with the Pro Forma Financial Statement. In Section 1 of the Agreement, for example, the Authority agrees that the dates, terms, conditions, interest rate or rates, and other features of the Bonds shall be reasonably consistent with the Pro Forma Financial Statement. In Section 28(6), the Authority agrees to manage the parking facilities in a manner likely to produce the financial performance contemplated in the Pro Forma Financial Statement. In addition, if the City is ever required to make payments into the Bond Fund (a situation which implies that the Authority has not managed to meet the projections of the Pro Forma Financial Statement), the City has the power under the Agreement to unilaterally impose a corrective action plan on the Authority.

All of these provisions in the Agreement obligate the Authority to develop, build, and manage the project in accordance with the Pro Forma Financial Statement. The City is provided many opportunities to review the budget and financial status of
the project and is given the authority to intervene with a corrective action plan if the financial results are not in accordance with the Pro Forma Financial Statement. Thus, the Pro Forma Financial Statement governs the financial management of the project by the Authority. Although the funds and accounts created in the Agreement do not match exactly the line items in the Pro Forma Financial Statement, the overall management of funds in these accounts must conform to the general financial projections of the Pro Forma Financial Statement.

In responding to your specific concerns, I have set forth the text of each with our response immediately below.

Concern No. 1.

(1) In the event that parking revenues from the Parking Facility are sufficient to meet all the noted obligations, the City will provide no Substitute Revenues.

Response.

The Agreement as presently drafted provides that in the event that the Gross Parking Revenues from the Parking Facilities are sufficient to pay the following obligations:

(i) operation and maintenance cost,
(ii) payments payments of principal of and interest on the Bonds,
(iii) payments to the Sinking Fund Account,
(iv) payments required to maintain the Debt Service Reserve Account at the Debt Service Reserve Requirement,
(v) payments into the Capital Reserve Fund, and
(vi) payments to maintain the General Reserve Fund at the General Reserve Requirement;
then the City will provide no Substitute Revenues. This result follows from the definition of Substitute Revenues in the Agreement which provides that the Substitute Revenues shall be the lesser of (a) the three-year average of annual Net Surface Parking Revenues or (b) the amount in a particular year by which the Gross Parking Revenues are insufficient to pay all of the obligations noted above. It is implicit in this definition that if Gross Parking Revenues are sufficient to pay all of the obligations noted above, then no Substitute Revenues will be provided.

Concern No. 2.

(2) In the event that only part of the Net Surface Parking Revenues are necessary to meet all noted obligations, the Resulting Revenues will be split 25/75 between the City and the PDA.

Response.

The Agreement as presently drafted provides, and the Authority intends, that in the event only part of the Net Surface Parking Revenues are necessary to meet all of the following obligations of the Authority:

(i) operation and maintenance cost,
(ii) payments of principal of an interest on the Bonds,
(iii) payments to the Sinking Fund Account,
(iv) payments required to maintain the Debt Service Reserve Account at the Debt Service Reserve Requirement,
(v) payments into the Capital Reserve Fund,
(vi) payments to maintain the General Reserve Fund at the General Reserve Requirement, and
(vii) payments required to reimburse the City for payments made to the Paying Agent pursuant to the City's obligations in Section 6 of the Agreement;

then the remainder of the Net Surface Parking Revenues will be split 25% to the City and 75% to the Authority. This result is mandated by Section 20.8 which requires the Authority to deposit Net Surface Parking Revenues into the Revenue Fund and by the definition of Resulting Revenues. However, when the revenues from the Parking Facilities have been sufficient to pay all of the above obligations for two years, the Gross Surface Parking Revenues are divided 35% to the City and 65% to the Authority.

Concern No. 3.

(3) References to "payments of principal on interest" and to the "Sinking Fund Account" will total the amount shown on the Pro Forma as "annual debt service paid."

Response.

The Authority understands that the references in the Agreement to "payments of principal of and interest on the Bonds" and the "Sinking Fund Account" mean the amounts referred to as "Annual Debt Service Paid" in the Pro Forma Financial Statement. The actual amount of annual debt service will, of course, be determined by the final interest rate obtained by the Authority and by the final size of the bond issue.

Concern No. 4.

(4) "Operating and Maintenance Costs" and the annual "Capital Expense Fund amount" will total $40,000, as shown on the Pro Forma under "Maintenance and Reserves" expenses.

Response.

The Authority understands that the funds set aside to pay maintenance costs and to be placed in the Capital Reserve Fund shall not exceed the amount set aside for "Maintenance and
Ms. Lucia Cundy  
September 25, 1987  
Page Five

Reserves" in the Pro Forma Financial Statement. The Authority understands that "Operation and Maintenance Costs" as defined in the Agreement means the amount set forth as "Total Expenses" on the Pro Forma Financial Statement minus the amount set aside for the Capital Reserve Fund.

Concern No. 5.

Finally, on Tuesday, September 22 and Wednesday, September 23 I received two different explanations of how the Capital Reserves Fund would work. Please provide me with a written explanation of how much this amount is expected to be, whether it varies year to year (if so, how does the Pro Forma account for it), and what expenses you can predict will need to be covered by this account (item and approximate cost).

Response.

The Authority has estimated that an amount of $15,000 a year would be appropriate and reasonable as a reserve for capital expenses. This number may be broken down as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repair of general wear and tear on all public areas (public lobbies, skybridge, elevators)</td>
<td>$ 2,000</td>
</tr>
<tr>
<td>Waterproofing (estimated need every four years)</td>
<td>$ 1,000</td>
</tr>
<tr>
<td>Replacement of automatic ticket machines and gates, card readers, booths, t.v. cameras</td>
<td>$12,000</td>
</tr>
<tr>
<td>Total Estimated Annual Capital Reserve Amount</td>
<td>$15,000</td>
</tr>
</tbody>
</table>

The Authority estimates that these amounts will remain relatively constant from year to year, subject to the assumption in the Pro Forma Financial Statement of a 5% increase each year due to infla-
tion or other increased costs. The actual amount may also vary depending on the actual experience of the Authority with management of the Parking Facility. However, despite these variations, the overall financial performance of the Parking Facilities will remain consistent with the Pro Forms Financial Statement.

I trust that these responses satisfy your concerns. I must point out that this letter is provided to you as additional explanation of points which are covered in the Agreement. This letter is not intended to supersede or amend any portion of the Agreement or the Authority's obligations under it. Please let me know if we can provide you with any further assistance.

Very truly yours,

WICKWIRE, GOLDMARK & SCHORR

Jon M. Schorr

cc: Sarah Welch (w/enclosures)
    Rodney Eng (w/enclosures)
    Michael Moore (w/enclosures)
    Michael Carroll (w/enclosures)

S7:PP1:04.1F
May 4, 1987

To: Jon Sehorn
From: Lucia H. Cundy

Date: May 4, 1987
Subject: PCI Agreement

Yesterday afternoon I had a conversation with Mike Monroe during which he indicated that the current language of the agreement accomplishes exactly what I have understood to be the final directive of the Finance Committee. However, I indicated to Mike that I would be prepared to recommend approval with the current language upon receipt of a letter from you verifying a number of points I think we must explicitly agree upon. These are:

1) In the event that funding revenues from the parking facility are sufficient to meet all noted obligations, the City will provide all substitute revenues.

2) In the event that only part of the Net Surface Parking Revenues are necessary to meet all noted obligations, the resulting Revenues will be split 25/75 between the City and the PDA.

3) References to "payments of principal and interest" and "the Sinking Fund Account" will total the amount shown on the Pro Forma as "Annual Debt Service Paid".

4) "Operating and Maintenance costs" and "Capital Expense Fund amount" will total $40,000, as shown on the Pro Forma under "Maintenance and Reserves" expenses.

Finally, on This 4/22 and Wed 4/23 I received two different explanations of how the Capital Reserve Fund would work. Please provide me with a written explanation of how much this amount is expected to be, whether it varies year to year (if so, how does the Pro Forma account for it), and what expenses you can predict will need to be covered by this account (item and approximate cost).

Art Loniga has indicated that any language changes must appear in the Council Bill Book on Monday, hence I must have final language by late Friday to allow for processing time. Please contact me as soon as possible with a response to either of my two suggested approaches to wrapping up this approval.

Lucia H. Cundy
Seattle City Council

September 24, 1987

Sam Smith
President of the City Council
684-1800

George E. Benson
Chair, Transportation Committee
684-9804

Virginia Gate
Chair, Environmental Management Committee
684-9905

Paul Krautet
Chair, Urban Redevelopment Committee
684-9807

Jane Holand
Chair, Housing and Human Services Committee
684-9803

Norman B. Rice
Chair, Finance Committee and Public Safety Committee
684-9905

Odores Sibonga
Chair, Finance and Personnel Committee
684-8802

Jim Streei
Chair, Land Use Committee
684-8808

Jeanette Williams
Chair, Parks and Public Grounds Committee
684-9804

Mr. Jon M. Schorr
Wickwire, Goldmark, and Schour
500 Maynard Building
Seattle, WA 98104

Dear Mr. Schour:

I have now had an opportunity to review the PCI agreement language submitted to me on September 18, 1987. After considerable review, I can see that it generally addresses the Finance Committee's directives. However, I have a number of concerns about specific language and the logic of the agreement versus the Pro-Forma. I have summarized these briefly, and I have attached suggested language changes that I think better describes the mechanics of this agreement, although it remains inconsistent with the logic of the Pro-Forma.

1. North Site Revenues

I found the language and organization of this section particularly confusing, due especially to the fact that the mechanics of the flow of funds, in some instances, are not identified and in others rely on the definition section.

For example, the language doesn't explicitly state that Substitute Funds could equal zero, i.e., no funds are provided. As written, it looks as though the funds are provided under any circumstance until 1997. Also, the language doesn't note that in the event the northsite parking still exists, and only a portion of those revenues are needed to meet obligations, the "Resulting Revenues" are split 25/75, as provided for later in the agreement. (This, incidently, is a peculiar anomaly which I would have changed to a 35/75 split had I noticed it sooner.)

I have reworded the entire section to more explicitly reflect what happens in each of four scenarios that could occur relative to the Surface Parking Revenues. The mechanics of these four scenarios are described in the body of Section 20.8.

An equal employment opportunity—alternative action employer
Eleventh Floor, Municipal Building, Seattle, Washington 98104
One additional suggestion I have made is to eliminate the redundant listing of obligations and define them as Annual Project Payments. Also, there are three concepts associated with Net Surface Parking Revenues, but they are all described as additions or deletions to Net Surface Parking Revenues. Why not give them each a name and define them? For example, Net Surface Parking Revenues are composed of those needed for Annual Project Payments (which I call "Dedicated Surface Parking Revenues"), and those that are not needed for Annual Projects Payments, which are your, "Resulting Revenues". Similarly, the City is providing "Substitute Revenues in lieu of Net Surface Parking Revenues, the mechanics of which are more clearly described in my suggestions.

2. Capital Reserves Account

As you are aware, this account initially was of concern to me because, as you confirmed on Monday morning, September 21, this was an extra annual expense that was not accounted for in the Pro-Forma. On Monday afternoon, Sara Welsh, confirmed that, in fact, the Capital Reserves are provided for in the Pro-Forma under "Maintenance and Reserves", a line item of Total Expenses. I understand from Sara Welsh that your underwriter wanted the Capital Reserves Account to be a lower priority than is reflected in the Pro-Forma, therefore, I am no longer suggesting that the logic of the Pro-Forma and the Agreement be made consistent.

However, I would like to see the language associated with the Capital Reserves definitions changed to reflect the fact that Capital Reserves are a predictable and fixed annual expense that amortizes future capital costs over the 30 year term of the obligation, rather than a variable amount to be set at the discretion of the Authority in its annual budget.

(Please contact me if this is not your understanding of how these expenses are identified in the Pro-Forma.)

3. Fund and Account Definitions

Each definition should explicitly state the purpose of the fund or account. Furthermore, the conformance of these accounts with the Pro-Forma is as important as the consistency with language in the resolution. Why refer
to only the Resolution? My suggestion for a new section describing the Authorities authority to establish funds and accounts would satisfy me regarding consistency with the Pro-Forma.

4. Sinking Fund Account

This needs to be defined and in addition, there should be some clarification that the "principal and interest payments on the bonds", plus the "Sinking Fund Account Amount", is equal to "Annual Debt Service Paid" on the Pro-Forma.

Please let me know if these suggested changes are consistent with your understanding of the substance of the agreement. If so, I can recommend approval to Councilmember Sibonga to proceed on Monday, September 23, 1987. In that case, we need to clarify substantive details before the Full Council approves the legislation. In either case, the final language for these sections must be drafted, agreed upon, and in final printed form by 5:00 p.m., on the Friday preceding the Full Council vote, in order to allow time to prepare copies for Council Bill Books. Neither Mike Monroe nor Rodney Eng have commented on these suggestions yet, although I understand that Mike Monroe will attend our Friday, September 25th meeting.

I am looking forward to meeting with you regarding this matter. If you have any immediate response before then, please call me at 684-8151.

Sincerely,

Lucia G. Cundy
Lucia G. Cundy, AICP
Central Staff

cc: Mike Carroll, PDA
    Rodney Eng, Law Department
    Mike Monroe, Law Department
    Sara Welsh, OMB
    Art Ceniza, Council Staff
    Honorable Dolores Sibonga, Seattle City Councilmember
REWITTEN SECTION 20.B

To help the Authority meet Annual Project Payments, the City agrees to allocate some or all of the Net Surface Parking Revenues, as necessary, from the Surface Parking Facility to the Revenue Fund. Such allocation shall be known as Dedicated Surface Parking Revenues.

For so long as the Bonds are outstanding and the City continues to provide the Authority the opportunity to manage, operate, and collect revenue from the Surface Parking Facilities, the Authority shall deposit Net Surface Parking Revenues into the Revenue Fund and apply such revenues to project purposes pursuant to the Resolution and in substantial conformance with the Project Pro-Forma Financial Statement. Any such Net Surface Parking Revenues in excess of the Dedicated Surface Parking Revenues amount, a difference hereinafter referred to as Resulting Revenues, shall be split between the PDA and the City as provided in Section 28.7. However, after November 1, 1997, or in any year immediately prior to which the Parking Facilities have produced Net Revenues sufficient to make Annual Project Payments for two consecutive years, the Authority need no longer deposit Net Surface Parking Revenues into the Revenue Fund, but shall instead pay to the City thirty-five percent (35%) of the Gross Surface Parking Revenues and may use the remainder if the Gross Parking Revenues for any lawful purpose of the Authority.

In any year prior to November 1, 1997, during which the City has elected to terminate the Authority's opportunity to manage, operate, and collect revenue from the Surface Parking Facilities, and during which Dedicated Surface Parking Revenues are necessary to make Annual Project Payments, the City shall provide the Authority with Substitute Revenues. Substitute Revenues shall be equal to the lesser of (a) the average Annual Net Surface Parking Revenues for the three fiscal years immediately preceding the date on which the City terminates the Authority's opportunity to manage, operate, and collect revenue from the Surface Parking Facility, or (b) the amount by which Net Surface Parking Revenues are
Insufficient to provide the Dedicated Surface Parking amount. The Authority shall deposit the Substitute Revenues into the Revenue Fund, and shall apply such revenues to Project Purposes pursuant to the Resolution and consistent with the Project Pro-Forma Financial Statement.

In any year during which the City has elected to terminate the Authority's opportunity to manage, operate, and collect revenue from the Surface Parking Facility, and during which Net Parking Revenues from the Parking Facility are sufficient to make Annual Project Payments, no Substitute Revenues will be provided by the City and any gross revenues in excess of Annual Project Payments, hereinafter referred to as Resulting Revenues, will be split between the Authority and the City as provided in Section 28.7.

NEW DEFINITION

Dedicated Surface Parking Revenues mean those Net Surface Parking Revenues necessary in order for the Authority to make Annual Project Payments, after Gross Parking Revenues and a portion of the General Reserve Fund monies, as anticipated in the Project Pro-Forma Financial Statement, have been applied to the Annual Project Payments.

Page Two
Suggested Alternative Language Report

NEW DEFINITION

Resulting Revenues means those Net Surface Parking Revenues in excess of the Dedicated Surface Parking Revenues amount.

---delete current definition of Resulting Revenues---

NEW DEFINITION
Substitute Revenues means funds provided by the City to replace Net Surface Parking Revenues which are no longer available, but which are needed to make Annual Project Payments.

---delete current definition---

NEW DEFINITION

Annual Project Payments are those payments made from Gross Parking Revenues, which include:

(i) payments for operating and maintenance costs,
(ii) payments of principal and interest on the Bonds;
(iii) payments to the Sinking Fund Account,
(iv) payments that may be necessary to maintain the Debt Service Reserve Requirement;
(v) payments that may be necessary to maintain the General Reserve Fund at the General Reserve Requirement, and,
(vi) payments that may be necessary to reimburse the City for payments to replenish the Debt Service Reserve Account under the City's guarantee in Section 6(c) of this Agreement, all as required by the Resolution and substantially in conformance with the Project Pro-Forma Financial Statement,
(vii) payments to the Capital Reserve Fund.

NEW SECTION THREE

Section 3 Establishment of Funds and Accounts. The Authority shall establish such Project Funds and Accounts as it deems necessary for project management and administration. The monies in such Funds and Accounts shall be used solely as provided for in the Resolution and shall be required by the Resolution in amounts that are in substantial conformance with the Project Pro-Forma Financial Statement.
NEW DEFINITION

Sinking Fund Account means that the account established for purposes of accruing funds to pay principal and interest due at maturity of serial bonds, as established by the Authority pursuant to the Resolution.

Page Three
Suggested Alternative Language Report

NEW DEFINITION

"Capital Reserve Amount" means the amount set aside in the Capital Reserve Fund each fiscal year for which the Bonds are outstanding.

---delete current definition---

NEW DEFINITION

"Capital Reserve Fund" means the fund of that name established in order to pay for capital expenses that may occur throughout the project life, as established by the Authority pursuant to the Resolution and in substantial conformance with the Project Pro-Forma Financial Statement.

---delete current definition---
September 17, 1987

BY HAND DELIVERY

Ms. Lucia Cundy
Seattle City Council
Seattle Municipal Building
10th Floor
600 Fourth Avenue
Seattle, Washington 98104

Dear Lucia:

Enclosed are certain revisions to the Guarantee Agreement which I drafted last night. These include the language for the compromise regarding substitute revenues reached yesterday. Neither Mike Carroll, Rodney Eng, nor Michael Monroe, has yet reviewed this language.

Very truly yours,

WICKWIRE, GOLDMARK & SCHORR

[Signature]

cc/enc: Mr. Rodney Eng (by hand delivery)
Mr. Michael Monroe (by hand delivery)
Mr. Michael Carroll (by hand delivery)
Revisions to Guarantee Agreement

1. Insert to Page 6: New Definition: Bond Fund

"Bond Fund" means the fund of that name established by the Authority pursuant to the Resolution.

2. Insert to Page 6: New Definition: Capital Reserve Amount

"Capital Reserve Amount" means, for each fiscal year in which the Bonds are Outstanding, the amount the Authority has budgeted to pay capital expenses for the Project.

3. Insert to Page 6: New Definition: Capital Reserve Fund

"Capital Reserve Fund" means the fund of that name established by the Authority pursuant to the Resolution.

4. Insert to Page 6: New Definition: Certificate of Completion

"Certificate of Completion" means that certificate of completion issued by the City for the Parking Facilities and for the congregate care facility or other improvements, if built.

5. Insert to Page 7: New Definition: Debt Service Account

"Debt Service Account" means the account of that name established by the Authority pursuant to the Resolution.

6. Insert to Page 7: New Definition: Debt Service Reserve Account

"Debt Service Reserve Account" means the account of that name established by the Authority pursuant to the Resolution.
7. **Insert to Page 7: New Definition: General Reserve Fund**

"General Reserve Fund" means the fund of that name established by the Authority pursuant to the Resolution.

8. **Insert to Page 8: New Definition: Improvements**

"Improvements" means the Property and the Parking Facilities, and may include the congregate care facility and other additions to the Parking Facilities to be built on the Property, all as provided and specified in the Construction Documents as approved pursuant to this Agreement.

9. **Insert to Page 10: New Definition: Resulting Revenues**

"Resulting Revenues" means Gross Parking Revenue less the amounts required (i) to pay Operation and Maintenance Costs; (ii) to make the payments of principal and interest on the Bonds required by the Resolution; (iii) to make payments to the Sinking Fund Account required by the Resolution; (iv) to maintain the Debt Service Reserve Account at the Debt Service Reserve Requirement, (v) to make payments into the Capital Reserve Fund as required by the Resolution, and (vi) to maintain the General Reserve Fund at the General Reserve Requirement.
10. **Insert to Page 10: New Definition of Substitute Revenues**

"Substitute Revenues" means funds provided by the City equal to the lesser of (a) the average annual Net Surface Parking Revenue for the three calendar years immediately preceding the date on which the City terminates the Authority's opportunity to manage, operate and collect revenue from the Surface Parking Facilities, or (b) the amount in a particular year by which the Gross Parking Revenues fail to be sufficient (i) to pay Operation and Maintenance Costs; (ii) to make the payments of principal of and interest on the Bonds required by the Resolution; (iii) to make payments to the Sinking Fund Account required by the Resolution; (iv) to maintain the Debt Service Reserve Account at the Debt Service Reserve Requirement; (v) to make payments into the Capital Reserve Fund as required by the Resolution, and (vi) to maintain the General Reserve Fund at the General Reserve Requirement.

11. **Insert to Page 25: New Language for Section 20, Paragraph D.**

B. The City presently provides the Authority the opportunity to manage, operate and collect revenue from the Surface Parking Facilities on a month to month basis and reserves the right to terminate this arrangement at its sole discretion. For so long as the
Bonds are Outstanding and the City continues to provide the Authority
the opportunity to manage, operate and collect revenue from the
Surface Parking Facilities, the Authority shall deposit Net Surface
Parking Revenues into the Revenue Fund and shall apply such revenues
to Project purposes pursuant to the Resolution; provided, however, that
after the earlier of (a) November 1, 1997 or (b) the date on which the
Parking Facilities have produced Gross Parking Revenues for two
consecutive years sufficient (i) to pay Operation and Maintenance
Costs; (ii) to make the payments of principal of and interest on the
Bonds required by the Resolution; (iii) to make payments to the Sinking
Fund Account required by the Resolution; (iv) to maintain the Debt
Service Reserve Account at the Debt Service Reserve Requirement; (v)
to make payments into the Capital Reserve Fund as required by the
Resolution, and (vi) to maintain the General Reserve Fund at the
General Reserve Requirement, the Authority need no longer deposit Net
Surface Parking Revenues into the Revenue Fund, but shall instead pay
to the City thirty-five percent (35%) of the Gross Surface Parking
Revenues and may use the remainder of the Gross Surface Parking
Revenues for any lawful purpose of the Authority. If, prior to
November 1, 1997, the Gross Parking Revenues have been sufficient to
release the Authority from its obligation to deposit Net Surface
Parking Revenues into the Revenue Fund and, on any Debt Service
Payment Date thereafter, the monies in the General Reserve Fund are
less than the General Reserve Requirement, then, for so long as the
Bonds are Outstanding and the City continues to provide the Authority
the opportunity to manage, operate and collect revenue from the
Surface Parking Facilities, the Authority shall again be required to
deposit Net Surface Parking Revenues into the Revenue Fund and to
apply such revenues to Project purposes pursuant to the Resolution
until the earlier of (a) November 1, 1997 or (b) the date on which Gross
Parking Revenues are again sufficient to satisfy the six criteria listed
above. If, prior to November 1, 1997, the City elects to terminate the
Authority's opportunity to manage, operate and collect revenue from
the Surface Parking Facilities, then, for as long as the Bonds remain
Outstanding, but only until November 1, 1997, the City will provide the
Authority with the Substitute Revenues. The Substitute Revenues will
Revisions to Guarantee Agreement

be provided by the City each year as soon as practical after the amount
of such Substitute Revenues for such year have been determined. The
Authority shall deposit the Substitute Revenues into the Revenue Fund
and shall apply such revenues to Project purposes pursuant to the
Resolution.

12. Insert to Page 51: New Language for Section 29, Subsection 7 (page 51)

7. Pay the City twenty-five percent (25%) of the Resulting
Revenues until (a) thirty (30) years following completion and start of
operation of the Parking Facilities or (b) the Purchase Price has been
fully paid, whichever is later.
THE CITY OF SEATTLE
LAW DEPARTMENT
MUNICIPAL BUILDING, SEATTLE, WASHINGTON 98101
AREA CODE 206 TELEPHONE 684-4200
DOUGLAS N. JEWETT, CITY ATTORNEY

September 18, 1987

Honorable Dolores Sibonga
Chairperson, Finance Committee
Seattle City Council

Re: C.B. 106309

Dear Ms. Sibonga:

We have been informed that the above-referenced Council Bill was inadvertently omitted from the published Committee Agenda for September 17, 1987 (the related Bond Resolution was, however, included in the Agenda). The Council Bill had been previously before the Committee, pursuant to a published agenda on September 3, 1987, at which time the Committee had discussed and requested certain modifications to the exhibit incorporated by the ordinance. Those modifications having been made and presented at the September 17, 1987 meeting, the Committee fully discussed and voted on the Council Bill, recommending its passage to the full Council.

You are advised that the clerical error of omitting the title of this Council Bill from the Committee's published agenda does not legally preclude the full Council from considering its passage upon the recommendation of your Committee on September 21, 1987. Such action would not contravene the City Charter or laws, and, in our opinion, would not be inconsistent with the Council rules (Resolution 25856, adopted July 31, 1978) and Department Operating Instructions.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By
MICHAIL P. MONROE
Assistant

MPP:rlh
CONTRACT FOR GUARANTY OF BOND ISSUANCE AND
FOR SALE OF PROPERTY FOR REDEVELOPMENT

Between

The City of Seattle

and

Pike Place Market Preservation and Development Authority

THIS AGREEMENT ("Agreement") is made as of __________ , 1987, between THE CITY OF SEATTLE (the "City"), a municipal corporation of the State of Washington, and THE PIKE PLACE MARKET PRESERVATION AND DEVELOPMENT AUTHORITY, a public corporation chartered by the City (the "Authority"), to provide capital funds to construct a public parking facility to serve the Pike Place Market and the central waterfront on property to be sold by the City to the Authority, to provide for the development and operation of such facility, and for certain other matters in connection therewith.

WITNESSETH:

I. RECITALS

WHEREAS, in furtherance of the objectives of the Urban Renewal Law (RCW Ch. 35.81) the City has undertaken a program for the clearance and reconstruction and/or rehabilitation of slum and blighted areas in The City of Seattle, King County, Washington, and in this connection is engaged in carrying out

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an urban renewal project known as the Pike Place Urban Renewal Project WASH.R-17 in an area located in the City; and

WHEREAS, as of the date of this Agreement, there has been prepared and approved by the City an Urban Renewal Plan for the Pike Place Urban Renewal Project, dated January 4, 1974, approved by the City Council on December 26, 1973, by Ordinance 102916 (which plan, as amended prior to the date of execution of this contract, is unless otherwise indicated by the context, hereinafter called the "Urban Renewal Plan"); and

WHEREAS, a copy of the Urban Renewal Plan as constituted on the date of the Agreement has been recorded in the office of the Auditor of King County, Washington (Auditor's File or Recording No. 7501170268); and

WHEREAS, in order to enable the City to achieve the objectives of the Urban Renewal Plan and particularly to make land in said area available for redevelopment by and in accordance with the uses specified in the Urban Renewal Plan, the Federal Government has undertaken to provide, and has provided, substantial aid and assistance to the City through a contract for Loan and Capital Grant dated August 29, 1972, as amended; and

WHEREAS, City is the fee simple owner of all of the real property described below and has full power and authority to
enter into this Agreement and to sell the property pursuant to the terms and conditions of this Agreement; and

WHEREAS, The City in Ordinance ________ (the "Ordinance") has found that there exists a substantial need for public parking to serve the Pike Place Market (the "Market") and the central waterfront area, particularly the City Aquarium, and that development of a substantial amount of additional public parking in the Market is necessary to preserve the Market's viability as a public market, to support the Aquarium and to facilitate redevelopment of the central waterfront for public recreational and park uses; and

WHEREAS, the Authority for nearly fifteen years has been the City's primary instrumentality for restoration and operation of the Market and has successfully restored the principal market structures and currently manages the market; and

WHEREAS, since enactment of Ordinance No. 100475, which provides for restoration of the Market, the market community has been committed to and working toward the development of additional public parking; and

WHEREAS, the City owns the last remaining undeveloped parcels of land within the Pike Place Urban Renewal Project boundaries, one of which, commonly referred to as PC-1, is located generally between Western Avenue and the Alaskan Way.
Viaduct and between the Fix-Madore buildings and the Market Park; and

WHEREAS, PC-1 is presently used for surface parking for the Market under management by the Authority and is ideally situated to serve the parking needs of both the market and the waterfront area; and

WHEREAS, the development of a major parking structure on the PC-1 site has been considered in a 1973 environmental impact statement ("EIS") accompanying the amended Pike Market Urban Renewal Plan and a 1987 EIS accompanying the proposed Harborfront redevelopment proposal and the Authority, by virtue of its experience, resources, capabilities and prior City practice is an appropriate developer of the PC-1 site for such purposes in general and in particular is the appropriate developer of a parking facility on the southern portion of the site; and

WHEREAS, the Authority has also proposed the development of congregate care housing on top of the parking facility, and the City has agreed that the Authority may incorporate it in the waterfront/market parking project.

WHEREAS, in order to develop the waterfront/market parking project, the Authority will provide $550,000 from its capital reserves, $350,000 in site acquisition costs from the congregate
care facility and will dedicate revenues derived from operation of the parking facility to the Project are provided in the Agreement; and

    WHEREAS, the City will provide $410,000, of which $60,000 has already been provided, and an unconditional guarantee of Authority's Project financing; and

    WHEREAS, the Project will result in a parking facility which, in general, will provide approximately 550 parking spaces but not less than 450 spaces in the facility, be aesthetically consistent with the historical Market area, and provide other important public amenities such as public pedestrian access between the waterfront and Market areas and enhancement of Western Avenue;

    NOW, THEREFORE, in consideration of the mutual promises made herein, the City and the Authority hereby agree as follows:

II. DEFINITIONS

The following words and terms have the following meanings for purposes of this Agreement:

1. "Agreement" means this contract for Guarantee of Bond Issuance and for sale of Property for Redevelopment Agreement between The City of Seattle and the Pike Place Market Preservation and Development Authority.
2. "Aquarium" means the public aquarium owned and operated by the City of Seattle located on the Central Waterfront.

3. "Authority" means the Pike Place Market Preservation and Development Authority.

4. "Bonds" means the bonds of the Authority issued pursuant to Section ___ of the Ordinance in the aggregate principal amount of not to exceed $8,400,000 to provide funds to pay the capital costs of the Project as provided in this Agreement.

5. "Bond Counsel" means Preston, Thorgrimson, Ellis & Holman or another firm of nationally recognized bond counsel.

6. "Bond Proceeds Account" means the account established by the Authority with the proceeds of the sale of the Bonds as provided herein.

7. "Central Waterfront" means the general geographic area adjacent to Elliott Bay between Pier ____ and Pier ____.

8. "City" means The City of Seattle.


10. "Congregate care" means housing for the frail elderly which provides an opportunity for reasonably independent living supported by essential central services including but not limited to a dining facility and health care.
11. "Conveyance Date" means the date of the City's conveyance of the property to the Authority.

12. "Debt Service Reserve Requirement" means one-half of the Maximum Annual Debt Service on the Bonds (as such term is defined in the Resolution).

13. "Department" means the City Department of Community Development.


15. "Fiscal Year" means the Authority's annual accounting period.

16. "General Reserve Fund" means

17. "Gross Parking Revenues" means all revenues derived from the Parking Facilities.

18. "Interest Payment Date" means

19. "MBE/WBE" means Minority or Women's Business Enterprise as described in SMC Ch. 20.46, as now or hereafter amended.


21. "Operations and Maintenance Costs" means all necessary expenses incurred by the Authority in causing the Parking
Facilities to be operated and maintained in good repair, working order and condition, substantially as provided in the financial pro forma. Operation and Maintenance Costs shall include all necessary operating expenses, current maintenance charges, taxes, expenses of reasonable upkeep and repairs and a properly allocated share of charges for insurance and all other expenses incidental to the operation of the Parking Facilities, including pro rata budget charges of the Authority's administration expense where such charges represent a reasonable distribution and share of actual costs, but shall exclude depreciation, transfer of moneys to any other funds of the Authority, and the payments into the Bond Account hereinafter provided for.

22. "Ordinance" means City Ordinance _______ authorizing the guarantee of the bond issuance, sale of property for redevelopment and funds for the Project and this Agreement between the City and the Authority.

23. "Parking Facilities" means the public parking facility to be constructed and operated by the Authority pursuant to this Agreement.

24. "Paying Agent" means _______ Bank or any successor Paying Agent.
25. "Paying Agent Agreement" means the Paying Agent Agreement by and between the Authority, the City and _______ Bank dated ______________, 1987.

26. "Pike Place Public Market" or "Market" means the public market in downtown Seattle owned and operated by the Pike Place Public Market Preservation and Development Authority.

27. "Purchase Price" means

28. "Project" means the work or undertaking by the Authority including the planning, financing, design, purchase, acquisition, development, construction, equipping and operation of the public parking facility pursuant to this Agreement.

29. "Project Fund" means the Fund established by the Authority for Project implementation as provided herein.

30. "Property" means that certain portion of the real property referred to as FC-l in the initial Pike Market Urban Renewal Plan, to be sold to the Authority by the City as provided herein.

31. "Resolution" means Resolution No. _________ of the Authority, adopted __________, 1987, authorizing the issuance and sale of the Bonds and this Agreement.
III. FINANCING

Section 1. Authority Revenue Financing. The Authority shall issue the Bonds in an aggregate principal amount not to exceed $8.4 million in order to provide Funds to pay a portion of Project costs. Prior to the issuance of the Bonds, the City shall approve the terms and conditions of the Authority's Resolution. The Bonds shall be secured by the Authority's pledge of Net Parking Revenues and by the unconditional limited tax general obligation guarantee of the City to make principal and interest payments on the bonds as such payments become due and payable and to replenish the Debt Service Reserve Account as provided in Section ____. The dates, terms, conditions, interest rate or rates and other features of the Bonds shall initially be determined by the Authority in its sole discretion; provided, that such features shall be reasonably consistent with the Project's Pro Forma Financial Statements (Exhibit C) and prevailing market conditions and the DMPAC shall have a reasonable opportunity to review and approve such features. The Authority shall make all changes in the terms, conditions and other features of the Bonds requested by DMPAC prior to the issuance of the Bonds. Except as limited by law, the ordinance and this Agreement, the Authority shall be exclusively responsible for the management of the proceeds of any such
financing or financings and shall invest such proceeds in such investments as the Authority is legally authorized to make and in such manner as is consistent with Sections 8.6, 8.7 and 8.1 of this Agreement and shall dedicate all such investments and earnings thereon to the Project to the extent it is not required to rebate such earnings to the United States.

Section 2. City Guarantee of Authority Revenue Financing. The City hereby unconditionally guarantees payment of the principal of and interest on the Bonds as such become due and payable. The City covenants and agrees, for so long as any Bonds are outstanding and unpaid, that each year it will include in its budget and levy an ad valorem tax, within and as a part of the tax levy permitted to cities without a vote of the people, upon all the property within the City subject to taxation, which together with all other moneys of the City that may legally be used and that the City may apply for such purposes, will be sufficient to satisfy its obligation to guarantee payment of the principal of and interest on the Bonds. The registered owners of the Bonds shall be the express beneficiaries of this guarantee.

Section 3. City Contribution. The City shall reimburse the Authority for a total of $410,000 in Project costs from its "Pike Project Urban Renewal Closeout Account" or other
sources as necessary. Such funds shall be the priority source of funding for Project costs until depleted.

Section 4. Authority Contribution. The Authority shall transfer the sum of $550,000 other than Bond Proceeds into the General Reserve Fund upon the issuance of the Bonds. The Authority shall transfer an additional $350,000 other than Bond Proceeds into the General Reserve Fund within 10 days after receipt of payment from the Seattle Housing Authority for the congregate care facility and, in any event, before April 2, 1990. Additionally, the Authority shall pledge the Net Parking Revenues to pay principal of and interest on the Bonds. Any Net Parking Revenues remaining after payment of debt service shall be distributed as provided herein.

Section 5. Bond Fund; Capital Reserve Fund; General Reserve Fund. Upon issuance of the Bonds, the Authority shall establish a Bond Fund, Capital Reserve Fund and General Reserve Fund as provided in the Resolution. The funds in said Funds shall be used solely as provided for in the Resolution.

A. Bond Fund; Debt Service Reserve Account. Upon issuance of the Bonds, the Authority shall deposit an amount equal to the Debt Service Reserve into the Debt Service Reserve Accounts of the Bond Fund established as provided in the Resolution.
B. General Reserve Account. Upon issuance of the Bonds, the Authority shall deposit $410,000 into the General Reserve Fund established as provided in the Resolution.


A. In the event that the amount of funds in the Debt Service Reserve Fund falls below the Debt Service Reserve Requirement, the City shall, prior to the next Debt Service Payment Date, pay into the Debt Service Reserve Fund an amount of money equal to the amount necessary to restore the amount of funds in the Debt Service Reserve Fund to the Debt Service Reserve Requirement. After consultation with the Authority, the City may unilaterally impose a corrective action plan upon the Authority as provided herein.

B. In the event the Authority reasonably projects that it will need to draw on the Debt Service Reserve Fund and that the City will therefore be required to replenish the Debt Service Reserve Fund as provided in paragraph A of this section, but in no event later than thirty (30) days prior to drawing on the Debt Service Reserve Fund, the Authority shall notify the City that the Reserve Fund will be so utilized. Within thirty (30) days of providing such notice, the City and the Authority shall jointly review Project operations and develop a corrective action plan acceptable to the City as provided in Section ___
of this Agreement. If the Authority and the City have been unable to jointly develop a corrective action plan acceptable to the City within 30 days, the City may unilaterally impose a plan upon the Authority.

C. If for any reason the amount on hand in the Debt Service Account is insufficient to meet a scheduled payment of principal of or interest on the Bonds, the Authority or the Paying Agent shall so notify the City and the City shall pay the amount necessary to make up such insufficiency directly to the Paying Agent not later than the scheduled date for such payment of principal of or interest on the Bonds.

D. The obligations of the City contained in paragraphs A and C of this Section are unconditional.

Section 7. The Authority shall establish for the Project a special fund to be known as the Project Fund and shall establish within such Project Fund a Bond Proceeds Account, a General Account and other accounts as it deems necessary or convenient to implementing the Project.

The proceeds derived from the sale of the Bonds and any interest earned from the lawful investment of such proceeds shall be placed in the Bond Proceeds Account and shall be used to pay the cost and expense of the Project, to pay the Arbitrage Earnings Amount, if any, to the extent that the Arbitrage Earnings
Amount is attributable to earnings on moneys in the Bond Proceeds Account and may be used to pay the cost of issuance and sale of the Bonds; provided, that any money remaining in the bond Proceeds Account after completion of said issuance and sale expenses may be expended for the redemption of, or payment of the principal of and interest on the Bonds.

Section 7. In the event the balance in the General Reserve Fund falls substantially below the balance projected therefor in the Project pro forma financial statement (Attachment ____), for two consecutive years, the Authority and the City shall jointly review Project operations to determine whether it is reasonably likely the Authority will need to draw on the Debt Service Reserve Fund and to develop possible measures which the Authority could implement to avoid doing so.

Section 8. The Authority covenants and agrees to calculate the Arbitrage Earnings Amount, and the City and Authority covenant and agree to pay the Arbitrage Earnings Amount to the Internal Revenue Service in the manner and at the times required in Section ____ of the Resolution unless Bond Counsel delivers to the Authority its opinion that the Arbitrage Earnings Amount must be calculated in another manner, in which case the Authority covenants and agrees to calculate and the Authority and the City covenant and agree to pay the Arbitrage Earnings Amount in the manner required by law.
Section 9. The Authority and the City hereby covenant that they will not make any use of the proceeds from the sale of the Bonds or any other moneys or obligations of the Authority and the City which may be deemed to be proceeds of such Bonds pursuant to Section 148(a) of the Code which would cause the Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations. The Authority and the City will comply with the applicable requirements of Section 148(a) of the Code throughout the terms of the Bonds. The Authority and the City covenant that they will not act or fail to act in a manner that will cause the Bonds to be considered obligations not described in Section 103(a) of the Code.

The Authority and the City will take no actions and will make no use of the proceeds of the Authority Bonds, or any other funds, that would cause any Authority Bond to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in subsection (a) of said Section 103, unless the tax exemption thereof is not affected.

Section 10. The Authority shall make disbursements from the Project Fund only for development of the Project in accordance with this Agreement and only in accordance with an Authority voucher properly signed by any Authority officer or a designee.
appointed by the Authority Council on file stating the purposes for which payment is made; adopt a system of appropriate internal controls to assure proper application of funds; maintain such books and records as are satisfactory to the Auditor of the State of Washington and the City Comptroller and allow them access for audit purposes.

Section 11. The Authority shall be the owner of all property paid for or financed pursuant to this Agreement.

Section 12. Refinancing. From and after the first date upon which the Bonds may be redeemed at paragraph, the City may request the Authority to redeem the Bonds if the City reasonably determines that in order to provide funds with which to redeem the Bonds, the Authority is able to issue and sell refunding bonds or to obtain other refinancing, in either case without the unconditional guarantee of the City, bearing an effective net interest rate no greater than the effective net interest rate on the Bonds and low enough to recover the Authority's refunding or refinancing costs. If the City makes such a request, the Authority shall use its best efforts to obtain a contract for the purchase of such bonds or obtain other refinancing, in either case without the unconditional guarantee of the City, bearing an effective net interest rate no greater than the effective net interest rate on the Bonds and low enough
to recover the Authority's refunding or refinancing costs. If
the Authority is able to obtain such a bond purchase contract
or other refinancing, the Authority shall issue and sell such
refunding bonds or obtain such other refinancing, shall call
the Bonds for redemption and shall pay and redeem the Bonds.

IV. CONVEYANCE OF PROPERTY

Section 13. The Property. Subject to all of the terms
and conditions of this Agreement, the City agrees to sell to
the Authority and the Authority agrees to purchase from the
City all of the City's right, title and interest in and to the
approximate southern half of that certain real property in the
City of Seattle more particularly described as follows:

Lots 1, 4, 5, 8, 2, 3, 6 and 7 Block "H", ADDITION
TO THE TOWN OF SEATTLE, AS LAID OUT BY A.A. DENNY
(COMMONLY KNOWN AS A.A. DENNY'S 4TH ADDITION TO THE
CITY OF SEATTLE), according to Plat recorded in
volume 1 of Plats, Page 69, records of King County,
Washington;

EXCEPT that portion of vacated Pine Street/Stewart
Street right of ways; and

EXCEPT that portion taken for Armory Way by King
County Superior Court Cause No. 292884, described
as follows:

That portion of lots 1, 4, 5, and 8, Block "H"
lying Southwesterly of a line 31.25 feet South-
westerly from and parallel with the Southwesterly
margin of the alley as platted in said Block "H".

INCLUDING that portion of the alley as platted in
said Block "H" and vacated by Ordinance 10709
beginning parallel to the Northwesterly margins of
lots 1 and 2 and thence Southeasterly to and
parallel to the Southeasterly margins of Blocks 7
and 8.
The property described herein, together with any and all other rights, interests and property to be conveyed by the City to the Authority pursuant to this Agreement are hereinafter called the "Property."

Section 14. Representations and Warranties as to Title. The City represents and warrants that the City owns the property described in Section 13 of the Agreement in fee simple, free and clear of all adverse claims, liens, encumbrances, covenants, restrictions, defects or clouds on title, other than the matters shown in Exhibit E.

Section 15. Consideration. The City will sell and the Authority will buy the Property for the consideration consisting of:

A. The covenants, promises and undertakings of the Authority contained in Article V, and;

B. Payment to the City of the sum of $200,000 payable as provided herein.

Section 16. Method of Conveyance.

A. Upon execution of the Authority of the Agreement which shall evidence its promise to undertake the consideration as provided in Section 16, and subject to all of the conditions of sale as set forth in Articles IV and V herein, the City shall convey title to the Property by statutory warranty deed
(hereinafter called the "Deed") free and clear of all adverse claims, liens, encumbrances, covenants, restrictions, defects or clouds on title, except those set forth in Exhibit P or referred to elsewhere in this Agreement.

B. By reason of the requirements of RCW 65.08.095, which provides as follows:

"Conveyance of fee title by public bodies. Every conveyance of fee title to real property hereafter executed by the state or by any political subdivision or municipal corporation thereof shall be recorded by the grantor, after having been reviewed as to form by the grantor, at the expense of the grantee at the time of delivery to the grantee, and shall constitute legal delivery at the time of filing for record."

the procedure for delivery of the Deed by the City shall be as follows:

1. The Deed shall be prepared by the City and shall be substantially in conformance with a Deed which is attached hereto and incorporated herein by reference and marked as Exhibit P.

2. The City shall cause the Deed to be recorded when:

a) Construction Documents are submitted by the Authority and approved by the City as provided in Section 21; and

b) Satisfactory evidence of equity capital and/or commitments for construction financing from the bond proceeds are submitted to the City as provided for in Section ____.
3. Prior to conveyance of the Property by recordation of the Deed and Assignment, the City shall pay, as applicable, any and all taxes, assessments, license fees, and public charges levied or imposed on the Property. After such conveyance the Purchaser shall pay all such charges. All such charges shall be adjusted between the City and Purchaser as of the date of recordation of conveyance.

V. CONDITIONS ON SALE OF PROPERTY

Section 17. Restrictions on Land Use. For so long as the Bonds guaranteed by the City remain outstanding following the date of this Agreement, and in no event less than thirty (30) years from the date of actual conveyance, Purchaser agrees for itself, its successors and assigns, and for every successor in interest to the Property, or any part thereof, and the Deed shall by condition or covenant so require, to abide by the restrictions in the development of the Property specified in Exhibit A, "Permitted Uses," attached hereto and by this reference incorporated herein.

Section 18. Obligations of the Authority. As part of the consideration for the conveyance of the Property to the Authority:

A. The Authority shall undertake construction and development of the Property pursuant to this Agreement;

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B. The Authority shall designate a project coordinator and/or a full-time project manager within 60 days of execution of this Agreement and promptly notify the City of changes in such designation; and

C. The Authority shall within 60 days of execution of this Agreement submit an application for conceptual approval of a skybridge permit pursuant to Seattle Municipal Code Chapter 15.64;

D. The Authority shall dedicate to the Project all bond proceeds and all other funds received for Project purposes from the City.

Section 19. Obligations of the City.

A. Upon execution of this Agreement, the Authority or its agents shall have the right but not the obligation to enter upon the Property to conduct engineering tests and complete surveys thereon or to engage in any other preliminary activity approved by the City which approval shall not be unreasonably withheld or delayed, and subject to such permits as may be required. The City shall not be liable for any damages to the Authority, its agents, or property which may result from such activities, and the Authority will hold the City harmless from any loss or damage resulting from injury to agents and/or invitees of the Authority with respect to such activities.
B. For ten years following the effective date of this Agreement, the City shall continue to provide the Authority the opportunity to manage, operate and collect revenue from the existing surface parking adjacent to the Property, the location of which is shown generally in Exhibit G; provided that, except as provided herein, the Authority shall retain all revenues derived from the surface parking and dedicate said revenues solely to Project purposes. If during the ten-year period the Project produces revenues (exclusive of revenues derived from surface parking on the northerly portion of the Property) sufficient to generate payments to the City pursuant to Subsection _____ of this Agreement for two (2) consecutive years, the Authority shall reinstate payment to the City thirty-five percent (35%) of the gross parking revenues derived from the surface parking for the balance of the ten-year period. At any time during this period in which the Authority remains entitled to receive all or part of these revenues, the City may elect, in its sole discretion, to terminate the Authority's use, management and operation of said surface parking site; provided that, the City shall also provide the Authority substitute revenue source ("substitute revenues") for the balance of the ten year period. Substitute revenues provided to the Authority during the remainder of the ten-year period shall also be
dedicated solely to Project expenses and shall substantially equal the net revenues previously derived from the surface parking (to be determined by averaging the three previous years) until the Project produces revenues (exclusive of substitute revenues) sufficient to meet project debt service and operation and maintenance costs as defined herein for two consecutive years. (For purposes of this section only, net revenues shall mean . . .

Thereafter, for the balance of the ten-year period, the Authority shall receive substitute revenues equal to the sixty-five percent (65%) of the net revenues previously derived from the surface parking.

C. The City shall, consistent with all applicable statutes, ordinances, and procedures, promptly review the petition submitted by the Seattle Department of Community Development for the vacation of a ten foot portion of Armory Way abutting the Property identified in Section 12. The City shall use reasonable effort to complete such review not later than one hundred fifty (150) days following execution of this Agreement. If the vacation petition is granted, then the City's interest in such vacated portion shall be included in the conveyance to the Authority. If the vacation is denied or the time for completing
such review becomes unreasonable, then the time requirements in Article VI shall be subject to revision to either accommodate a new design or await the decision.

Section 20. Effect of Covenants; Period of Duration.

A. The Deed shall be worded so as to effectuate the intent of the parties hereto that the covenants or conditions provided in Section ___ shall run with the land for so long as the Bonds guaranteed by the City remain outstanding following execution of this Agreement and in no event less than thirty (30) years from the date of actual conveyance, and such covenants and conditions shall inure to the benefit and shall be enforceable by the City, its governmental successors and permitted assigns, against and to the burden of the Authority, its successors and permitted assigns, and every successor in interest to the Property or to any part thereof or to any interest therein, and any party in possession or occupancy of the Property or any part thereof.

B. In the event the Authority or its successors or assigns, and the City or its governmental successors and assigns agree, the covenants or conditions contained in Article V may be amended or deleted, and the agreement of no other person or entity shall be required for such amendment or deletion. The City's agreement to such amendment or deletion shall be by ordinance and not otherwise.
ARTICLE VI. IMPLEMENTATION OF PROPOSAL

Section 21. The Authority shall design and construct the Project on the Property pursuant to the process prescribed herein. The Project shall be: designed consistent with the Design Guidelines provided in Attachment ____, substantially similar to the project description provided in Attachment ____ and completed in accordance with the schedule and within the budget provided in Attachment ____.

Section 22. Plans for Construction of Improvements.

Selection of the design professionals for the Project, the plans and specifications of the redevelopment of the Property and the construction of improvements thereon shall be in substantial conformity with this Agreement, the Pike Place Market Urban Renewal Plan and all applicable State and local laws and regulations. Following execution of this Agreement, the Authority shall submit to the City for its approval a Program, Schedule, Budget and Conceptual Design as further specified in Subsection A, and shall submit qualified design professionals, as further specified in Subsection B. Thereafter, the Authority shall submit to the City for its approval, as specified in Subsections C, D, E, and F plans, drawings specifications (which plans, drawings and specifications, together with any and all changes therein that may thereafter
be made and submitted to the City are hereinafter collectively called "Schematic Design Documents," "Design Development Documents," and "Construction Documents"), the proposed construction schedule and such related documents as the City may reasonably request with respect to the improvements to be constructed by the Authority on the Property, in sufficient completeness and detail at each design phase to show that such improvements and construction thereof will be in accordance with the provisions of this Agreement.

Submission of the Program, Schedule, Budget, and Conceptual Design, design professionals, Schematic Design Documents, Design Development Documents and Construction Documents by the Authority shall be reviewed by the City, but it is understood and agreed that the City may choose in its decisionmaking for all review stages herein, to allow participation in an advisory capacity by Design Review Committee comprised of citizens chosen by the Mayor and confirmed by the City Council; and a group selected by the City to represent the public and private constituencies of the Market and the Aquarium. The review of such plans by City shall be undertaken as follows:

A. Program, Schedule, Budget and Conceptual Design.

Following execution of this Agreement, and in any event no later than sixty (60) days after its execution, the Authority
shall submit to the City a Program, Schedule, Budget, and Conceptual Design.

The Plans and Design shall be deemed approved unless the Authority is notified of the contrary within thirty (30) days from Plans submission. If the City disapproves either the Program, Schedule, Budget or Conceptual Design, the City shall so notify the Authority of its rejection in writing and state the specific reasons therefor. The Authority shall resubmit revised materials to the City within thirty (30) days following such notification from the City, for City approval.

B. Design Professionals.

Following execution of this Agreement, and in any event no later than sixty (60) days after its execution the Authority shall submit to the City in writing qualified professionals which it proposes to design the Project ("design professionals"). The proposed design professionals shall be deemed approved unless the Authority is notified of the contrary within seven (7) days of submittal. If the City rejects the proposed design professionals, the City shall so notify the Authority in writing and state the specific reasons therefor. In the event the City shall reject the design professionals proposed by the Authority, the City and the Authority shall meet within seven (7) days and to mutually agree upon the design professional(s) to design the Project.
C. Schematic Documents.

Following selection and approval of the design professional(s), and in any event no later than one hundred twenty (120) days after the approval, the Authority shall submit to the City its Schematic Documents, along with cost estimates per level of detail with the Plans.

The Plans shall be deemed approved unless the Authority is notified of the contrary within thirty (30) days from Schematic Documents submission. If the City disapproves of the Schematic Documents, the City shall so notify the Authority of its rejection in writing and state the specific reasons therefor. The Authority shall either resubmit corrected Schematic Documents to the City within thirty (30) days following such notification from the City, for City approval, or incorporate such corrections as are requested by the City in Design Development Documents, but in either case will promptly inform the City of its intent in writing.

D. Prior Completion.

The Authority, in consultation with the City, may have substantially complied with some or all of the requirements of Subsections A, B, and C by the effective date of this Agreement. Promptly following execution of this Agreement, and in no event later than ten (10) working days thereafter, the Authority
shall notify the City of the extent to which it has complied with some or all of such requirements. The City shall be deemed to have concurred in the Authority's representation and such requirements shall thereby be deemed satisfied unless the Authority is notified of the contrary within ten (10) working days of the submission of the Authority's representations. If the City disagrees, the City shall so notify the Authority in writing and state the specific requirements of the Subsections with which it feels the Authority has not complied. In the event the City disagrees with the Authority's representations, the City and the Authority shall meet within seven (7) days to mutually agree upon the extent to which the requirements has been satisfied. Promptly upon reaching such an agreement, the City shall provide the Authority with a written statement identifying the specific requirements which have been satisfied. The Authority shall proceed to satisfy any remaining requirements pursuant to Subsections A, B, and C.

E. Design Development Documents.

As promptly as reasonably practicable after approval of the Schematic Documents and in any event no later than one hundred fifty (150) days after approval of Schematic Documents, the Authority shall submit to the City its Design Development Documents, including materials, colors and graphics, and along
with cost estimates per level of detail with the Documents. Such documents shall be deemed approved unless the Authority is notified of the contrary within thirty (30) days from the Design Development Documents submission. If the City disapproves the Design Development Documents, the City shall so notify the Authority in writing and state the specific reasons therefor. Following such notification, the Authority shall either resubmit corrected Design Development Documents to the City for approval or incorporate such corrections as are requested by the City in the Authority's Construction Documents.

F. Construction Documents.

The Authority shall submit its Construction Documents, along with cost estimates per level of detail with the Documents and complete specifications, to the City within one hundred twenty (120) days following the City's approval of Design Development Documents. If the Construction Documents submitted conform to the provisions of Section 22(H) below, the City shall approve in writing such Construction Documents and no further submittal of plans by the Authority or approval by the City thereof shall be required except with respect to any material change therein. Such Construction Documents shall, in any event, be deemed approved unless disapproved in writing by the City, in whole or in part, setting forth in detail the reasons therefor, within.
thirty (30) days after the date of receipt by the City of the Construction Documents. If the City disapproves the Construction Documents in whole or in part, the City shall so notify the Authority in writing and state the specific reasons therefor, in which event the Authority shall submit new or corrected Construction Documents for approval by the City within thirty (30) days after written notification to the Authority of the disapproval. The provisions of this Section relating to approval, disapproval and resubmission of corrected Construction Documents hereinabove provided with respect to the original Construction Documents shall continue to apply until the Construction Documents have been approved by the City; provided that in any event, the Authority shall submit Construction Plans which are in conformity with the requirements of Section 22(H) below no later than sixty (60) days after the date the Authority receives written notice from the City of the City's first disapproval on the original Construction Documents submitted to it by the Authority. All work with respect to the Improvements to be constructed or provided by the Authority on the Property shall be in conformity with the Construction Documents as approved by the City.

H. The City’s right to disapprove the Program, Schedule, Budget and Conceptual Design, Schematic Documents, Design
Development Documents and/or Construction Documents shall be exercised in a reasonable fashion and shall be limited to matters (1) which do not conform, from an architectural, design, or economic standpoint, to the proposed improvements described in Exhibit A ("permitted uses"), Exhibit B ("design guidelines"), Exhibit C ("Project Description, Schedule, Budget and Financial Pro Forma Statement") and the Pike Place Renewal Plan; (2) which are not consistent developments of the proposed improvements described in Exhibits A, B and C and the Pike Place Urban Renewal Plan or other plans and specifications previously approved by the City; or (3) which are new architectural or design elements depicted in Exhibits A, B and C and the Pike Place Urban Renewal Plan or in plans or specifications previously approved by the City. Throughout the review process provided herein, the City shall not unreasonably withhold its approval.

If there shall be a bona fide dispute between the City and the Authority as to whether the City's disapproval of any plans or any amendment or modification thereof as permitted hereunder, or if a mutual agreement pursuant to Sections 22(B) and (D) cannot be obtained, then such dispute shall be submitted for arbitration to a panel of three arbitrators including one chosen by the City, one chosen by the Authority and a third chosen by the other two arbitrators. The arbitration shall be conducted in
accordance with the Rules of the American Arbitration Association. The City and the Authority shall each pay one-half (1/2) of the cost and expense of any such arbitration and each shall separately pay for its own attorneys' fees and expenses. The arbitrators shall render their decision within 45 days after submission of any issue to arbitration, except for issues involving solely Sections 21(B) or (D) which shall be rendered within 14 days of submission. If a majority of the arbitrators believe that expert advice would materially assist the panel in the resolution of any issue, the panel may retain one or more qualified persons, including but not limited to legal counsel, architects or engineers, to provide such expert advice. The fees and expenses of any such qualified person or persons shall be equally borne by the City and the Authority. The decision of the arbitrator in such dispute shall be final and binding on the parties and shall be enforceable in a court of law.

I. The term "Improvements," as used in this Agreement, shall be deemed to have reference to the improvements as provided and specified in the Construction Documents as so approved.

J. The Authority may apply for its Master Use Permit at any time after receiving approval of its Schematic Design Documents, and may apply for its building permit after receiving approval of its Construction Documents. "Approval" by the City
as used in this Section is limited to the specific obligations imposed by this Agreement and shall not constitute approval by the City as may be required under any applicable law or ordinance. The City's Department of Community Development shall reasonably assist the Authority in obtaining an expeditious review and decision on its applications for necessary permits, but the responsibility of applying for and complying with the applicable laws and decisions shall remain at all times with the Authority. Nothing herein shall be construed to require the City to issue any such permits applied for by the Authority.

K. The Authority may, at its option and upon twenty (20) days prior written notice to the City, modify the schedules for submission of Schematic Design, Design Development and Construction Documents set forth in Subsections C, D and E herein, so long as such modification does not (i) extend the time for submission of Schematic Design Documents as set forth in Subsection C herein, or (ii) extend the time for submission of Design Development Documents beyond that date which is two hundred seventy (270) days following approval of the Authority's design professionals, or (iii) extend the time for submission of Construction Documents beyond that date which is three hundred ninety (390) days following approval of the Authority's design professionals. In addition, in the event the Authority
fails to submit or revise Conceptual Design, Schematic Design Documents, Design Development Documents or Construction Documents within the time periods set forth in this Section 22, the same shall not by itself give rise to the City's right to terminate this Agreement or otherwise pursue its remedies hereunder so long as the Authority diligently and in good faith endeavor to submit such plans or revisions within such time frames.

Section 23. Changes in Construction Documents or Improvements.

If, prior to the issuance of a Certificate of Completion, the Authority desires to make any material change in the Construction Documents after their approval by the City, the Authority shall submit the proposed change to the City for its approval. If the Construction Documents, as modified by the proposed change, conform to the requirements of Section 22(H) hereof with respect to such previously approved Construction Documents, the City shall approve the proposed change and notify the Authority in writing of its approval. Such change in the Construction Documents shall, in any event, be deemed approved unless disapproved by written notice thereof by the City to the Authority setting forth in detail the specific reasons therefore, within twenty-one (21) days after the date of the City's receipt of the notice of such change. In addition, so long as the purchase price remains outstanding, the Bonds guaranteed by
the City remain outstanding following issuance of a Certificate of Completion (as hereinafter defined) or thirty years from the date of conveyance has transpired, whichever event is later, the Authority shall not materially alter or modify the Improvements in a manner which is not substantially consistent with the provisions of Exhibits A or B and the Urban Renewal Plan without the prior written consent of the City, and the City shall be entitled to enjoin any such material alterations or modifications.

In addition and without limiting the generality of the foregoing, for so long as either the purchase price remains outstanding, the Bonds guaranteed by the City remain outstanding following issuance of a Certificate of Completion, or thirty years has transpired from the date of conveyance, whichever is later, the Authority will use its reasonable efforts, consistent with the then existing character and nature of downtown Seattle in the vicinity of the Property, applicable zoning and land use laws and regulations, the Urban Renewal Plan, and the Authority's reasonable economic and/or design goals and expectations, to recognize and accommodate the standards set forth in Exhibits A and B, and during such period the Authority shall consult with the City in connection with any anticipated material alterations or modifications of the Improvements which are not substantially consistent with such standards.
Section 24. Commencement and Completion of Construction.

A. Subject to the terms and conditions of this Agreement, the Authority agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, (i) that the Authority, and such successors and assigns, shall promptly begin and diligently pursue completion of the redevelopment of the Property through the construction of the Improvements thereon, and (ii) that subject to delay beyond the control of the Authority as set forth in Section __, the construction shall in any event be begun not later than six (6) months after the date of the City's approval of the Authority's Construction Plans, and the Authority shall use its best efforts to cause such construction to be completed within eighteen (18) months after such date. For the purposes of this Section 23, construction shall be deemed to begin on the date the Authority first commences demolition, grading, leveling, site preparation work or other construction activity on the Property.

B. If the Authority fails to complete construction because of termination of this Agreement pursuant to Section __ or because or reversion of title to the City pursuant to Section __, the City shall have, upon payment to the Authority of its Development Costs (as certified by an officer of the Authority), less any amounts paid by the City as part of this Agreement or
otherwise for Project Purposes, proprietary rights in the construction plans sufficient to permit another entity selected by the City to complete construction.

C. The Authority shall contract for the construction of the Project pursuant to a request for qualifications (RFQ) process developed by the Authority and acceptable to the City. The Authority shall further ensure that the contractor is selected pursuant to a competitive process which satisfies State law for solicitation of proposals or bids by contractors who, in the determination of the Authority, are qualified to undertake development or construction of the project. The Authority shall require the contractor to post completion and warranty bonds for the Project.

D. Before the Authority awards a contract for the construction of the Project, the Authority and the City shall jointly develop a procedure for timely review and prior approval by the Mayor's designee of disbursements from the Project Fund for construction progress payments. No such disbursements for construction progress payments shall be made without the prior approval of the Mayor's designee. The procedure shall provide for timely submission and review of disbursement requests on a schedule which would enable the Authority to take advantage of customary contractor discounts for prompt payment. The City
shall hold harmless the Authority for any unreasonable delays inconsistent with the agreed upon disbursement review procedure attributable to the City which cause the Authority to lose any such discounts.

Before construction of the Project begins, the Authority shall retain a person or firm acceptable to the Mayor’s designee who is qualified to undertake inspections as needed based on the inspector's professional expertise of the construction work in progress in order to determine whether the Project is being constructed substantially in accordance with the Construction Plans approved by the City pursuant to the Agreement. The City shall be an express third-party beneficiary of the inspection contract.

Requests for disbursement for construction progress payments shall be similar in format to and accompanied by materials substantially similar to information which would be provided to a construction lender for a commercial project. At a minimum, such information shall include a certification by the inspector that, to the best of the inspector's knowledge, information and belief, the construction work has progressed as expected and the quality of the work is consistent with the Plans and the Project architect's certification to the same effect.
The Mayor's designee shall approve such disbursement requests based upon the City's satisfaction that the Project is substantially on schedule and within budget and that the Project is being constructed substantially in accordance with the City-approved Plans. The Mayor's designee shall not unreasonably withhold approval of such disbursement requests, and payment approval by City does not constitute acceptance for any other purpose and does not in any way release Authority or its contractors, subcontractors, etc. from the obligations to build the project in accordance with the plans and specifications approved by the City. Upon completion of the Project, the Authority also shall obtain the certification of the inspector as well as the certification of the Project architect that the Project has been constructed in accordance with the plans.

E. With respect to work and services funded from the proceeds of the financing authorized herein, the Authority shall comply with the standards and requirements of the City's WBE/MBE ordinance, SMC Ch. 20.46, and include in contracts and other agreements for work and for services, the antidiscrimination/equality of opportunity provision provided in SMC Section 20.44.030 as existing or hereafter amended, (Exhibit ____).

F. The City shall have access, at reasonable times and upon reasonable notice, to all Project records, files and
personnel. The Authority agrees to fully and promptly cooperate with the City or any of its designees in providing relevant information project to enable the City to monitor Authority progress and consistency with this Agreement, including site inspections and visits.

G. The Authority may recommend to the City from time to time such adjustments in the Project or amendments to this Agreement as would improve the Project, further its purposes and objectives, increase the amount of financial assistance thereto from other governments and private sources, or obviate or reduce difficulties encountered.

H. Corrective Action Plan. In the event the City determines that the Authority is 1) exceeding the approved Construction Budget, 2) behind the approved Construction schedule, 3) deviating from the Construction Documents, the City shall so notify the Authority. Within thirty (30) days of providing such notice, the City and the Authority shall jointly review the Project and develop a corrective action plan acceptable to the City as provided in Section ___ of this Agreement. If the Authority and the City have been unable to jointly develop a corrective action plan acceptable to the City within thirty (30) days, the City may unilaterally impose a plan upon the Authority. The City may not make such a determination of Authority failure to
make reasonable progress toward completing the Project if such failure is the result of the failure of the City to perform its responsibilities under this Agreement or its unreasonable refusal to do so, including but not limited to the City's unreasonable refusal to provide approvals pursuant to Article VI.

Section 25. Requirements Subject to Modification by Corrective Action Plans.

The time and other requirements provided in this Article VI are subject to modification and are superseded by any Corrective Action Plan adopted or imposed by the City pursuant to Section herein.

Section 26. Progress Reports.

Subject to modification in a corrective action plan, both prior to and subsequent to conveyance of the Property to Authority, and until such time as construction of the Improvements has been completed and the Bonds guaranteed by the City have been retired, the Authority shall make reports in such detail and at such times (not more frequently than once per month unless a shorter period is required by a corrective action plan) as may reasonably be requested by the City, as to the actual progress of Authority with respect to the design, construction, use, financing, and revenue from the Improvements.

In addition to the aforementioned obligations, in the information which the Authority is required to annually submit
to the City pursuant to its Charter it shall specifically discuss and separately account for financing, construction and operation of the Project. To the extent practicable and without incurring unreasonable data collection and analysis costs, the Authority also shall include information describing Project marketing and utilization, including its availability to patrons of the Aquarium as well as the Market and the mix of short-term and monthly or other long-term parking provided.

Section 27. Maintenance and Operation of Improvements.

The Authority agrees that following completion of construction of the Improvements and issuance of a Certificate of Completion and for so long as the Bonds guaranteed by the City remain outstanding, the Purchase Price has been fully paid to the City, or thirty years from the date of conveyance, whichever event is later, it shall:

1. Maintain the Property and Improvements at all times in a reasonably safe and clean condition equivalent to a parking garage in a first class building in downtown Seattle.

2. Operate the Project as a public parking facility providing primarily short-term public parking. Additional long term public parking is permitted when necessary to achieve Project financial performance in the Financial pro forma.
3. Operate the Project to provide safe access from Alaskan Way and Western Avenue, and maintain in good working condition mechanical pedestrian assist system within the Project in order to enable pedestrians, including the handicapped, to travel between the level of Alaskan Way and Pike Place.

4. Accommodate to the maximum extent practicable the needs of the Market, Aquarium and related Central Waterfront areas, and periodically consult with representatives of those constituencies concerning marketing and operation of the Project in order to meet those needs.

5. Establish and maintain adequate maintenance reserves consistent with the financial pro forma statement (Exhibit C).

6. Manage the parking facility in a manner likely to produce the financial performance contemplated in the annual operating budget project pro forma statement (Exhibit C).

7. Pay the City twenty-five percent (25%) of the Net Parking Revenues derived from the Project for thirty (30) years following its Completion or until the Purchase Price has been paid if payment has not been made within said period of time.

8. Maintain in full force and effect comprehensive general liability insurance providing a reasonable amount, subject to City approval, of coverage on the Property. Such insurance shall include coverage for any accident resulting in personal
injury to or death of any person and consequential damage owing therefrom, shall include comprehensive property damage insurance, and shall name the City as an additional insured.

VII. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

Section 28. Representation as to Redevelopment.

The Authority represents and agrees that its purchase of the Property, and its use or other undertakings pursuant to this Agreement, are, and will be, for the purpose of redevelopment and use of the Property as specified herein and not for speculation in land holding.

The qualifications and identity of the Authority are of particular concern to the community and the City. The Authority further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with the Authority and has agreed to unconditionally guarantee payment of principal and interest on the Bonds, and in so doing, is further willing to accept and rely on the obligations of the Authority for faithful performance hereunder without requiring in addition a surety bond or similar undertaking for such performance of all undertakings and covenants in this Agreement. The Authority further recognizes that, in view of such reliance, except as provided in this Agreement, a transfer of the Authority's interests, or any other act or transaction involving or resulting
in a significant change in the ownership of such the Authority's interests or with respect to the identity of the parties in control of the Authority's interest in the Property by lease or assignment, is for practical purposes a transfer or disposition of the Property then owned by the Authority.

Section 29. Prohibition Against Transfer of Property and Assignment of Agreement.

For the reasons set forth in Section 28, the Authority agrees that for so long as the bonds issued pursuant to Article III herein shall remain outstanding and the Authority has not paid the Purchase Price in full, the Authority shall not make nor suffer to be made or created any assignment, conveyance, trust, power or transfer, of any sort, of the Property, this Agreement, or any interest therein or otherwise enter into any agreement or contract with any person or entity without the express written permission of the City, which approval shall not be unreasonably withheld or delayed.

Section 30. Prohibition Against Encumbering the Property.

A. For the reasons set forth in Section 28, the Authority agrees that for so long as the bonds issued pursuant to Article III herein shall remain outstanding, the Authority shall not engage in any financing or any other transactions (other than the sale of the Bonds as provided herein) which thereby creates any mortgage or other encumbrance or lien upon the Property, whether by express
agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property without the express written permission of the City which approval shall not be unreasonably withheld or delayed.

V. The Authority shall promptly notify the City of any mechanic's lien, judgment lien or similar encumbrances that have been created on or attached to the Property, whether by voluntary act of the Authority, or otherwise. Within thirty (30) days following demand by the City, the Authority, at its option, shall elect to take one or more of the following actions--payment, bonding, deposit, guaranty, or otherwise--which will guarantee to the satisfaction of the City that in the event the lien claimant is successful in enforcing the lien, the party charged will pay the lien and/or claim.

Section 31. Lease Permitted.

The Project and Improvements shall be owned by the Authority but may be leased for the purposes and uses authorized in this Agreement to the extent permitted by law, the Authority's Charter and subject to City approval, and then only if such lease would further the purposes of the Ordinance and this Agreement and if in the opinion of Bond Counsel such lease would not cause the Authority bonds issued pursuant to this Agreement to become taxable. Any such lease shall specifically
reference this Agreement and specifically require the lessee
to continue operation of the Project for the purposes and uses
authorized in and pursuant to the terms of this Agreement.

VIII. DEFAULT, CORRECTIVE ACTION PLANS, TERMINATION, AND REMEDIES

Section 32. Default In General.

Except as to failures concerning Correcting Action Plans
as provided in Section 32 and as otherwise provided in this
Agreement, in the event of any default in or breach of this
Agreement or any of its terms or conditions by any party hereto,
or any successor to such party, such party (or successor) shall,
upon written notice from the other party, proceed promptly to
cure or remedy such default or breach and, in any event, within
sixty (60) days after receipt of such notice, unless such
default or breach cannot, with due diligence, be cured or
remedied within such sixty (60) day period, in which event
such party (or successor) shall proceed to cure or remedy such
default as promptly as is reasonably practicable; provided,
however, if the City defaults in its obligations to convey to
the Authority title to the Property as provided in Section
and otherwise in accordance with this Agreement, the City
shall have a maximum of one hundred eighty (180) days following
notice as aforesaid within which to cure such default. In
case such action is not taken or not diligently pursued, or
the default or breach shall not be cured or remedied within such sixty (60) days or a reasonable time (in the case of default or breach which cannot be cured or remedied within such sixty (60) days) but, in any case within one hundred eighty (180) days in the event of a default with respect to the conveyance of title to the Property as aforesaid, then, in addition to any other remedies at law or in equity or as otherwise provided in this Agreement, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to proceeding to compel specific performance (by writ of mandamus or otherwise) by the party in default or in breach of its obligations.

Section 33. Corrective Action Plans and City Remedies.

If the Authority fails to comply in any respect with a corrective action plan or with any obligation of this Agreement that by its nature cannot be corrected by a corrective action plan the City shall be entitled to: 1) Take over, in whole or in part, the management of the Parking Facilities; 2) Require the Authority to relinquish all interest in the Property and the Project; or 3) Any other remedy provided at law or in equity.
Section 34. Termination Generally.

A. The City's unconditional guarantee of the payment of principal of and interest on any Authority bonds issued pursuant to this Agreement shall remain in full force and effect for so long as any of the principal of or interest on such Authority bonds remain unpaid, notwithstanding termination of this Agreement and notwithstanding any breach of this Agreement by the Authority.

B. Termination by the City or assent thereto may be authorized only by ordinance. Termination by the Authority or assent thereto may be authorized only by resolution duly adopted by the Authority.

C. In the event of termination as provided herein, and insofar as consistent with the ordinance and any applicable law or court judgment, the monies committed to particular Project activities for which the Authority has entered into contracts shall be expended as contemplated. No other expenditures of any uncommitted proceeds of any financing shall be undertaken by the Authority unless specifically authorized by the City.

Section 35. Termination by the Authority.

In the event that the City does not tender conveyance of the Property and satisfy the conditions of conveyance to be satisfied by the City pursuant to Section ______ in the manner
and condition provided in this Agreement, and if any such failure is not cured in the manner provided in Section ____.

Then, in such event this Agreement shall, at the option of the Authority, be terminated by written notice thereof to the City, and, neither the City nor the Authority shall have any further rights against or liability to the other under this Agreement, except as provided herein.

Section 36. Termination by City.

In the event that

A. Prior to conveyance the Authority assigns or attempts to assign this Agreement or any rights therein, or in the Property, in violation of this Agreement; or

B. The Authority does not give the consideration for and take title to the Property, or any portion thereof, upon tender of conveyance by the City pursuant to this Agreement; or

C. The Authority fails or refuses to implement or comply with a corrective action plan it has adopted or one which has been imposed upon it as provided in Section ____;

Then in any of such events this Agreement and any rights of the Authority, or of any assignee or transferee, in this Agreement, or arising therefrom with respect to the City or the Property, shall, at the option of the City, be terminated by the City. In such event neither the Authority (or assignee
or transferee), nor the City shall have any further rights against or liability to the other under this Agreement, except as provided in Section ____.

Section 37. Termination by Either Party.

Either party may terminate this Agreement upon thirty (30) days prior written notice to the other in the event that:

A. A final judicial determination, including exhaustion of all appeals, has been rendered that this Agreement and/or the Project violates the law in any material respect, or amendments to or changes in law shall deprive either party of the ability to render further performance as contemplated by the Agreement, and the parties cannot agree within sixty (60) days upon amendments to bring the Agreement into compliance with the decision of the court or the amendments to the law; or

B. After a diligent effort for not more than two years following the effective date of this Agreement, the Authority furnishes to the City a resolution of its Directors to the effect that the Authority has been unable to obtain favorable funding from a bond issuance for the construction and development of the Improvements on terms that would generally be considered satisfactory by developers of improvements of the nature and type provided in such Design Development Documents and if the Authority, after having submitted such resolution, and if so

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requested by the City, continues to make diligent efforts to obtain such financing for an additional reasonable period, stated by the City, after such request, but without success; or

C. After a diligent effort for a period of not more than three years following the issuance of bonds pursuant to this Agreement, the Authority furnishes to the City a resolution of its Council to the effect that the Authority has been unable to undertake construction of the Improvements substantially within the budget provided in Attachment ___ and if the Authority, after having submitted such resolution, and if so requested by the City, continues to make diligent efforts to undertake construction within an additional reasonable period after such request, but without success; or

D. The other party agrees or assents thereto; provided, however, that no such amendments shall act and no such termination shall be effective which impairs the security of any financing undertaken by the Authority which is secured by the City.

Section 38. Revesting Title in City Subsequent to Conveyance to Purchaser.

In the event that, subsequent to conveyance of the Property, or any part thereof, to the Authority;

A. The Authority has not let a construction contract for the Project on or before the expiration of five years following the date of the City's conveyance of the Property to the Authority (the "Conveyance Date");
B. There is, in violation of this Agreement, any transfer of the Property or any part thereof, or any use of the Property not permitted in Exhibit A "permitted use" and such violation shall not be cured within sixty (60) days after written demand by the City to the Authority;

C. During such time that the bonds remain outstanding and have not been retired, the Authority creates or otherwise allows any mortgage or other such encumbrance or lien on or attached to the Property except as authorized herein or pursuant to this Agreement, and such violation has not been cured within sixty (60) days after written demand by the City to the Authority; or

D. The Authority fails or refuses to implement a corrective action plan it has adopted or one which has been imposed upon it as provided in Subsection ___;

Then, in any of said events, the City shall have the right to reenter and take possession of the Property and to terminate (and vest in the City) the estate conveyed by the Deed to the Authority, it being the intent of the parties that the Conveyance of the Property to the Authority shall be subject to the provisions of this Section ___ as a condition subsequent. Notwithstanding the foregoing such condition subsequent and any revesting of title as a result thereof, the City shall always be subject to and limited by, and shall not defeat,
render invalid, or limit in any way, the City's guarantee of the Bonds for so long as any of the principal of and interest on the Bonds remain unpaid.

Upon retirement of the Bonds guaranteed by the City, and payment to the City for the land sale, the Authority shall be entitled to record a notice in the real property records of King County stating that the conditions described in Subsections (A), (B), (C) and (D) have been satisfied and that the City's power of termination pursuant to those provisions have been terminated. The City shall execute such notice along with the Authority and upon the filing of such notice, the City's power of termination pursuant to said Subsections shall terminate. The City may exercise its power of termination under this Section only pursuant to an ordinance and not otherwise.

Section 38. Other Rights and Remedies.

Each party shall have the right to institute such legal actions or proceedings as it may deem appropriate in order to enforce the other party's obligations under this Agreement, or to recover damages as a result of default in such obligations, provided, that any delay by a party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way, nor shall
any waiver in fact made by a party with respect to any specific default by the other party under this Agreement be considered or treated as a waiver of the rights of such nondefaulting party with respect to any other defaults by the defaulting party under this Agreement or with respect to the particular default except to the extent specifically waived in writing.

Section 39. Delays Beyond Control of Parties.

Neither the City nor the Authority, nor any successor of any of them, shall be considered in breach of or in default under its obligations with respect to the conveyance of the Property, or the beginning and/or completion of the Improvements, or progress in respect thereto, or the fulfillment of any other duties or obligations pursuant to the terms of this Agreement, in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence. These shall include, but not be restricted to, acts of God; any lawsuits brought affecting this Agreement or the rights to develop, purchase, or convey pursuant to this Agreement delays in obtaining land use approval or building permit or permits; acts of public enemy, fire, earthquake; flood; explosion, action of the elements; war; invasion, insurrection; riot; mob violence; sabotage; malicious mischief; inability to procure or general shortage or rationing or regulation of labor,
equipment, facilities, sources of energy (including, without limitation, electricity, gas, gasoline or steam), materials or supplies in the open market; failure of transportation; strikes, lockouts; action of labor unions; condemnation; requisition; order of government or civil or military or naval authorities; acts of the other party or failure of the other party to perform its obligations hereunder in a timely manner; litigation involving a party or others relating to zoning, subdivision, or other governmental action or inaction pertaining to the Property or any portion thereof; ability to obtain government permits or approvals; or any other cause, whether similar or dissimilar to the foregoing, not within the control of such party. It is the purpose and intent of this provision that, in the event of the occurrence of any such delay, the time or times for performance with respect to the construction of the Improvements and the other obligations of the parties under this Agreement, as applicable, shall be extended for the period of the delay; provided, that the party seeking the benefit of the provisions of this Section shall, within twenty (20) days after the beginning of any such delay, notify the other party in writing of the cause or causes thereof.
Section 40. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law, by the deed contemplated by this Agreement or by this Agreement itself, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it, at the same time or different times, or any other such remedies for the same default or breach by the other party. No waiver made by any party with respect to the performance, or manner or time thereof, of any obligations of the party or any condition to its obligation under this Agreement shall be considered a waiver of any other obligations of the other party. No such waiver made by any party with respect to the performance, or manner or time thereof, of any obligations of the party or any condition to its obligation under this Agreement shall be considered a waiver of any other obligations of the other party. No such waiver shall be valid unless it shall be made in writing duly signed by the party waiving the right or rights.

X. MISCELLANEOUS PROVISIONS

Section 41. Actions Contesting Agreement.

Each party shall appear and defend any action or legal proceeding brought to determine or contest:

A. The validity of this Agreement or the Project;

B. The legal authority of the City and/or the Authority to undertake the activities contemplated by this Agreement.
If both parties to this Agreement are not named as parties to the action, the party named shall give the other party prompt notice of the action and provide the other an opportunity to intervene. Each party shall bear any costs and expenses taxed by the court against it; any costs and expenses assessed by a court against both parties jointly shall be shared equally. All costs and expenses incurred by the Authority or the City in such defense, whether or not taxed by the court shall be a capital cost payable from the proceeds of any financing authorized herein.

Section 42. Indemnification.

To the extent permitted by applicable law, each party shall hold the other party harmless from all suits, claims, or liability arising from the act or omissions of the indemnifying party, its agents or employees, and from all claims for unpaid wages, remuneration for services, liens, and remittances for supplies arising from the Project; and in the event any such suit be filed against the indemnified party, the indemnifying party shall appear and defend the same, and if judgment be rendered or settlement be made against the indemnified party, to pay the same, which payment, along with all costs and expenses of such defense, shall be a capital cost payable from the proceeds of any financing authorized herein.
Section 43. Conflict of Interest.

No member, official, or employee of the City shall have any personal interest, direct or indirect, in the subject matter of this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the City shall be personally liable to the Purchaser or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Purchaser or its successors or assigns on any obligations under the terms of this Agreement.

Section 44. Notices. A notice, request, approval or communication under this Agreement by either party to the other shall be in writing and shall be sufficiently given or delivered if dispatched by registered mail, postage prepaid, return receipt requested, and

A. In the case of a notice or communication to the Authority, if the same is addressed as follows:

B. In the case of a notice or communication to the City, if the same is addressed as follows:
or is addressed in such other way in respect to either party
as that party may from time to time designate in writing
dispatched as provided in this Section. Either party may require,
at any time, that additional copies of any notice be sent to
such person(s), not, as to each notice, in excess of three (3)
copies at any one time, as shall from time to time be designated
in any notice from such party as to such requirement.

Section 45. City Approval and Consent.

Any City approval required by this Agreement shall not be
unreasonably withheld. The Director of the Seattle Department
of Community Development is authorized to act for and on behalf
of the City in such connection and to act for and on behalf of
the City in determining the Authority's compliance with its
obligations under this Agreement and with the conditions of
conveyance, and to extend the time for the performance of any
obligations of the Authority under this Agreement, except
where another person is required by law or by this Agreement.
Termination of this Agreement or assent thereto and exercise
of the City's power of termination pursuant to Section____ may
be authorized only by ordinance duly adopted by the City
Legislative Authority. Whenever the consent of a party hereto
is required by this Agreement, such consent will not be
unreasonably withheld.
Section 46. Entire Agreement.

This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the parties but does not affect the obligations, powers, requirements or rights of the parties pursuant to SMC Ch. 3.110 or the Authority's Charter.

Section 47. Cooperation.

The parties agree to use their reasonable efforts diligently and promptly to take all actions necessary and appropriate in order to satisfy the conditions set forth in this Agreement.

Section 48. Time. Time is of the essence of this Agreement.

Section 49. Partial Invalidity. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

-63-
Section 50. Agreement Survives Conveyance.

It is the intent of the parties hereto that none of the provisions of this Agreement shall be merged by reason of any deed transferring any interest in said property, and, except as provided in the following sentence or otherwise provided in this Agreement, any such deeds shall not be deemed to in any way affect or impair any of the provisions, conditions, covenants, or terms of this Agreement. Notwithstanding the foregoing, in the event of any conflict between the provisions of any such deed and the provisions of this Agreement, the Agreement shall control.

Section 51. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any suit or arbitration arising under this Agreement shall be in King County, Washington, and if a suit, in King County Superior Court.

Section 52. Captions.

The section and paragraph captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.
Section 53. Amendment or Waiver.

This Agreement may not be modified or amended except by written instrument approved by resolution duly adopted by the Authority and approved by the City by ordinance. No course of dealing between the parties or any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

Section 54. Counterparts. This Agreement may be executed in two counterparts, and each such counterpart shall be deemed to be an original instrument. Both such counterparts together will constitute one and the same Agreement.

Section 55. No Third Party Rights. Nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

Section 56. Effective Date.

This Agreement shall become effective upon execution by the Mayor and the chairperson of the Council of the Authority.
IN WITNESS WHEREOF, the City and the Authority have executed this Agreement this ___ day of __________, 1987.

THE CITY OF SEATTLE

Mayor
Attest: __________________________
Pursuant to the authority of Ordinance ____________

PIKE PLACE MARKET PRESERVATION AND DEVELOPMENT AUTHORITY

By __________________________
Its __________________________
Pursuant to Resolution ____________

7:CON1.
EXHIBIT A

PERMITTED USES

Permitted uses are categorized as (a) the minimum requirement of the project as the principle use and (b) secondary uses. The minimum requirement of the project is to provide a public parking garage as the principle use. Secondary uses may include a congregate care facility, low or moderate income housing, public space and uses such as retail which reasonably promote pedestrian activity.
EXHIBIT B

DESIGN GUIDELINES

Project Design Guidelines consist of (a) Design Principles and (b) Design Objectives. Design principles shall be the minimum standards to which the planning, design and construction of the parking facility (herein "the Project") shall be built. Design objectives provide additional clarification for the development of the parking garage and congregate care facility of the Project, and further provide objectives for the maintenance and operation of the Project after its construction.

A. Design Principles

1. The parking structure shall serve both the Market, the Aquarium and other Central Waterfront public uses as a public parking facility.

2. The Project shall provide new pedestrian connections between the Central Waterfront and the Market's Pike Place level through a combination of stairs,
mechanical lifts and a new skybridge across Western Avenue.

3. Unless further restricted by the Pike Market Urban Renewal Plan, the height of development on the Project (except for elevators, stairs and skybridge used to connect the Project to the Market) shall not exceed 100 feet above city datum south of the Desimone Bridge and 90 feet above city datum north of said Bridge.

4. The Project shall utilize and cover the smallest practical portion of the Property.

5. The Project shall include uses, such as retail, along Western Avenue that will promote a high level of pedestrian activity.

6. Design of the Project shall anticipate future development of a pedestrian route through the PC-1 site to be developed within the Pine/Stewart Street Corridor as if said streets extended across the PC-1 site. The City shall be exclusively responsible for funding any development of such a pedestrian route.

7. Public open space shall be provided to the maximum extent practical on the Property.
8. The Project design shall be similar in character, but not an imitation of the simple, nondecorative, industrial style typical of the historical building in the Market and adjacent vicinity.

9. The Project shall be designed, constructed and operated within the economic parameters provided within the Financial Pro Forms.

10. The Project shall provide approximately 550 spaces for use as primarily short-term public parking.

B. Design Objectives

1. Convenient Public Parking
   a. Highly visible auto and pedestrian entrances to the garage should be provided at the Western Avenue and Alaskan Way levels. The lowest parking level should be approximately level with Alaskan Way in order to improve visibility and convenience for Central Waterfront users.
   b. Traffic congestion on Western Avenue should be minimized through proper design and management of the garage entrances and exits.
   c. Public safety should be a primary concern in the design and operation of the garage. Additional
lighting, screened openings, open stairs and elevator lobbies, security cameras and other techniques should be investigated to provide a safe garage. Special attention to safety should be made to the west side of the garage.

d. Parking stall design and layout should follow standards for shopping centers rather than office buildings. In general, stalls should be wider and angled at approximately 60° and traffic should be designed and regulated to move one way.

e. Garage entrance signage should be visible from Alaskan Way.

f. Space for vans, small busses, medical and service vehicles should be able to be accommodated inside the garage.

2. Pedestrian Connections at Central Waterfront and Pike Place

a. The parking garage mechanical lift(s) and skybridge should provide direct connection between the arcade level of the market and the Alaskan Way level.
b. At least one elevator should be located on the western elevation of the garage and designed to provide maximum visibility and safety for Central Waterfront users.

c. Access to the mechanical lifts and stairs should be visible and easily accessible for the Alaskan Way and Western Avenue pedestrian.

3. Preserve Views and Vistas

a. In general, structural heights should not exceed limits established in the Urban Renewal Plan (and as shown in Attachment 1) and further should be limited to 100' elevation above city datum south of the Desimone Bridge and 90' between Steinbrueck Park and Desimone Bridge. Extension of the Desimone Bridge and the new skybridge and elevator shafts providing a pedestrian connection to the Market should be designed and built so as to be able to extend above the 100' elevation.

b. A view corridor that provides views of the harborfront and Puget Sound should be provided
from Western Avenue and aligned approximately with the Stewart and Pine Street corridors.

c. Additional vantage points within the Project should be made available to the public to expand views and vistas opportunities of the harborfront and Puget Sound.

4. Minimize Lot Coverage
   a. Development should be limited to the area south of the Pine/Stewart Street Corridor area, unless no other economically feasible alternative exists.
   
b. A petition to vacate a portion of the street right-of-way between the PC-1 site and the Alaskan Way Viaduct should be undertaken to improve the design and function of the Project and thereby preserve the maximum possible area for future development.

5. Promote Pedestrian Activity along Western Avenue
   a. Retail uses which promote a high level of pedestrian activity along Western Avenue should be given prime consideration in the design of the garage and congregate care facility.
b. Other similar uses or design techniques may be acceptable if it can be proven to the City's satisfaction that pedestrian activity will thereby be significantly promoted along Western Avenue.

6. Preserve Sufficient Space for Future Development
   a. Sufficient space to allow future development to bridge over the BN train tunnel should be provided.
   b. Design of the garage and the congregate care facility should accommodate the design and development of a future pedestrian Central Waterfront connection to be built in the Pine Street Corridor. Space for retail or other uses that promote pedestrian activity should be considered. The garage mechanical lifts should be located and designed to take advantage and enhance the use of the connection. The requirement to design and construct the garage for said accommodation shall not require unreasonable expense on the part of the Authority. If the design and construction of any elements of the
Project which are specifically provided to accommodate development of such a corridor would impair the ability of the Authority to undertake and complete the Project substantially in accordance with the schedule and within the budget as provided in the Financial Pro Forma, then such would be an unreasonable expense and the City shall either provide supplemental funding for the additional costs or charge or allow to be changed the elements to remove said impairment. The City may not delay design review and approval of the Project in order to decide upon or seek to provide said additional costs.

c. The garage should be designed to be expandable to the north.

7. Provide Public Open Space
   a. Open space areas should contain or be adjacent to activities and features which promote public use.
b. Open space areas should be designed and sited to expand public view opportunities of the Central Waterfront and Puget Sound.

c. Small, permanent and/or movable retail kiosks should be considered in the public open spaces if their use will provide greater public activity and interest.

d. Various public amenities such as landscaping, shading devices, sculptures, drinking fountains and decorative lighting should be included in the public open spaces. Location of these amenities should be able to penetrate the maximum height envelope.

e. The harborfront connection and Pine/Stewart Streets view corridor should be considered as part of the PC-1 block open space system.

f. The garage roof top should be designed and used for public accessible open space whenever possible.

8. Project Design and Style

a. It is the City's intent that the future design of the entire PC-1 block should appear as a number of modest scaled buildings rather than
one large contiguous structure, and the design of this Project should encompass this goal.

b. A mixture of exterior surface treatments and materials should be used to provide variety and interest to the design and minimize the scale of the buildings.

c. Structures with flat roofs are preferred to those with hipped, mansard, or slanted surfaces that are out of character with existing structures in the vicinity.

d. Careful attention to design should be paid to the garage's west elevation so that it provides an attractive and safe entrance for users entering the Market from the harborfront.

e. The 20' easement adjacent to the Fix-Madore buildings should be landscaped with material that is easy to maintain without becoming an unreasonable safety hazard.

9. Project Development Within Its Budget

a. The number of stalls, the size of the Project and the type of public parking should be designed and operated in order to achieve the
economic performance provided in the Financial Pro Forma (See Exhibit C).

10. **Short-term Public Parking**
   a. The Project should contain approximately 550, and in no event less than 450, public parking stalls.
   b. The Project should be operated as a public parking facility providing primarily short-term public parking. Additional long-term public parking may be provided only to the extent necessary to meet the requirements of the Financial Pro Forma in Exhibit C.
EXHIBIT C
Project Description, Schedule, Budget and Financial
Pro Forma Statement

-12-
City of Seattle
Executive Department - Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor
August 13, 1987

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Department of Community Development

SUBJECT: An Ordinance relating to the Pike Place Market Preservation and Development Authority; authorizing the City to guarantee the issuance of not to exceed $8,4 million ($8,400,000.00) in tax exempt bonds; authorizing the issuance of said bonds; providing for the sale of certain real property to the Authority; authorizing an agreement for the development, construction, and management of a public parking facility; and certain other matters in connection therewith.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

(X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.

( ) Do not file with City Council, but return the proposed legislation to OMB for our review. Return to

Sincerely,

Charles Royer
Mayor

by

JIM RITCH
Budget Director

JR/sw/ge

Enclosure

cc: Director, DCD
In response to requests you made during your September 3, 1987 Committee meeting, Executive staff and the Pike Market PDA have proposed new language for the City/PDA agreement relating to the PCI parking garage. Most of the changes you suggested have been accomplished to staff satisfaction, as outlined below:

1. **Number of Parking Stalls.** The Committee had expressed concern that the agreement would allow as few as 450 stalls even if the project pro forma was no longer feasible, but recognized the PDA's need for flexibility on this matter.

   Exhibit B (Design Guidelines) of the revised agreement will be revised to require the PDA to bring its final project design and revised pro forma to the Finance Committee for review.

2. **Advisory Committee.** The Committee had expressed concern that the Council did not a) participate in the approval of the terms and conditions of the bond sale; b) receive notice of potential revenue shortfalls; and c) participate in the development of a corrective action plan.

   The revised document calls for the establishment of an Oversight Committee which would consist of the Director of the Office Management and Budget, the City Council Finance Committee Chairperson, and the Director of the Department of Community Development, or their designees. This Committee would oversee disbursements, review the project financial position in the event of a revenue shortfall, receive notification of the need to draw on the Debt Service Reserve Account (which would necessitate an appropriation from the City's General Fund), and develop any necessary Corrective Action Plan(s).

3. **Financial Review in the Event of Revenue Shortfall.** The Committee requested that a review of project operations occur after any year in which the project General Reserve Fund falls below the balance predicted in the pro forma. (The original agreement called for review after two consecutive years of such performance.)

   The agreement has been modified as requested.
4. North Site Surface Parking Revenues. The Committee was concerned with a provision in the original agreement which would have required the City to provide substitute revenues (out-of-pocket) if the North site is developed even if the revenues aren't required to meet the debt service payments.

The proposal will be modified to stipulate that substitute revenues will be provided only when needed during the initial ten years of project operation. Further, those substitute revenues will either be equal to the average annual revenues over the previous three years or the amount of the project shortfall, whichever is less. The City will provide no out-of-pocket funds that aren't necessary for debt service repayment. Staff recommends approval of this modification.

Staff makes a final recommendation regarding transmittal of this proposal to full Council. Because Staff has not had an opportunity to review the final language for the ordinance and the City/PDA agreement, Staff suggests that if the Committee is prepared to approve this today, the file be held in full Council until final documents have been received and reviewed by Staff.
May 24, 1988

Mayor Charles Royer
Municipal Building, 12th Floor
1321 Third Avenue
Seattle, WA 98104

Dear Mayor Royer:

The Downtown Human Services Advisory Task Force learned at its meeting last Wednesday that there may be space in the three buildings the City is purchasing for City offices to locate a number of private non-profit human service programs. We are excited about the potential opportunity for downtown human service programs to be assisted through the provision of rent-free or low-rent space in these City-owned buildings, and we would urge that this potential be given serious consideration by the City.

Please let us know if we can be of service to the City in any way regarding this potential opportunity for dedicated space for human services.

Sincerely,

James A. Greenfield
Chair

JAG:cc:mt

cc: City Councilmembers
Seattle City Council
Memorandum

Date: September 3, 1987
To: Finance Committee Members
    Urban Redevelopment Committee Members
From: Lucia Cundy, Legislative Analyst
Subject: PCI Parking Garage

I. BACKGROUND

The PCI is the last major undeveloped piece of property in the Market and is bounded by Western Avenue, Alaskan Way, Market Park, and the Fix Madore Building. Its redevelopment is controlled by the Pike Place Urban Renewal Plan, which is part of the City's Urban Renewal Contract with HUD. The plan was adopted by City Council in 1974 and ratified again in 1985 with the adoption of the new Downtown Plan.

The Urban Renewal Plan requires that a public parking facility be built on the site and that pedestrian access connect the development to the main market. The plan also sets height and bulk limitations and defines uses other than parking that can be built on the site.

In 1986 GCD entered into an agreement with the Pike Market Preservation Development Authority (PDA) to redevelop the entire PCI site for a mixed-use facility containing a minimum of 450 parking spaces. An RFP was issued by the PDA to solicit developer interest. This resulted in three development proposals which were subsequently rejected by the PDA and the Market community because of undesirable view blockage, high density, and incompatible uses.

II. PROJECT DESCRIPTION

The current proposal for the PCI site under review by the Urban Redevelopment and Finance Committees reflects changes to minimize view blockage, provide public parking for both the central waterfront and the Market, and construct a congregate care facility funded through the Senior Housing Program. The parking and housing are proposed for the southern part of the PCI site. The northern half of the site will continue to be used for surface parking until it is redeveloped in the future.

The proposed project consists of a 450-550 stall parking garage with a 50 unit congregate care facility on top. A small amount of ground level retail space will be provided along Western Avenue. The development is proposed to use only the southern 40,000 square feet of the 93,000 total square foot PCI site. The garage will be accessed from both Alaskan Way and Western Avenue. It will contain two to three elevators serving the Market and the Waterfront. The congregate care facility has its own elevator. A skybridge will link the parking and congregate care facilities to the Market.
The parking garage will be developed, owned and operated by the Pike Place Market PDA. The PDA is requesting that the City back the $4.4 million dollar bond issue with the City's full faith and credit. The City will also be contributing $420,000 of funds originating from Urban Renewal land sales (R-block), and will forego $88,000 in annual parking revenues currently received from the entire PCI site. The City will also sell the land, which has been appraised at $200,000, to the PDA. The City will receive 25% of all net revenues (revenues in excess of debt service payment and operating and maintenance expenses). Over the course of the 30 year obligation, this 25 percent share will total approximately $625,000 (current dollars) which will repay the R-block funds and the land (if interest rates or revenues change the "present value" of this amount would change).

The City is also being asked to guarantee that an estimated $100,000 of parking or other revenues (the amount of the north site surface parking lot revenues) will be dedicated to the PCI project for 10 years, whether or not the northern portion of the site is developed.

The PDA will contribute $550,000 (half of its current capital reserves) and will also forego current surface parking revenues. The Seattle Housing Authority will contribute $350,000 which will partially offset the expense of providing the structural support necessary for the congregate care facility. This $350,000 will be contributed to the PDA, which will guarantee that $350,000 will be contributed to the project, whether or not the money has been received from SHA.

The congregate care facility will be financed and operated by the Seattle Housing Authority as part of the 1981 Senior Housing Bond Issue. The congregate care facility will cover a portion of the parking garage rooftop. The other areas of the garage rooftop include publicly accessible open space, with views of the waterfront and Puget Sound.

III. FINANCING: DISCUSSION AND ISSUES

The proposed City obligations to and benefits from this project are summarized below:

1. Pledge full faith and credit, cover debt service payments in event of revenue shortfall.
2. Provide $410,000 cash contribution from R-block funds, to be repaid.
3. Forego $88,000 in annual surface parking lot revenues, which will be pledged to the garage project.
4. Pledge annual north site surface parking lot revenues for first ten years of PCI project, whether or not those lots remain undeveloped. While this amount will vary over time, it will be approximately $100,000 which in some circumstances could become an out-of-pocket expense to the City.

5. Sell land to PDA for its appraised value of $200,000.

6. Participate in review of the project construction and operations monitoring; participate in development and implementation of corrective measures as needed.

7. Receive 25% of parking revenues once project has positive cash flow. The net present value of these revenues is estimated at $625,000 which will pay for the land and will repay the R-block bonds.

The primary decision before the Council is whether or not to back this bond sale with the City's full faith and credit. In order to make that decision, the Committee members and full Council may wish to consider the proposed obligations and benefits listed above in detail.

A. Financing Details

The project would be funded by a PDA tax-exempt bond sale totalling $8.4 million. (While the 1986 Tax Reform Act has changed the tax-exempt status of many projects, including parking garages, the Executive has indicated that the PDA still qualifies to issue these bonds as tax exempt bonds.) The PDA proposes to repay the debt with interest only payments for the first 5 years, with 25 additional years of interest and principal payments. Thus the project constitutes a 30 year obligation. The companion $2.5 million conglomerate care project would be funded by the Seattle Housing Authority with proceeds from the Senior Housing bond issue.

The PDA has been unable to obtain financing to issue these parking garage bonds without the City's backing because the parking garage may not provide sufficient cash flow in its earliest years to meet the debt service payments.

In the earliest years of the project, all parking revenues (after expenses) from the garage go toward debt service payment. However, a debt service payment gap still remains during the first 10-14 years of the project.

The PDA will cover the debt service payment gap in the early years with $589,000 in excess bond sale proceeds, a $1.31 million total cash contribution, and parking revenues from the remaining undeveloped portion of the PCI site.
Excess Bond Sale Proceeds: The PDA bond sale of 8.4 million includes $589,000 in excess proceeds (above construction and issuance costs) to cover debt service payment. This practice is legally limited to 10 percent of the total bond sale, a restriction which has been met in this case.

Cash Contribution: The $1.31 million cash contributions are summarized below:

- $550,000 PDA cash reserves
- 350,000 PDA (from Seattle Housing Authority)
- 410,000 City of Seattle
- $1,310,000

The City's $410,000 cash contribution comes from proceeds from the sale of Pike Place Market Urban Renewal Area land known as "R-Block." Because the land was originally purchased with HUD Urban Renewal Funds, the money is required to be spent on a project within this Urban Renewal Area.

The SHA contribution is intended to partially cover expenses associated with providing the structural support for the Congregate Care Facility. This money will be made available to the PCI parking garage only after the congregate care facility has been constructed and accepted by the SHA. The money is pledged to this project through an agreement between the PDA and SHA. The City is not a party to this agreement, however, as part of this project the PDA will agree to provide the $350,000 in 1990, whether or not the money has been received from SHA.

Surface Parking Revenues: The PDA will also use surface parking revenue proceeds to augment its cash flow and cover the debt service payments. Because part of this money currently goes to the City, the City will experience a decrease in annual revenues. This revenue loss would occur with any development contemplated for the PCI site.

There are three parking lots on the PCI site. One of the lots (Johnson) is located on the portion of the PCI site that will be used for the parking garage. Two of the lots (Municipal and Bayview) are on the northern portion of the PCI site that will not be developed.

These three surface lots generated $251,700 in gross annual revenues in 1986. Currently, these revenues are split between the City and the PDA. The City receives 35 percent of the gross revenues while the PDA receives 65 percent. The PDA manages the lots and is responsible for operating and maintenance expenses.
The chart below summarizes these revenues and their sources:

<table>
<thead>
<tr>
<th></th>
<th>City Revenues (net)</th>
<th>PDA Revenues (gross)</th>
<th>Total Revenues (gross)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johnson (to be removed)</td>
<td>$36,300</td>
<td>$67,400</td>
<td>$103,700</td>
</tr>
<tr>
<td>Bayview &amp; Municipal (to remain)</td>
<td>$51,800</td>
<td>$96,200</td>
<td>$148,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$88,100</strong></td>
<td><strong>$163,600</strong></td>
<td><strong>$251,700</strong></td>
</tr>
</tbody>
</table>

The $103,700 in annual revenues generated by the Johnson lot will no longer occur once project construction begins. The $148,000 in revenues generated by the Bayview and Municipal lots will still exist after the project is contracted. Once operating expenses are deducted, approximately $100,000 (1987$) in net revenues will be generated by the remaining surface lots. These revenues will be used to cover part of the debt service gap for the parking garage.

Thus, the City is being asked to forego revenues from both the lot to be demolished and those that remain in order to finance this project. The City will experience an $88,100 reduction in revenues. Likewise, the PDA will divert about $130,000 in net surface parking revenues from other PDA activity to this project.

The City currently uses its share of the revenues for staff salaries and Market support. The revenues constitute about 60 percent of DCD’s "Urgent Needs Fund", from which salaries for Market-related positions are paid. Occasionally the City uses the funds for other purposes (e.g., Joe Desimone bridge) and has once even "forgiven" the obligation.

The Executive has indicated that the reduction in annual revenues associated with this project will likely result in a combination of reduction in expenses and/or staff and a request for increased funding from General Fund revenue sources.

The PDA-City agreement also requires the City to pledge the Bayview and Municipal annual revenues (approximately $100,000 annually, current dollars) for ten years. This means that:

1) the surface parking must remain for ten years, or
2) a portion of the annual revenues from any development erected on the north site during that 10 year period must go to the PDA in lieu of the surface lot proceeds, (this amount would be the average of the revenues for the three previous years, estimated in this report to be $100,000 per year) or

3) the City must annually provide funds equal to the revenues (approximately $100,000 current dollars) from another source to the PDA in lieu of the surface lot proceeds.

The agreement as written would require the City to make 65 percent of this $100,000 payment during the ten year period even if the surface lot revenues are no longer needed for debt service payment on PCI. While this is consistent with current practice if the Bayview and Municipal lots are still operating as parking lots under PDA management, staff suggests that the PDA would lose this revenue source with construction of the northern half of the PCI site, even if the north site revenues had not been previously dedicated to the south site parking garage. Furthermore, if the surface lots no longer exists, the PDA would receive 65% of the usual revenues without incurring the 30% operations and maintenance expenses. If, after construction on the north site, the parking revenues are no longer needed for debt service repayment on the south site, staff suggests that the City should not be obligated to make the payment to the end of the 10 year obligation.

Dedication of revenues from a new project on the north site will constrain the pro-forma for that site. Development on the north site will need to produce revenues that cover its own pro-forma plus the PCI garage. The Executive has indicated that such development is likely to be relatively intense, such as office or retail uses.

Land: A final expense of the project is the land cost. The City currently owns the land, which was purchased prior to 1974 with HUD Urban Renewal funds. The land is proposed to be transferred to the PDA, and its value repaid to the City throughout the project lifetime as the project begins experiencing a positive cash flow.

A recent appraisal values the land at $200,000 (or $5/square foot). This appraisal incorporates the development constraints imposed by the adopted Urban Renewal Plan as well as the more restrictive Design Guidelines proposed by DCD. (The Design Guidelines limit the design to a 550 staff parking garage with 50 to 55 congregate care units, while the Urban Renewal Plan would allow a broader range of uses.)

Sales of property with comparable locations sold for cash prices ranging from $25 to $42 per square foot. The appraiser noted that absent the restrictions imposed by the Council through the adopted
Urban Renewal Plan and the proposed design guidelines, (i.e., priced for "highest and best use"), the property would be worth 8 to 10 times the current appraised value ($1.6 to $2.0 million). The resulting devaluation is therefore attributable to the already adopted Urban Renewal Plan, and the proposed Design Guidelines, which would become effective as a result of the decision to approve this project. Nonetheless, because the City is imposing the use and design guidelines, it is appropriate that the City bear the "cost" of the reduced land value. However, it should be noted as a cost attributable to this project. (This is not an out-of-pocket cost, but a devaluation of land.)

These Design Guidelines, or similar guidelines would be imposed on any PCI site development. Thus although the devalued fund is a cost attributable to this project, it would be likely to occur at varying degrees with any project on the PCI site.

8. Pledging of Full Faith and Credit

Like the recently approved Seattle Indian Services Commission project, the feasibility of this project relies on the support of the City through the backing of the PDA bonds with the City's full faith and credit. Since this broad issue has been debated recently with the decision to back the Seattle Indian Services Commission bonds, this paper does not explore the broader issue of whether or not the City should back bond issues by private agencies.

As with the Seattle Indian Services Commission decision, the guarantee of the PDA debt means that if the PDA is not able to make the debt service payments, the City will be required to make the payments from a General Fund revenue source. These City-backed non-voted bonds are a debt that is the same as Councilmanic debt for purposes of financial reporting and calculation of debt capacity. As such, the debt should and does meet some of the conditions specified in the City's debt management policies for limited-tax general obligation bonds (Councilmanic bonds). These conditions include:

1. Matching fund monies are available which may be lost if not applied for in a timely manner.

2. Catastrophic conditions.

3. Consideration should be given to the question as to whether a pledge of the facilities' revenues should accompany the basic pledge of limited tax revenues.
4. As a precondition to the issuance of limited tax general obligation bonds all alternative methods of financing should have been exhausted.

Matching Funds: This project does involve matching funds from the Seattle Housing Authority. However, the SHA funds cover only the incremental costs associated with the Congregate Care Facility; the funds do not subsidize the parking garage. In addition, if the Congregate Care Facility is not constructed at this site, it would be constructed elsewhere. Thus no matching fund opportunities are lost if this project is not approved.

Catastrophic Conditions: No emergency or catastrophic conditions exist.

Revenue Stream: In the first 10-15 years of the project the PDA estimates that all revenues will be needed for debt service payment. Once the project begins to have a positive cash flow, the City will receive 25% of the net revenues. This will total about $625,000 (1987$) over the term of the obligation, and is sufficient to repay the cost of the land and the $410,000 in R-block funds. (If the actual project size or interest rate vary from the pro-forma, this amount would vary.)

Alternatives: Several alternatives have been investigated for this project:

1) The project would be financed and constructed by a private developer. This concept would require the incorporation of additional office and/or retail space into the facility. In addition to the problems associated with increased parking demand and traffic generation, the Market Community objected to this type of development. The concept was subsequently dropped.

2) The project would be financed and constructed by the PDA, without the backing of the City. Because the project may have a negative cash flow in its earliest years, the PDA was unable to obtain financing for this project.

3) The City could sell the bonds and either manage the project itself or loan the money to the PDA. With this option the City would be at a greater risk than with the proposed option because the City would be first in line to assume responsibility for revenue shortfalls that jeopardize debt service payment.
4) Include parking garage with Harborfront Levy. According to the Executive, this option was eliminated because the timing of the actual Levy (if approved) would jeopardize the inclusion of the congregate care facility. Also, as with option #3, the City would be at a greater risk than with the proposed option, and would impose a potentially greater public cost.

Staff agrees that the proposed option is preferable to the above options. The proposed alternative places considerable risk and responsibility directly on the PDA, thereby motivating the PDA to institute good management practices.

At the same time, the proposed PDA-City agreement associated with this project gives the City flexibility to exercise control over the management of the project if the actual revenues and fund balances fall short of the pro forma estimates.

C. Risks and Remedies

The general risk associated with this proposal is that the PDA will not be able to make debt service payments and that the City will need to provide financial assistance. The major factors associated with this risk are:

1. Construction costs
2. Parking demand
3. Revenue estimates
4. Interest rate
5. Failure of SMA or PDA to provide $
6. Structural deficiencies

Construction Costs: If the construction cost estimates are inaccurate, the project may be infeasible or may overrun the budget. The project has not yet been designed, thus the construction costs are still estimates. If after the design phase the construction costs are higher than estimated, the project will either have to be scaled down in size or it may be infeasible. The PDA-City agreement calls for a 450-550 stall garage. However, a recent OMB analysis has indicated that at the current interest rates, the garage is not feasible financially below 500 stalls. Staff recommends that the agreement be altered accordingly prior to execution. If the project proves to be infeasible, the bonds would be repaid, but the costs of design and bond issuance would need to be covered by cash sources. The $410,000 R-block money is first priority for covering design, bond issuance and any other up-front costs. To minimize the risk of cost under-estimates early in the project, the PDA has hired an independent consulting firm which has verified the preliminary cost estimates.

Construction costs may also escalate during the course of construction. To avoid cost over-runs, the proposed agreement between the City and the PDA calls for construction disbursement approval by the
City. Such approval would only be given after an independent inspector has verified that the project is substantially on schedule and within budget. In addition, the PDA is required to make regular Progress Reports to the City, which will help identify potential cost over-runs. If in spite of these safeguards the project is exceeding the budget or behind schedule, the City may unilaterally impose a Corrective Action Plan, which would specify steps that must be taken to correct the cost-overrun. Any budget overrun could mean that the PDA cannot meet its debt service obligations and the City would have to provide financial assistance.

Parking Supply and Demand: The garage as proposed will add 270 to 370 new stalls to the market area. The garage is proposed to contain 450-550 short-term parking stalls, some of which will be used by staff and visitors of the congregate care facility. The north site parking will be converted to long-term parking. The change in parking supply associated with this project is summarized below:

<table>
<thead>
<tr>
<th>Parking Type</th>
<th>Current</th>
<th>Proposed</th>
<th>Net Change</th>
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</thead>
<tbody>
<tr>
<td>long-term parking</td>
<td>0</td>
<td>100</td>
<td>+100</td>
</tr>
<tr>
<td>short-term parking</td>
<td>180</td>
<td>450 - 550</td>
<td>+270 - 370</td>
</tr>
<tr>
<td>TOTAL</td>
<td>180</td>
<td>550 - 650</td>
<td>+270 - 370</td>
</tr>
</tbody>
</table>

The ability of the project to generate revenues as identified in the pro forma is a key feature in determining the feasibility of this proposal, and is related to the demand for parking in the area. A recent analysis of parking demand in the Pike Place Market area indicated that parking demand currently exceeds supply by about 1300 spaces. Observable parking conditions in the area substantiate this claim. For example the Market north garage operates at or near capacity. The shortage of parking is particularly acute for short-term parking (parking with rate structures designed to encourage use for 1 1/2 to 2 1/2 hours) such as that needed for the Market users.

Parking supply deficits are expected to increase as current development proposals are constructed. Once the projects proposed in the area are constructed, the total deficit is expected to be 2600 stalls. This projection includes the Aquarium and Harborfront parking needs.
The parking generation assumptions used in the study are consistent with industry standards and staff believes they are realistic. Even if current development proposals do not increase the parking deficit, there is sufficient current demand to justify additional parking, particularly short-term parking.

Revenues Estimates: A third risk factor associated with the project is the revenue estimates. The pro forma assumes a gradually increasing rate of utilization of the structure over a 4 year period, ranging from 33% in the first year of operation to 100% occupancy by the fourth year. This assumption accounts for the fact that the presence of the parking garage will influence parking behavior gradually over time. The pro forma also assumes a relatively low average hourly rate for each stall and a relatively small number of daily turnovers, compared to the behavior observed for other short-term parking in the vicinity. In general, staff believes that the utilization and rate assumptions that affect the parking revenues are conservative.

In spite of the conservative methods used in estimating revenues, the revenues could still fall short of the pro forma estimates. If debt service repayment is jeopardized by revenue short-falls, some parking in the garage can be leased for monthly long-term parkers. While this is not the purpose to be served by the project, it is an alternative that can assure higher revenues, thereby reducing the City’s risk.

Interest Rate: The project pro forma is sensitive to changes in the interest rate. The annual debt service payments would increase if the interest rate at which the bonds are sold rises above the 8.2 percent assumed in the pro forma. The project (at 500 stalls minimum) is still feasible with an $8.4 million bond sale and an 8.6 percent interest rate. The PDA is anxious to sell the bonds as soon as possible because they expect bond interest rates to increase this fall.

SHA Money: The PDA-City agreement calls for the PDA to provide $350,000 to the project when the congregate care facility is completed. This $350,000 originates from the SHA, which has agreed to provide the money at that time. The PDA has agreed to provide the $350,000 even if SHA does not provide the sum. If for any reason the PDA cannot provide the $350,000, the pro forma would change and the City might be called upon to make payments for the debt service.

Structural Deficiencies: An additional risk is the potential for major structural deficiencies that would require extraordinary expenditures for repairs in the future. Although the PDA would be respon-
sible for repairs, such expenditures could jeopardize its ability to make debt service payments. To avoid this problem, the PDA-City agreement calls for an independent inspector to make regular inspections and to certify that the work is proceeding according to plans. Any discrepancies would be addressed by a corrective action plan which can be implemented unilaterally by the City.

**Summary of Risks:** There are a number of risks associated with this project, as is true of any project. To address these risks, the pro-forma conservatively estimates revenues and the City-PDA agreement provides for inspection, warranty, and corrective measures to minimize the risk. However, these steps cannot totally eliminate the risks, as indicated above.

**Staff Recommendation:**

The proposed parking garage, while uneconomic from the perspective of a private financier, provides a needed parking facility that will promote the public use and enjoyment of the Pike Place Market and the waterfront, including the Aquarium and the Harborfront project. The companion congregate care facility will similarly promote the diversity of the Market and will address the City’s housing goals.

Nonetheless, it does involve substantial risk to the City. At best, the PDA will cover debt service payments regularly and the City, in addition to its original cash and land contributions (which will be repaid) would only forego $88,000 in annual revenues some or all of which could be eliminated with budget cuts. At worst the City will forego $88,000 in annual revenues (without commensurate budget cuts), may be called upon to augment PDA revenues by an estimated $100,000 annually (if the north site parking is eliminated), and still may be required to provide money to cover debt service payments and staff time to implement a corrective action plan.

Balancing these risks is the fact that the City will receive 25% of the revenues once the project has a positive cash flow. While this sum will repay the land and R-block funds contributed by the City, it too is not a guarantee. Conversely, the City’s share of parking revenues could more than compensate for the costs of the project if the project performance exceeds the proforma estimate.

Staff believes that the project is of sufficient importance and public benefit to warrant the backing of the bonds with the City's full faith and credit, and to assume the inherent costs and risks. However, to minimize risk and potential out-of-pocket costs, staff suggests that the following changes be made to the proposal:
1) Change the agreement so that the PDA agrees to construct a minimum of 500 stalls rather than 450, since recent analysis has indicated that fewer than 500 stalls are not feasible with an $8.4 million bond issue at current interest rates. If the bonds are sold at an interest rate below the assumed 8.2 percent, the agreement can be amended later to provide for as few as 450 stalls, which may be feasible at lower interest rates. However, the PDA has indicated that they expect interest rates to increase this fall.

2) Delete the requirement in the PDA-City agreement that calls for the City to provide the PDA with 65% of the north site revenues even if the lots no longer exist and the revenues are no longer necessary for debt service repayment.

3) Staff believes that the Council should consider delaying construction on the north site until one of the following conditions have been met:

   a) the north site revenues have not been needed for debt service repayment for two consecutive years (provided that recommendation #2 above is implemented), or,

   b) the 10 year revenue guarantee period has elapsed.

If the City becomes interested in developing the north site within 10 years and the north site revenues are still necessary to meet debt service payments, the City could develop the north site before the 10 year period has elapsed and accept the estimated $100,000 cash liability to the PDA. This would bring the total annual out of pocket cost to the City for the parking garage to as much as $188,000.

If the Council eventually chooses to develop the north site prior to the expiration of the 10 year revenue guarantee, staff suggests that the Council reduce the potential $188,000 out-of-pocket expense by

   a) implementing budget cuts to reduce the $88,000 loss in parking revenues, and/or

   b) conducting negotiations with the PDA (at the time of development of the north site) to eliminate or reduce the obligation to guarantee the north site revenues for 10 years. (The success of such negotiations may depend on who will develop the north site and the nature of the development), and/or

   c) delaying construction on the north site for as long as possible in order to minimize the number of years in which this estimated $100,000 obligation must be met.

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<thead>
<tr>
<th>Party</th>
<th>Obligations</th>
<th>Risks</th>
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<tbody>
<tr>
<td>Pike Market Presentation and Development Authority</td>
<td>1. Issue $8.4 million in tax exempt bonds</td>
<td>1. First in line for responsibility of repaying debt</td>
</tr>
<tr>
<td></td>
<td>2. Contribute $550,000 from cash reserves</td>
<td>2. Provide $350,000 cash if SHA money is not made available</td>
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<tr>
<td></td>
<td>3. Guarantee that SHA money ($350,000) will go toward project</td>
<td>3. Lose title to land if unable to pay City its full value from revenues</td>
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<td>4. Forego $163,000 in gross parking revenues</td>
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<td></td>
<td>5. Repay City for land ($200,000)</td>
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<td></td>
<td>6. Guarantee City 25% of net revenues when project has positive cash flow</td>
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<td></td>
<td>(estimated $625,000, current dollars)</td>
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<td></td>
<td>7. Own and manage garage</td>
<td></td>
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<tr>
<td></td>
<td>8. Monitor project construction</td>
<td></td>
</tr>
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<td></td>
<td>9. Participate in development and implementation of any necessary</td>
<td></td>
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<td></td>
<td>corrective Action plan</td>
<td></td>
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<tr>
<td>City</td>
<td>1. Pledge full faith and credit by backing PDA bond issue</td>
<td>1. Cover debt service payments in event of revenue shortfall</td>
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<td></td>
<td>2. Provide $410,000 cash, which originated from the sale of Urban Renewal</td>
<td>2. Lose all or part of $410,000 if project is proven infeasible after</td>
</tr>
<tr>
<td></td>
<td>land known as R-block may be repaid from garage revenues</td>
<td>design stage (60,000 has already been spent.)</td>
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<td></td>
<td>3. Sell land to PDA for $200,000. To be paid for from garage revenues</td>
<td>3. Forego $88,000 in parking revenues, which may need to be replaced</td>
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<td></td>
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<td>from General Fund revenues</td>
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<tr>
<td>Party</td>
<td>Obligations</td>
<td>Risks</td>
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<tr>
<td>City (Cont.)</td>
<td>4. Monitor project construction.</td>
<td>4. Pledge remaining parking revenues, which would be an estimated $100,000 out-of-pocket expense if the City chooses to develop the north site within 10 years. This may limit options for timing or type of development for north site.</td>
</tr>
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<td></td>
<td>5. Participate in development and implementation of any necessary corrective action plan.</td>
<td></td>
</tr>
<tr>
<td>Seattle Housing Authority</td>
<td>1. Finance, construct, and operate a $2.5 million Congregate Care Facility on top of Parking garage</td>
<td>1. If garage doesn't get built, SHA would have lost time in planning and building the Congregate Care Facility elsewhere.</td>
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<td></td>
<td>2. Dedicate $350,000 of the $2.5 million to the PCI garage for expenses related to structural elements needed to physically support the Congregate Care Facility.</td>
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</table>
September 8, 1986

Mr. Harris Hoffman,
Executive Director
Pike Market Preservation and Development Authority
85 Pike Street, Room 500
Seattle, Wa 98101

Dear Mr. Hoffman:

This has reference to your proposal to sell the undersigned Housing Authority of
the City of Seattle (SHA) a completed property consisting principally of a
52-unit congregate care housing facility for frail elderly persons. The
facility will be located on the west side of Western Avenue on a portion of the
site commonly referred to as the PC-1 site.

SHA has conditionally accepted your proposal. Our conditions to acceptance
include:

1) SHA's approval of any revisions to the development team. This
   includes changes in the developer, the contractor and/or the architect
   for the facility.

2) SHA's approval of the location and design of the congregate care
   housing portion of the development, as well as approval of the design
   and development concept for the balance of the site. Our particular
   interest concerning the latter is the relationship between the
   congregate care housing and the development planned for the balance of
   the site.

3) Agreement as to the final price for the completed facility.

4) Submission of a development proposal for the entire PC-1 site from the
   PDA to the Seattle City Council and approval by the Council of the
   revised proposal not later than April 1, 1987.

5) Approval as to form and substance of definitive conveyance documents.
   In this regard, it is our understanding that the completed housing
   facility may take the form of a condominium apartment, in which case
   SHA's approval of the form of the declaration of condominium and
   related documents would be required prior to execution of a contract
   of sale.

6) It is SHA's understanding that the project site may be conveyed to a
   developer or other third party to complete the development and the
   property would ultimately be conveyed to the Authority by that third
Pike Market Public
Development Authority
September 8, 1986
Page Two

party rather than by the PDA. SHA's acceptance of your proposal is
specifically conditioned upon SHA's acceptance of any third party who
may acquire the site.

7) Approval of the management plan for the facility and negotiation of an
acceptable management contract between SHA and the PDA and the Pike
Market Clinic. The management plan must include provision for a
minimum of 40 DHHS subsidized beds depending on financial feasibility.

Because of the scope and magnitude of the above conditions, we expect you to
make available to us promptly on an ongoing basis for our review, design and
other changes. As progress is made towards satisfaction of the above
conditions, we would anticipate that the execution of a more detailed letter of
intent which, in turn, will contemplate eventual execution of a contract of
sale.

If this letter represents your understanding, please sign and return three
copies.

SEATTLE HOUSING AUTHORITY

By: [Signature]
Its: [Title]

Accepted:

PIKE MARKET PRESERVATION AND
DEVELOPMENT AUTHORITY

By: [Signature]
Its: [Title]

MAL: fj

cc: Pike Market Community Clinic

409:001
BY HAND DELIVERY

The Honorable Paul Kraabel
City Council
City of Seattle
1100 Municipal Building
Seattle, Washington 98104

Dear Paul:

This morning, your Urban Redevelopment Committee reviewed certain aspects of the proposed PC-1 Agreement. Following the decision agenda prepared by your staff, the Committee took action on the following items discussed therein:

5. Additional Housing. Proposed amendment to the Agreement attached. The proposed amendment includes the alternative language preferred by Councilmember Noland.

6. Parking Garage. Amendments to original design Guidelines already incorporated pursuant to discussions between your staff and DCD.

7. Bicycles. Amendments to original design Guidelines already incorporated pursuant to discussions between your staff and DCD.


9. SHA Housing. Amendment requiring the Market Authority to obtain written approval of Housing Authority attached. Amendment terminating congregate care commitment in the event the parking facility is not developed being revised by Mike Monroe.

10. Modifications to Agreement. Second sentence of Section 2 of proposed Ordinance deleted by action of Committee. Amendment requiring the Market Authority to brief the Urban Redevelopment Committee on design attached.
As you know, I am leaving for vacation this afternoon. Please discuss any questions or concerns about the proposed amendments with my partner, Jon Schorr, or directly with Mike Carroll.

Thanks to you and Councilmember Noland for taking action on the proposal this morning.

Very truly yours,

WICKWIRE, GOLDMARK & SCHORR

[Signature]

B. Gerald Johnson

BGJ:lmj

Enclosures

cc/enc: Mr. Ken Bounds
         Mr. Michael Carroll
         Mr. Larry Goetz
         Ms. Sharon Lee
         Mr. Michael Monroe
         Mr. Jon Schorr
Additional Housing

Section 22. (Plans For Construction of Improvements) ADD new subsection as follows:

L. It is understood between the parties that the City may wish to consider the feasibility of incorporating approximately 30 more low-income housing units into the Project, in addition to the housing provided by the congregate care facility. [Kraabel alternative: Such housing shall be additional congregate care housing or other housing compatible with congregate care and acceptable to the Authority and the Seattle Housing Authority.] [Noland alternative: Such housing shall be compatible with congregate care and acceptable to the Authority and the Seattle Housing Authority and may be additional congregate care only if the requisite supplemental funding therefor is provided from a source other than the City.] It is further understood that any such additional housing would require additional funds be provided to the Authority for incorporating its design and construction. It is further understood that approximately 20 of the additional housing units would likely require development of a marginally higher structure consistent with customary administration of Urban Renewal Plan height restrictions but under no circumstances shall the structure exceed such restrictions by more than ten percent. Approximately ten of the additional housing units would likely require conveyance to the Authority of an additional 30-foot wide section of the southern portion of the PC-1 site.
The Authority and the City agree that if the City determines to have additional low-income housing incorporated into the Project by conveying additional property to the Authority, the City must, no later than November 1, 1987, enact an ordinance and provide therein sufficient funding and the additional real property as will be reasonably necessary to design and construct the additional housing within the parameters of Exhibits B, C and D. The Authority and the City agree that if the City determines to have additional low-income housing incorporated into the Project by approving development of a marginally higher structure consistent with customary administration of the Urban Renewal Plan, the City must, no later than December 15, 1987, confirm its authority to approve such a structure and enact an ordinance providing therein sufficient funding as will be reasonably necessary to design and construct the additional housing within the parameters of Exhibits B, C and D. The Authority agrees that if the City decides to include additional low-income housing as provided herein, then it shall design and construct said housing pursuant to the provisions and requirements of this Agreement.
Construction Hiring Goals

ADD new sentences to the end of Subsection 24(E) (WMBE) as follows:
The Authority and its contractor shall make a good faith effort to meet City construction hiring goals for women and minorities. The Authority shall report to the City Council Urban Redevelopment committee or its functional successor on the Authority's and its contractor's efforts to do so on a monthly basis during construction. The Authority shall make a good faith effort to provide employment opportunities in the operation of the Project for youth, low-income individuals and minorities.

ADD new sentence to the end of Section 26 (Progress Reports) as follows:
The Authority also shall include information concerning its efforts to provide employment opportunities in the operation of the Project for youth, low-income individuals and minorities.
SHA Housing

ADD new Section 28 (as new last section in Article VI) as follows:

Section 28. Congregate Care. As soon as possible during design of the congregate care housing facility to be developed as contemplated herein, the Authority shall obtain and submit to the City the written confirmation of the Seattle Housing Authority that the Housing Authority approves the facility to be developed and that the proposed facility substantially complies with the requirements originally established by the City for development of such a congregate care facility in the Market.
**Modifications to Agreement**

ADD new sentence to Section 22(C) (Schematic Documents) (insert as new second sentence) as follows:

Prior to submitting schematic documents to the City, the Authority shall offer and be reasonably available to make a presentation explaining such schematic documents to the City Council Urban Redevelopment Committee or its functional successor.
City of Seattle

REAL PROPERTY TRUST

1101 4th Ave.
Seattle, WA 98101

May 4, 1990

TO: Paul M. Allen

FROM: The Seattle City Council

Re: Pike Place Market

Dear Paul,

I am writing to request your support for the Pike Place Market Restoration and Development Project. This project, which is currently underway, is aimed at restoring and preserving one of Seattle's most iconic landmarks.

The Pike Place Market is a historic and culturally significant area located in the heart of Seattle. It has been a central gathering place for the city's residents and visitors for over 100 years, offering a unique blend of shopping, dining, and entertainment options.

However, the market has fallen into disrepair over the years, with many of its historic buildings in need of repair and its infrastructure outdated. This project will address these issues, preserving the market's history and ensuring its continued success as a vital part of Seattle's community fabric.

I am asking for your support in this effort. Your contributions will help to fund the necessary renovations and improvements, ensuring that Pike Place Market remains a vibrant and thriving destination for generations to come.

Thank you for your consideration.

Sincerely,

[Your Name]
Affidavit of Publication

STATE OF WASHINGTON
KING COUNTY—SS.

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 is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

Ordinance No. 113639

was published on October 9, 1987

Subscribed and sworn to before me on October 9, 1987

[Signature]

Notary Public for the State of Washington, residing in Seattle.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.
EXHIBIT C: 1988 Building Plan Summary for Care Facility
LOOKING WEST FROM THE MAIN ARCADE LEVEL

Pike Place Market Congregate Care Residence
EXHIBIT D: 1990 Press Release Announcing the Dedication of Heritage House
BUILDING FOR FRAIL ELDERLY DEDICATED IN PIKE PLACE MARKET

Heritage House in the Market, the newest building in the Pike Place Market, will be dedicated in a ceremony at 1 p.m. on Friday, August 17, 1990, the date of the historic Market's 83rd Anniversary.

The facility, the last built from proceeds of the Seattle Senior Housing bond, provides 62 units of housing for frail, low income seniors. It is situated at 1533 Western Avenue, on top of the new Market parking garage, and features spacious, comfortable common rooms for dining, crafts, reading and watching T.V., in addition to resident rooms, most with spectacular views of Elliott Bay and the Olympic Mountains.

A key element of Heritage House is the planned support services that promote maximum independence for the residents, while at the same time providing assistance with activities such as meals, dressing, bathing, housekeeping and medication management in a safe environment.

(more)
The Pike Place Market Preservation and Development Authority (PDA) served as developer on this $3 million capital project, in response to the need for elderly Market area residents to remain in their community. "Heritage House embodies the rich history represented by our senior citizens and recognizes their invaluable contribution to preserving the Market as a diverse and vital community," said Aaron Zaretsky, Project Director for the PDA.

Joining the PDA as key participants in the project were Seattle Housing Authority, The Bumgardner Architects, Walsh Construction, the Pike Market Medical Clinic and the Market Foundation. The Sisters of Providence will manage Heritage House, which is expected to open in September of this year.

The Dedication Ceremony will occur at 1 p.m. at Heritage House, 1533 Western Avenue, following the Pike Place Market's 83rd Anniversary celebration.

#####
EXHIBIT E: 1990 PC1S Condominium Agreement
DEPARTMENT OF REAL PROPERTY

DECLARATION

AND COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS

FOR

DC-1 SOUTH CONDOMINIUM
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<td>Liberal Construction</td>
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DECLARATION

AND

COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS

FOR

PC-1 SOUTH CONDOMINIUM

Pursuant to the Act defined in Section 1.8.1 and for the purpose of submitting the real property hereinafter defined (the "Property") to the provisions of said Act, the undersigned, being sole owner of the Property, makes the following Declaration. By acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the Property or any unit in the Condominium created by this Declaration, it is agreed that this Declaration, together with the Survey Map and Plans referred to herein, state covenants, conditions, restrictions, and reservations effecting a common plan for the Condominium development mutually beneficial to all of the described units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire Property and upon each unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Property or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of units under security instruments.

ARTICLE 1

INTERPRETATION

1.1. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this Condominium under the provisions of Washington law. It is intended and covenanted also that, insofar as it affects this Declaration and Condominium, the provisions of the Act, under which this Declaration is operative, shall be liberally construed to effectuate the intent of this Declaration insofar as reasonably possible.

1.2. Consistent With Act. The terms such as, but not limited to, “unit,” “unit owner,” “unit owners’ association,”
"common elements," "common expenses," "limited common elements," "eligible mortgagees," and "real property" used herein are intended to have the same meaning given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

1.3. Covenant Running With Land. It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, supplementing and interpreting the Act, and operating independently of the Act should the Act be, in any respect, inapplicable.

1.4. Unit and Building Boundary. In interpreting the Survey Map and Plans, the existing physical boundaries of the buildings and each unit, as constructed, shall be conclusively presumed to be its boundaries.

1.5. Declarant is Original Owner. Declarant is the original owner of the real property included in the Condominium including all units and will continue to be deemed the owner thereof except as conveyances or documents changing such ownership regarding specifically described units are filed of record.

1.6. Captions and Schedules. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various schedules referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.7. Inflationary Increase in Dollar Limits. The dollar amounts specified in Articles 10, 13, 14 and 18 may, in the discretion of the Association, be increased proportionately by the increase, if any, in the Consumer Price Index for the Seattle-Everett area, being the All Item Index for All Urban Consumers, prepared by the United States Department of Labor for the base period, January 1, 1990 to adjust for any deflation in the value of the dollar.

1.8. Definitions.


1.8.2. "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the Association allocated to each unit.
1.8.3. "Assessment" means all sums chargeable by the Association against a unit including, without limitation: (a) regular and special assessments for common expenses, charges, and fines imposed by the Association; (b) interest and late charges on any delinquent accounts; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent owner's account.

1.8.4. "Association" shall mean the association of unit owners provided for in Article 9.

1.8.5. "Board" shall mean the Board of Directors of the Association provided for in Section 10.3.

1.8.6. "Bylaws" shall mean the Bylaws of the Association provided for in Section 9.5.

1.8.7. "Common elements" shall mean all portions of the Condominium other than the units.

1.8.8. "Common expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.8.9. "Condominium" means the real property which, pursuant to this Declaration, is comprised of portions designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

1.8.10. "Declarant" shall mean the undersigned (being the sole owner, lessee or possessor of the Property, including the land described in Schedule A attached hereto) and/or any person or group that succeeds to any special Declarant right under this Declaration.

1.8.11. "Declaration" shall mean this declaration and any amendments thereto.

1.8.12. "Eligible Mortgagee" shall mean the holder, or their designee, of a mortgage on a unit, who has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that mortgagees are to be notified of under the provisions of this Declaration.

1.8.13. "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.
1.8.14. "Interior surfaces" (where that phrase is used in defining the boundaries of units or limited common elements) shall include lath, furring, wallboard, plasterboard, plaster, paint, wallpaper, paneling, carpeting, tiles, finished flooring, and any other materials constituting any part of the finished surfaces. Said decorative finishes and coverings, along with fixtures and other tangible personal property (including furniture, planters, mirrors, and the like) located in and used in connection with said unit or limited common element, shall be deemed a part of said unit or limited common element.

1.8.15. "Limited common element" means a portion of the common elements allocated by this Declaration or the Act for the exclusive use of one or more, but fewer than all of the units and includes the shared limited common elements identified in Section 7.1.2.

1.8.16. "Mortgage" shall mean a recorded mortgage, deed of trust, or real estate contract that creates a lien against a unit and shall also mean a real estate contract for the sale of a unit.

1.8.17. "Mortgagor" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a unit created by a mortgage and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a unit. A mortgagor of the Condominium and a mortgagee of a unit are included within the definition of mortgagee.

1.8.18. "Mortgagee of a unit" shall mean the holder of a mortgage on a unit, which mortgage was recorded simultaneous with or after the recordation of this Declaration. Unless the context requires otherwise, the term "mortgagee of a unit" shall also be deemed to include the mortgagee of the Condominium.

1.8.19. "Mortgagee of the Condominium" shall mean the holder of a mortgage on the real property which this Declaration affects, which mortgage was recorded prior to the recordation of this Declaration. The term "mortgagee of the Condominium" does not include mortgagees of the individual units.

1.8.20. "Person" shall include natural persons, partnerships, limited partnerships, corporations, trusts, any governmental subdivision or agency, or other legal entity.

1.8.21. "Property" shall mean the land, the buildings, all improvements and structures now or hereafter placed on the land described in Schedule A.
1.8.22. "Survey Map and Plans" means the survey map and plans for the FC-1 South Condominium recorded under King County File No. 90-8007489, simultaneously with this Declaration containing the information regarding land, buildings and improvements and the units required by the Act.

1.8.23. "Unit" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are the interior surfaces of the walls, floors and ceilings, except as may be otherwise specifically provided herein. All space, interior partitions and other fixtures and improvements within the boundaries of a unit are part of the unit.

1.8.24. "Unit owner or owner" means the Declarant or other person who owns a unit, but does not include a person who has an interest in a unit solely as security for an obligation. Unit owner further means the vendee, not the vendor, of a unit under a real estate contract.

ARTICLE 2
DESCRIPTION OF LAND

The land on which the buildings and improvements provided for in this Declaration and are located is described in Schedule A attached hereto.

ARTICLE 3
DESCRIPTION OF IMPROVEMENTS AND NUMBER OF UNITS

The building and improvements included within the Condominium are as shown on the Survey Map and Plans. The Condominium shall contain four (4) units with Declarant reserving the right to create one (1) additional unit as set forth in Article 22. The four (4) initially established units are hereinafter referred to as Unit Nos. 1, 2, 3, and 4.

ARTICLE 4
DESCRIPTION OF UNITS, LOCATION, AREA AND NUMBER OF ROOMS

4.1. Unit Location. Each unit is identified by a number. The exact location of each unit is shown on the Survey Map and Plans filed in conjunction herewith.

4.2. Unit Description. In Schedule B attached hereto, each unit is described by unit number, number of rooms designated primarily as bedrooms, number of built-in fireplaces, the level or levels on which each unit is located, the type of heat and heat service, the number of parking spaces and whether covered,
uncovered or enclosed and the approximate total square foot floor area of each unit. The unit boundaries of Unit Nos. 2, 3 and 4 are as stated in the Act and Section 1.8.23. The boundaries of Unit No.1 are the exterior surfaces of the walls, floors, and ceilings of the garage portion of said unit. All structural elements of the Condominium contained within the boundaries of Unit No. 1, including, without limitation, the lid, foundations, columns, girders, studding, joists, beams, supports, walls, floors and ceilings, are part of said unit. All portions of the garage elevator tower shown on the Survey Map and Plans, and the shaft of said elevator are part of said unit.

ARTICLE 5

ACCESS

5.1. Access to Commons Ways. Each unit has direct access to common element stairways, plaza and walkways.

5.2. Access to Public Streets. The common elements have a direct access to Western Avenue, the public street shown on the Survey Map and Plans.

5.3. Access to Units. Only unit owners, employees, guests, business invitees, and other authorized persons shall have access to individual units, provided that residents and occupants of Unit No. 2 shall have access to said unit.

5.4. Access by Mutual Easements. Access, including ingress and egress, by mutual easements are shown on the Survey Map and Plans.

ARTICLE 6

DESCRIPTION OF COMMON ELEMENTS

Except as otherwise specifically reserved, assigned or limited by the provisions of Article 7 hereof, the common elements are as defined in Section 1.8.7 and include, but are not limited to, the following to the extent the following are not included within the boundaries of individual units as provided for in the Act or Schedule B:

6.1. Land. The land described in Schedule A.

6.2. Central Services. Installation of central services, if any, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating; pipes, conduits, and wires, elevator shafts, tanks, pumps, motors, fans, compressors, ducts; and in general all apparatus and installations existing for common use (provided, however, and except as otherwise provided in Schedule B, if any chute, flue,
duct, wire, conduit, hearing wall, hearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements).

6.3. **Utility Rooms.** The transformer room, the electrical gear room and the utility room, all of which are located on the fifth floor of Unit No. 1, as shown on the Survey Map and Plans.

6.4. **Plaza.** The plaza area, as shown on the Survey Map and Plans and planters, exterior lamps, stairs, rails, irrigation system and trees and other landscaping in the plaza area.

6.5. **Pipes and Drains.** Certain pipes, drains and gutters from the point such become shared plumbing to all units to the point of connection to City utility services.

6.6. **Other Parts.** All other parts of the Condominium, other than the units.

**ARTICLE 7**

**DESCRIPTION OF LIMITED COMMON ELEMENTS; BASEMENTS FOR EXCLUSIVE USE RESERVED FOR CERTAIN UNITS**

7.1. **Limited Common Elements.** The limited common elements, reserved for the exclusive use of the owner or owners of the unit or units to which they are allocated, are as follows:

7.1.1. Except to the extent identified as shared limited common elements in subsection 7.1.2, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but which are located outside the unit's boundaries are limited common elements allocated exclusively to that unit.

7.1.2. The roof (including the roof membrane and flashings) on the portion of the building above the level of Unit No. 1 (as described on the Survey Map and Plans), foundations, columns, girders, studding, joists, beams, supports, walls (excluding nonbearing interior partitions of units), chimneys and fireplaces, if any, and all other structural parts of said portion of the building, to the interior surfaces of the perimeter walls, floors and ceilings of Unit Nos. 2, 3 and 4 (that is, to the boundaries of Unit Nos. 2, 3 and 4 as the boundaries are defined in the Act, Section 1.8.23); the exterior surfaces of said portion of the building and the sealant applied to said surfaces; and the trash room on the plaza level as shown
on the Survey Map and Plans are limited common elements allocated exclusively to Unit Nos. 2, 3 and 4. The portions of the central services identified in Sections 6.2 and 6.5 that serve more than one unit, but less than all the units, are allocated exclusively to the units served. The limited common elements described in this subsection 7.1.2 are hereinafter referred to as the shared limited common elements.

7.1.3. Except as otherwise provided in Schedule B, certain building elements lying partially within and partially outside the boundaries of a unit, the portions which serve only one unit, are limited common elements allocated solely to a unit as provided in Section 6.2.

7.1.4. The general location of the limited common elements (other than shutters, awnings, window boxes, and exterior doors and windows) are shown on the Survey Map and Plans.

7.2. Reallocation of Limited Common Element. A limited common element may only be reallocated between units with approval of the Board and the Association and by an amendment to the Declaration executed by the owners of the units to which the limited common element was and will be allocated. The Board and the Association shall approve the request of the owner or owners for a reallocation of a limited common element within thirty (30) days, unless the proposed reallocation does not comply with the Act or this Declaration. The failure of the Board and the Association to act upon a request within such period shall be deemed approval thereof. The amendment to the Declaration shall be recorded in the names of the parties and of the Condominium.

7.3. Reallocation of Common Element/Incorporation of Limited Common Element. All of the unit owners must agree to reallocate a common element as a limited common element and the owners of Unit Nos. 1 and 2, as well as the owner of the unit to which the limited common element will be incorporated (if not Unit No. 1 or No. 2), must agree to incorporate a limited common element into an existing unit. Such reallocation or incorporation shall be reflected in an amendment to this Declaration, the Survey Map, or Plans.

ARTICLE 8
ALLOCATED INTERESTS
IN COMMON ELEMENTS

The allocated undivided interest of each unit in the common elements and the formula for establishing those allocations are set forth in Schedule C attached hereto. The allocated undivided interest of Unit Nos. 2, 3 and 4 in the shared limited common
elements and the formula for establishing those allocations are
set forth in Schedule D attached hereto. The allocated undivided
interest in the limited common elements other than the shared
limited common elements, is one hundred percent (100%) to the
unit to which the limited common element is allocated. The
allocated interests for each unit expressed in Schedule C and the
foregoing sentence shall be the percentages used in implementing
the provision of this Declaration or the Act based on the unit
owner's respective interests in common elements or limited common
elements. The values expressed in Schedule C are to establish
the allocated undivided interest of the unit owners in the common
elements and do not reflect, necessarily, the amount for which a
unit will be sold, from time to time, by Declarant or others.

ARTICLE 9
OWNERS' ASSOCIATION

9.1. Name and Form of Association. The Association shall
be named PC-1 South Condominium Association and shall be
organized as a Washington nonprofit corporation. Such
Association shall be organized no later than the date the first
unit in the Condominium is conveyed.


9.2.1. Qualification. The membership of the
Association shall at all times consist exclusively of all of the
unit owners. Each unit owner, including the Declarant, shall be
a member of the Association and shall be entitled to one
membership for each unit so owned; provided, that if a unit has
been sold on contract, the contract purchaser shall exercise the
rights of the unit owner for purposes of the Association, this
Declaration and the Bylaws, except as hereinafter limited, and
shall be the voting representative unless otherwise specified.
Ownership of a unit shall be the sole qualification for
membership in the Association.

9.2.2. Transfer of Membership. The Association
membership of each owner, including Declarant, shall be
appurtenant to the unit giving rise to such membership, and shall
not be assigned, transferred, pledged, hypothecated, conveyed or
alienated in any way except upon the transfer of title to said
unit and then only to the transferee of title to such unit. Any
attempt to make a prohibited transfer shall be void. Any
transfer of title to a unit shall operate automatically to
transfer the membership in the Association appurtenant thereto to
the new owner thereof.

9.3.1. Number of Votes. The total voting power of all owners shall be 100 votes and the total number of votes allocated to the owners of each unit and the formula for allocating such votes shall be as set forth on Schedule E attached hereto.

9.3.2. Voting Decisions. Except as otherwise expressly required by the Act or this Declaration, the powers of the Association as set forth in the Act and this Declaration may be exercised by a vote or agreement of unit owners to which at least eighty percent (80%) of the votes in the Association are allocated. Unless the Act or this Declaration requires that Association actions be authorized by a vote at meeting of the Association, Association action can be authorized by written consent of unit owners with the requisite percentage of allocated votes.

9.3.3. Voting Owner. There shall be one (1) voting representative for each unit. Declarant shall be considered an owner as that term is used herein, and shall be the voting representative, with respect to any unit or units owned by Declarant. If a person, including Declarant, owns more than one unit, he shall have the votes for each unit owned. The voting representative shall be designated by the owner or owners of each unit by written notice to the Board, and need not be an owner. If the owner is a public agency or a nonprofit corporation, the voting representative shall be designated by the governing board or body of such agency or corporation. The designation of voting representative shall be revocable at any time by actual notice to the Board from a party having an ownership interest in a unit, or by actual notice to the Board of the death or judicially declared incompetence of any party with an ownership interest in the unit. This power of designation and revocation may be exercised by the guardian of a unit owner, and the administrators or executors of an owner's estate. Where no designation is made, or where a designation has been made but is revoked and no new designation has been made, the voting representative of each unit shall be the group composed of all of its owners.

9.3.4. Joint Owner Disputes. If only one of the multiple owners of a unit is present at a meeting of the Association, that owner is entitled to cast all of the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is a majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit. The vote for a
unit must be cast as a single vote, and fractional votes shall not be allowed. In the event a majority agreement cannot be reached, then such joint unit owners shall lose their right to vote on the matter in question.

9.3.5. Pledged Votes. If an owner is in default under a first mortgage on the unit for ninety (90) consecutive days or more, the eligible mortgagee of a unit shall automatically be authorized to declare at any time thereafter that the unit owner has pledged his or her vote on all issues to the eligible mortgagee during the continuance of the default. If the Board has been notified of any such pledge to an eligible mortgagee, or in the event the record owner or owners have otherwise pledged their vote regarding special matters to a mortgagee under a duly recorded mortgage, or to the vendor under a duly recorded real estate contract, only the vote of such mortgagee or vendor, will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with this pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the vote or agreement of unit owners to which at least eighty percent (80%) of the votes in the Association are allocated.

9.3.6. Proxies. Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven (11) months after its date of issuance.

9.3.7. Units Owned by Association. No votes allocated to a unit owned by the Association may be cast, and in determining the percentage of votes required to act on any matter, the votes allocated to units owned by the Association shall be disregarded.

9.4. Annual and Special Meetings. Notices of Meetings. There shall be at least an annual meeting of the Association in the first quarter of each calendar year, or such other fiscal year as the Association may by resolution adopt. Special meetings of the Association may be called by the president, a majority of the Board of Directors, or by any unit owner. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by
first-class mail to the mailing address of each unit or to any
other mailing address designated in writing by the unit owner.
The notice of any meeting shall state the time and place of the
meeting and the items on the agenda to be voted on by the
members, including the general nature of any proposed amendment
to the Declaration or Bylaws, changes in the previously approved
budget that result in a change in assessment obligations, and any
proposal to remove a director or officer.


9.5.1. Bylaws for the administration of the
Association and the Property, and for other purposes not
inconsistent with the Act or with the intent of this Declaration,
shall be adopted or amended by the Association upon vote on
agreement of owners of units to which at least eighty percent
(80%) of the votes in the Association are allocated at a regular
or special meeting. Amendments to the Bylaws may be adopted by
the same vote at a regular or special meeting similarly called or
as shall otherwise be provided in the Bylaws. Declarant may
adopt the initial Bylaws, provided that after Declarant's control
of the Association terminates pursuant to Section 10.2, any
initial Bylaws adopted by Declarant shall be ratified by a vote
or agreement of owners of units to which at least eighty percent
(80%) of the votes in the Association are allocated.

9.5.2. The Bylaws shall be deemed to contain
provisions identical to those provided in this Article 9, and may
contain supplementary, not inconsistent, provisions regarding the
operation of the Condominium and administration of the Property.
The Bylaws shall establish such provisions for quorum, ordering
of meetings, and details regarding the giving of notice as may be
required for the proper administration of the Association and the
Property.


9.6.1. The Association shall keep financial records
sufficiently detailed to enable the Association to comply with
the Section 12.7. All financial and other records shall be made
reasonably available for examination by any unit owner and the
owner's authorized agents. At least annually the Association
shall prepare, or cause to be prepared, a financial statement of
the Association in accordance with generally accepted accounting
principles and such statements shall be audited at least annually
by a certified public accountant unless the audit is waived by
unit owners, other than declarant, of units to which at least
eighty percent (80%) of the votes of the Association are
allocated, excluding the votes allocated to units owned by
Declarant, provided that for the purposes of this Section 9.6.1,
the owner of Unit Nos. 1 and 4 shall no longer be considered Declarant and such owner's votes shall not be excluded after Declarant's control of the Association terminates pursuant to Section 10.2.

9.6.2. The funds of the Association shall not be commingled with the funds of any other association, nor with the funds of any manager of the Association or any other person responsible for the custody of such funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the Association.

ARTICLE 10
MANAGEMENT OF CONDOMINIUM

10.1. Administration of the Condominium. The unit owners covenant and agree the administration of the Condominium shall be in accordance with the provisions of the Act, this Declaration and the Bylaws of the Association, which are made a part hereof.

10.2. Management by Declarant.

10.2.1. Upon the recording of this Declaration control of the Association shall be vested in Declarant who may appoint and remove members of the Board. Control of the Association by the Declarant shall terminate no later than the earlier of: (a) sixty (60) days after conveyance of fifty percent (50%) of the units, which may be created, to unit owners other than Declarant; (b) two years after the first conveyance or transfer of record of a unit except as security for a debt; (c) two years after any development right to add new units was last exercised; or (d) the date on which Declarant records an amendment to this Declaration pursuant to which the Declarant voluntarily surrenders the right to further appoint and remove officers and members of the Board. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of that period pursuant to (a), (b), and (c) of this subsection, but in that event Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

10.2.2. Within sixty (60) days after the termination of the period of Declarant control, Declarant shall deliver to the Association all property of the unit owners and of the Association held or controlled by the Declarant, including, but not limited to:
(a) the original or a photocopy of the recorded Declaration and each amendment to the Declaration;

(b) the Certificate of Incorporation and a copy or duplicate original of the Articles of Incorporation of the Association as filed with the Secretary of State;

(c) the Bylaws of the Association;

(d) the Minute Book, including all minutes, and other books and records of the Association;

(e) any rules and regulations that have been adopted;

(f) resignations of officers and members of the Board who are required to resign because the Declarant is required to relinquish control of the Association;

(g) the financial records, including canceled checks, bank statements, and financial statements of the Association, and source documents from the time of incorporation of the Association through the transfer of control to the unit owners;

(h) Association funds or the control of the funds of the Association;

(i) all tangible personal property of the Association, represented by the Declarant to be the property of the Association or ostensibly the property of the Association, and an inventory of such personal property;

(j) a copy of the Declarant’s plans and specifications utilized in the construction or remodeling of the Condominium, with a certificate of the Declarant or a licensed architect or engineer that the plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized by the Declarant in the construction or remodeling of the Condominium;
(k) insurance policies or copies thereof for the Condominium and Association;

(l) copies of any certificates of occupancy that may have been issued for the Condominium;

(m) any other permits issued by governmental bodies applicable to the Condominium in force or issued within one year before the date of transfer of control to the unit owners;

(n) all written warranties that are still in effect for the common elements, or any other areas or facilities which the Association has a responsibility to maintain and repair, from the contractor, subcontractors, suppliers, and manufacturers and all owner’s manuals or instructions furnished to the Declarant with respect to installed equipment or building systems;

(o) a roster of unit owners and eligible mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant’s records and the date of closing of the first sale of each unit sold by the Declarant;

(p) any leases of any of the common elements and other leases to which the Association is a party;

(q) any employment contracts or service contracts in which the Association is one of the contracting parties or service contracts in which the Association or the unit owners have an obligation or a responsibility, directly or indirectly, to pay some or all of the fee or charge of the person performing the service; and

(r) all other contracts to which the Association is a party.

10.2.3. Upon the transfer of control to the unit owners, the records of the Association shall be audited as of the date of transfer by an independent Certified Public Accountant in accordance with generally accepted auditing standards unless the unit owners, other than the Declarant, by two-thirds (2/3) vote elect to waive the audit. The cost of the audit shall be a
common expense. The accountant performing the audit shall 
examine supporting documents and records, including the cash 
disbursements and related paid invoices, to determine if 
expenditures were for Association purposes and the billings, cash 
receipts, and related records to determine if the Declarant was 
charged for and paid the proper amount of assessments.

10.2.4. Not later than sixty (60) days after 
conveyance of fifty percent (50%) of the units, which may be 
created, to unit owners other than Declarant, not less than 
three-three and one-third percent (33-1/3%) of the members of 
the Board must be elected by unit owners other than the 
Declarant.

10.2.5. Within thirty (30) days after the termination 
of any period of Declarant control, the unit owners shall elect a 
Board consisting of at least three (3) members, or such greater 
number as may be stated in the Articles of Incorporation or 
Bylaws of the Association, all of whom must be unit owners or 
their designated voting representatives as provided in Section 
9.3.3. Election of the Board members may be by cumulative voting 
as further provided in the Bylaws. The Board shall elect the 
officers. Such members of the Board and officers shall take 
office upon election.

10.2.6. The unit owners, by a two-thirds (2/3) vote of 
the voting power in the Association present and entitled to vote 
at any meeting of the unit owners at which a quorum is present, 
may remove any member of the Board with or without cause, other 
than a member appointed by the Declarant. The Declarant may not 
remove any member of the Board elected by the unit owners. Prior 
to the termination of the period of Declarant control, the unit 
owners, other than the Declarant, may remove by a two-thirds 
(2/3) vote, any director elected by the unit owners.

10.3. Management by Association/Board. At the expiration 
of Declarant's management authority under Section 10.2, 
administrative power and authority shall vest in the Association. 
The Association through its members shall manage the Condominium 
with the Board exercising only such power and authority as it is 
specifically granted by the Act, this Declaration, and the 
Bylaws. All actions of the Board shall require the prior 
approval of, or subsequent ratification by, the Association. The 
number of directors on the Board shall be specified in the 
Articles of Incorporation or Bylaws of the Association but shall 
not be less than three (3), all of whom, at the expiration of 
Declarant’s management authority under Section 10.2, must be unit 
owners or their designated voting representatives as provided in 
Section 9.3.3. The Association and Board may delegate all or any 
portion of its administrative duties to a manager, managing
agent, or officer of the Association, in such manner as may be provided by the Bylaws. All Board positions shall be open for election at the first annual meeting after the period of Declarant's authority under Section 10.2 ends. The Board shall elect a president from among its members, who shall preside over meetings of the Board and the meetings of the Association and shall elect such other officers from its members as are provided for in the Bylaws or Articles of Incorporation of the Association.

10.4. Authority of the Association.

10.4.1. The Association (or the Declarant as provided in Section 10.2 hereof), for the benefit of the Condominium and the owners, shall enforce the provisions of this Declaration and of the Bylaws, shall have all powers and authority permitted to the Association under the Act and the Declaration, and shall acquire and shall pay for out of the common expense funds, all goods and services requisite for the proper functioning of the Condominium, including but not limited to the following:

a. Water, sewer, garbage collection, electrical, telephone, gas and any other necessary utility service, including utility easements, as required for the common elements, including the shared limited common elements. If one or more units or the common elements are not separately metered, the utility service may be paid as a common expense, and the Association may by reasonable formula allocate a portion of such expense to each unit involved as a portion of its common expense.

b. Property insurance, liability insurance damage, and fidelity insurance or bonds for Association officers and other employees, as the same are more fully required hereafter and in the Bylaws.

c. The services of persons or firms as required to properly manage the affairs of the Condominium to the extent deemed advisable by the Association as well as such other personnel as the Association shall determine are necessary or proper for the operation of the common elements.

d. Legal and accounting services necessary or proper in the operation of the Association affairs, administration of the common elements or the enforcement of this Declaration.

e. Except as otherwise provided in the Act or this Declaration, painting, maintenance, repair and all landscaping and gardening work for the common elements, and such furnishings and equipment for the common elements as the
Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the shared limited common elements; provided, however, that each unit owner is responsible, at its sole cost and expense, for the maintenance, repair and replacement of the owner's unit and the limited common elements identified in Section 7.1.1 allocated exclusively to that unit.

f. Any other materials, supplies, labor, services, maintenance, repairs, replacement, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for the operation of the common elements, including the shared limited common elements, or for the enforcement of this Declaration; provided that if for any reason such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular units or their owners, the cost thereof shall be specifically charged to the owners of such units.

g. Maintenance and repair of any unit or any limited common element or shared limited common element for which a unit owner has been assigned maintenance and repair obligations under this Declaration, their appurtenances and appliances, if such maintenance or repair is reasonably necessary in the discretion of the Association to protect the common elements or preserve the appearance and value of the Condominium, and the owner or owners of said unit or units have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Association to the owner or owners; provided that the Association shall levy a special charge against the unit or units or such owner or owners for the cost of such maintenance or repair.

h. Payment of any amount necessary to discharge any lien or encumbrance levied against the Property or any part thereof which is claimed to or may, in the opinion of the Association, constitute a lien against the Property or against the common elements, rather than merely against the interest therein of a particular owner. Where one or more owners are responsible for the existence of such a lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorney fees) incurred by the Association by reason of such lien or liens shall be specifically charged against the owners and the units responsible to the extent of their responsibility.

i. To the extent required by law, maintenance and repair of the sidewalks, including lights in or on such
sidewalks, on the east side of the Property from the curb cut at
the northern entry to Unit No. 1 to the curb cut at the southern
entry to Unit No. 1.

10.4.2. All expenditures by the Association shall
require approval by the Association either through adoption of a
budget in accordance with Section 12.1, which provides for such
expenditure, or through approval of a supplemental assessment in
accordance with Section 12.1.

10.4.3. Nothing herein contained shall be construed to
give the Association authority to conduct an active business for
profit on behalf of all of the unit owners or any of them.

10.4.4. The Association shall have the exclusive right
to contract for all goods and services, payment of which is to be
made from the maintenance fund. The Association may delegate
such powers subject to the terms hereof.

10.4.5. The Association may, from common funds of the
Association, acquire and hold in the name of the Association, for
the benefit of the unit owners, tangible and intangible personal
property and real property and interests therein, and may dispose
of the same by sale or otherwise; and the beneficial interests in
such property shall be owned by the unit owners in the same
proportion as their respective allocated interests in the common
elements, and such property shall thereafter be held, sold, leased,
rented, mortgaged or otherwise dealt with for the benefit of
the common fund of the Association as the Association may
direct.

10.4.6. The Association and its agents or employees,
may enter any unit or limited common element when necessary in
connection with any maintenance, landscaping or construction for
which the Association is responsible or in the event of
emergencies. Such entry shall be made with as little
inconvenience to the unit owners as practicable, and any damage
caused thereby shall be repaired by the Association out of the
common expense fund if the entry was due to an emergency or for
the purpose of maintenance or repairs, to common or limited
common elements where the repairs were undertaken by or under the
direction or authority of the Association (unless the emergency
or maintenance was caused or necessitated by the owner of the
unit entered, in which case the cost shall be specially charged
to the unit entered). If the repairs or maintenance were
necessitated by or for the unit entered or its owners, or
requested by its owners, the costs thereof shall be specially
charged to such unit.
10.4.7. Each unit owner, by the mere act of becoming an owner or contract purchaser of a unit, shall irrevocably appoint the Association as his attorney-in-fact, with full power of substitution, to take such action as reasonably necessary to promptly perform the duties of the Association and Board herein.

10.4.8. Subject to the provisions of Article 22, portions of the common elements which are not necessary for the habitability of a unit may be conveyed or subjected to a security interest by the Association if the owners of units to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to units not owned by Declarant (or an affiliate of Declarant) agree, but all of the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. Proceeds of the sale or financing are an asset of the Association. For the purposes of this Section 10.4.8, the owner of Unit Nos. 1 and 4 shall no longer be considered Declarant after Declarant's control of the Association terminates pursuant to Section 10.2. Any agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the county in which the Condominium is situated and is effective only upon recording. The Association, on behalf of the unit owners, may contract to convey common elements or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to this Section. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments. Any purported conveyance, encumbrance or voluntary transfer of common elements, unless made pursuant to the terms of this section, is void. A conveyance or encumbrance of common elements cannot act to deprive any unit of its rights of access and support. A conveyance or encumbrance of common elements pursuant to this section shall not affect the priority or validity of preexisting encumbrances.

10.4.9. Subject to the other provisions of this Declaration, the Association shall also have the following powers:

a. To adopt and amend rules and regulations and bylaws as may be permitted by this Declaration or the Act and which the Association may deem necessary or advisable to administer the Association and properly manage and administer the
Property and Condominium. The rules and regulations shall be adopted and may be amended in the same manner as the Bylaws and shall be deemed a part of the Bylaws;

b. To institute, defend or intervene in litigation or administrative proceedings, including, without limitation, condemnation proceedings involving all or a portion of the Condominium, in its own name, on behalf of itself or two or more unit owners on matters affecting the Condominium, and to incur expenses and attorneys fees as may be necessary and reasonable for the accomplishment thereof;

c. To adopt and amend budgets for revenues, expenditures, and reserves, and to impose and collect assessments for common expenses from unit owners;

d. To hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

e. To make contracts and incur liabilities;

f. To regulate the use, maintenance, repair, replacement, and modification of common elements;

g. To impose and collect charges for late payment of assessments and assess fines in accordance with procedures as may be provided for in the Bylaws;

h. To impose and collect reasonable charges for the preparation and recording of amendments to this Declaration, "resale certificates," and statements of unpaid assessments;

i. To provide for the indemnification of the Association's officers and Board of Directors and to maintain directors' and officers' liability insurance;

j. To assign the Association's right to future income, including the right to receive common expense assessments;

k. To exercise any other powers conferred by this Declaration, the Bylaws, or any other powers that may be exercised in this state by a nonprofit corporation; and

l. To exercise any other powers necessary and proper for the governance and operation of the Association.

10.5. Termination of Declarant's Contracts and Leases. If during the period of Declarant control, Declarant on behalf of
the Association enters into: (a) any management contract, employment contract, or lease of parking areas or facilities, (b) any other contract or lease between the Association and Declarant or an affiliate of Declarant, or (c) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, then any such contract may be terminated by the Association without penalty at any time after the Board elected by the unit owners Takes office, upon not less than ninety (90) days notice to the other party or within such lesser notice period provided for without penalty in the contract or lease.

ARTICLE 11
USE: REGULATION OF USES; ARCHITECTURAL UNIFORMITY

11.1. Permitted Uses. At the time of recording this Declaration of the Property is included within the boundaries of the Pike Place Historical District. The buildings, units and common elements shall be used only for the purposes permitted under any covenants or restrictions recorded as of the time of recording of this Declaration and permitted in this Declaration or for other reasonable uses normally incident to such purposes.

11.1.1. Unit No. 1 Uses. Unit No. 1 shall be used on an ownership, rental or lease basis, for public parking, food bank and other social services, warehousing, and any commercial and retail activities permitted under applicable zoning and other regulations of the City of Seattle or other reasonable uses normally incident to such purposes, and also for such additional uses or purposes as are determined appropriate by the Association and permitted under applicable zoning and other regulations of the City of Seattle. Unit No. 1 may be partitioned at the discretion of the owner and individual units created within the unit may be used, leased, rented and occupied by the owner and its successors, tenants, subtenants, grantees and assigns, but such individual units shall not be separately sold or transferred except as expressly provided for herein.

11.1.2. Unit No. 2 Uses. Unit No. 2 shall be used for residential purposes, on an ownership, rental or lease basis, including government subsidized and low-income housing or other reasonable uses normally incident to such purposes, and also for such additional uses or purposes as are determined appropriate by the Association and permitted under applicable zoning and other regulations of the City of Seattle. Unit No. 2 may be partitioned at the discretion of the owner and individual units created within the unit may be used, leased, rented and occupied by the owner and its successors, tenant, subtenants, grantees, and assigns, but such individual units shall not be separately sold or transferred except as expressly provided for herein. The
unit or a portion thereof may also be used for the purposes of operating the Association and for managing the Condominium, if the Association so elects.

11.1.3. **Unit No. 3 Uses.** Unit No. 3 shall be used on an ownership, rental or lease basis for health or social service related functions or other reasonable uses normally incident to such purposes, and also for such additional uses or purposes as are determined appropriate by the Association and permitted under applicable zoning and other regulations of the City of Seattle, provided that any function or use geared primarily toward alcoholic, mentally ill, drug involved or previously incarcerated populations shall require the vote or agreement of unit owners to which one hundred percent (100%) of the votes in the Association are allocated. Unit No. 3 may be partitioned at the discretion of the owner and individual units created within the unit may be used, leased, rented and occupied by the owner and its successors, tenants, subtenants, grantees and assigns, but such individual units shall not be separately sold or transferred, except as may be specifically provided herein.

11.1.4. **Unit No. 4 Uses.** Unit No. 4 shall be used on an ownership, rental or lease basis for commercial, office, restaurant, service or retail purposes and other reasonable uses normally incident to such purposes and also for such additional uses and purposes as are determined appropriate by the Association and permitted under applicable zoning and other regulations with the City of Seattle. Unit No. 4 may be partitioned at the discretion of the owner and individual units created within the unit may be used, leased, rented and occupied by the owner and its successors, tenants, subtenants, grantees and assignees, but such individual units shall not be separately sold or transferred except as may be specifically provided herein.

11.1.5. **Leasing Facilities.** Notwithstanding any provisions of Section 11.1, both Declarant and the unit owners and their agents, employees and contractors shall be permitted to maintain within each unit, such facilities as in the sole opinion of Declarant or owner may reasonably require, convenient, or incidental to the construction or rental of the unit or any portion thereof.

11.2. **Common Drive and Walks.** Common drives, walks, corridors and stairways designed for access shall be used exclusively for normal ingress and egress and no obstructions shall be placed thereon or therein except by express written consent of the Association.
11.3. **Interior Unit Maintenance.** Each unit owner shall, at his sole expense, have the right and the duty to keep the interior of his unit and its equipment, appliances and appurtenances in good order, condition and repair and shall do all redecorating and painting at any time necessary to maintain the good appearance and condition of his unit or the common elements and shall do all maintenance and repair to his unit necessary to avoid interference with and damage to the structural integrity of the building or interference with the use and enjoyment of the common elements or of the units or any of them. Each owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, fans, electrical fixtures, appliances, heating or other equipment, which may be in or connected with his unit, except to the extent any of these are shared limited common elements. This section shall not be construed to limit the powers or obligations of the Association hereunder.

11.3.1. **Limited common elements (including shared limited common elements),** as defined in Article 7, are for the sole and exclusive use of the units for which they are reserved or assigned; provided, that the use, condition and appearance thereof may be regulated under provisions of the Bylaws, Rules and Regulations or this Declaration, including the following:

a. Decisions with respect to the standards of appearance and condition of limited common elements shall be established by the Association. The Association shall determine the necessity for and manner of caring for, maintaining, repairing, repainting or redecorating limited common elements ("maintenance work" herein), provided that, subject to the provisions of Section 10.4.1.g., the owners of the units to which the shared limited common elements identified in the first sentence of Section 7.1.2 are assigned, shall make such determinations with respect to the maintenance work for such shared limited common elements.

b. Performance of such maintenance work shall be carried out by the Association on behalf of the owner or owners of the unit to which the limited common element in question is assigned or reserved; provided, that by written notice, the Association may permit such owner or owners to perform such maintenance work themselves.

c. Owners may not, however, modify or in any way alter their respective limited common elements without prior written approval of the Association.

d. Unit owners will be responsible for the cost of such maintenance work for the limited common elements reserved
for or assigned to their units whether performed by the Association or the unit owners:

e. With respect to a shared limited common element reserved for or assigned to more than one unit for the mutual and joint use thereof, the cost of such maintenance work for such limited common element shall be allocated between such units in accordance with the percentages set forth on Schedule G, attached hereto, for shared limited common element expenses;

f. With respect to any such maintenance work performed by the Association or the owner of Unit No. 2 as provided in subsection b. above, the cost thereof (or the appropriate share thereof if the limited common element in question has been assigned or reserved jointly to more than one unit) shall be levied as a special charge against the unit or units (and the owner or owners thereof) to which such limited common element is assigned or reserved.

11.4. Effect on Insurance. Nothing shall be done or kept in any unit or in a common or limited common element, which will increase the rate of insurance on the common or limited common elements or units without the prior written consent of the Association. No owner and/or purchaser shall permit anything to be done or kept in its unit or in the common or limited common elements which will result in the cancellation of insurance on any unit or any part of the common or limited common elements or which would be in violation of any laws.

11.5. Signs. No sign of any kind shall be displayed to the public view on or from any unit or common or limited common element which materially reduces its value, interferes with the permitted uses authorized herein for each unit or significantly obstructs the view from any unit. The Association may require the immediate removal of any such prohibited signs.

11.6. Offensive Activity. No noxious or offensive activity shall be carried on in any unit or common element or limited common element, which shall unreasonably interfere with any other unit owner’s use of its property in the Condominiums. Each unit owner shall be responsible for pest control. In the event that the unit owner fails to maintain adequate pest control, the Association shall have the authority under Section 10.3 to provide for such pest control and to assess the individual unit owner for the cost of such services.

11.7. Common Element Alterations. Nothing shall be altered or constructed in or removed from any common element except upon the written consent of the Association and after procedures required herein or by law, except that this provision shall not
apply to the exercise of Declarant's development rights reserved under Section 22.1.

11.6. **Rules and Regulations.** The Association is empowered to pass, amend and revoke detailed administrative Rules and Regulations, necessary or convenient from time to time to insure compliance with the general guidelines of this Article and the other provisions of this Declaration. Such Rules and Regulations shall be binding on all unit owners upon adoption by the Association.

11.9. **Rental Units.** With respect to the leasing, renting, or creation of any kind of tenancy of a unit by its owner, all leasing or rental agreements shall be in writing and be subject to the Declaration, Bylaws and Rules and Regulations (with a default by the tenant in complying with the Declaration, Bylaws and Rules and Regulations constituting a default under the lease or rental agreement). If a unit or portion thereof is rented or leased by its owner, the Association may collect, and the tenant or lessee shall pay over to the Association, so much of the rent as is required to pay any amounts due the Association under Article 12 (plus interest and costs, if the same are in default over thirty (30) days).

**ARTICLE 12**

**COMMON EXPENSES AND ASSESSMENTS**

12.1. **Budget.**

12.1.1. The procedures for adoption of a budget for common expenses, except for expenses associated with the administration and maintenance of shared limited common elements identified in the first sentence of Section 7.1.2, shall be as follows:

(a) The Declarant or initial Board may at any suitable time establish the first budget which shall conform to the requirements set forth below. Thereafter, within thirty (30) days prior to the beginning of each calendar year, or such other fiscal year as the Association may adopt, a committee of the Association comprised of all unit owners ("Budget Committee"), or their designated voting representatives as provided in Section 9.3.3, shall, by agreement of unit owners to which at least eighty percent (80%) of the votes in the Association are allocated, adopt a proposed budget which: (i) shall estimate the charges (including common expenses, and any special charges for particular units) to be paid during such year both for operating expenses and capital improvement expenses, whether such capital improvements are to be funded through reserves established pursuant to subparagraph (ii) or through special assessments;
(ii) shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance, repair, restoration, replacement and acquisition of common elements; (iii) shall take into account any expected income and any surplus available from the prior year's operating fund; and (iv) shall estimate expenditures from any reserves created pursuant to subparagraph (ii).

(b) Without limiting the generality of the foregoing but in furtherance thereof, the Association shall create and maintain from regular monthly assessments a reserve fund for replacement of those common elements which can reasonably be expected to require replacement prior to the end of the useful life of the buildings. The first budget shall identify those common elements requiring replacement and the amounts required to fund the necessary reserves for such replacement. The proposed budget shall include contributions to said reserve fund so that there are sufficient funds therein to replace each common element covered by the fund at the end of the estimated useful life of each such common element.

(c) Within thirty (30) days after adoption of the proposed budget by the Budget Committee, the Board shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the owners of units to which eighty percent (80%) of the votes in the Association are allocated reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent proposed budget.

(d) Subject to the provisions of Section 10.4.2, if the sum estimated and budgeted at any time proves inadequate for any reason (including nonpayment for any reason of any owner's assessment), the Association may at any time levy a further assessment which shall be assessed to the owners, provided that any such supplemental assessment which increases an owner's assessment by more than twenty-five percent (25%) from the amount estimated in the ratified annual budget, shall require ratification in accordance with the procedures set forth in subsection 12.1.1 (c) above.

12.1.2. The procedures for adoption of a budget for administration and maintenance of the shared limited common elements identified in the first sentence of Section 7.1.2 shall be as follows:
(a) The Declarant or initial Board may at any suitable time establish the first budget which shall conform to the requirements set forth below. Thereafter, within thirty (30) days prior to the beginning of each calendar year, or such other fiscal year as the Association may adopt, a committee of the Association comprised of the owners of Unit No. 2, 3 and 4 ("Limited Budget Committee"), or their designated voting representatives as provided in Section 9.3.3, shall, by agreement of owners to which at least ninety-three percent (93%) of the undivided interests in such shared limited common elements are allocated, adopt a proposed budget which: (i) shall estimate the charges for administration and maintenance of the shared limited common elements to be paid during any such year, both for operating expenses and capital improvements expenses, whether such capital improvements are to be funded through reserves established through subparagraph (ii) or through special assessments; (ii) shall further make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance, repair and replacement of such shared limited common elements; (iii) shall take into account any expected income and any surplus available from the prior year's shared limited common elements operating fund; and (iv) shall estimate expenditures from any reserves created pursuant to subparagraph (ii).

(b) Without limiting the generality of the foregoing, the Association shall create and maintain from the special assessments to the unit owners of the shared limited common elements, a reserve fund for replacement of those shared limited common elements, which can reasonably be expected to require replacement prior to the end of the useful life of the units. The first budget shall identify those shared limited common elements requiring replacement and the amounts required to fund the necessary reserves for such replacement. The proposed budget shall include contributions to said reserve fund so that there are sufficient funds therein to replace each shared limited common element covered by the fund at the end of the estimated useful life of each such shared limited common element.

(c) Within thirty (30) days after adoption of the proposed budget by the Limited Budget Committee, the Board shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the owners of units to which eighty percent (80%) of the votes in the Association are allocated reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. Notwithstanding the foregoing, any budget which
reflects an increase of an amount equal to one hundred percent (100%) of the last previously adopted budget or any greater amount, shall require ratification by the unit owners to which ninety-six and six-tenths percent (96.6%) of such shared limited common elements are allocated, provided that such ratification must include the consent of the owners of Unit Nos. 2 and 4. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent proposed budget.

(d) If the sum estimated and budgeted at any time proves inadequate for any reason (including nonpayment for any reason of an owner's assessment), the Association may, at any time, levy a further assessment, which shall be assessed to the owners of the units allocated the shared limited common elements, provided that any such supplemental assessments which increases a unit owner's assessment by more than twenty-five percent (25%) from the amount estimated in the ratified annual budget, shall require ratification in accordance with the procedures set forth in subsection 12.1.2(c) above.

12.1.3. There shall be no requirement for adoption of a budget with respect to the shared limited common elements identified in the second sentence of Section 7.1.2. Any expenses which arise from time to time with respect to such shared limited common elements shall be paid by the owners to which such shared limited common elements are allocated in accordance with the allocated interests set forth on Schedule G hereto and the Association shall have the right to impose a special assessment on such owners for their respective shares of these expenses.

12.2. Payment by Owners. Each owner shall be obligated to pay its share of common expenses and special charges made pursuant to this Article to the treasurer for the Association in such reasonable manner as the Association shall designate. Assessments shall be made quarterly, or at such periodic intervals as the Association may define, but at least annually, and shall be based on a budget adopted annually by the Association as provided in section 12.1. Assessments for each unit owner shall begin on the date said owner closes the transaction in which he acquires right, title or interest in the unit. Assessments for the initial quarter shall be prorated if closing occurs on other than the first day of the quarter. Any unpaid assessment or charge shall bear interest at the rate of twelve percent (12%) per annum from due date until paid. In addition, the Association shall have the power to assess against a unit owner a late fee of twenty dollars ($20.00) for each installment which is unpaid for a period of ten (10) days after it is due. By amendment to the Bylaws or the adoption of the
rules and regulations, the Association may adjust the late fee charge.

12.3. **Purpose.** All funds collected hereunder shall be expended for the purposes designated in this Declaration.

12.4. **Separate Accounts.** The Association shall maintain separate accounts for current operations, reserves, and a special reserve account for payment of insurance. Each month the Board shall first deposit to the insurance reserve account that portion of the common expense assessment necessary to pay at least one-twelfth of the total cost of all of the insurance policies required under Section 13.1 of this Declaration. Such insurance reserve account shall be held separately and inviolate until utilized for payment of insurance premiums. Thereafter the remainder of the assessments and charges collected may be utilized for payment of other expenses or deposited or credited to other accounts. All such assessments and charges shall be collected and held in trust for, and administered and expended for the benefit of the unit owners.

12.5. **Share of Assessments.** Except for certain special charges which may be levied against particular units under the provisions of the Act and this Declaration or cost or assessments which may be allocated as set forth below, all assessments for common expenses shall be assessed to units and the owners thereof on the basis of the allocated interests set forth in Schedule F hereof and any amendments thereto.

12.5.1. The costs of insurance maintained by the Association must be assessed in proportion to risk.

12.5.2. The costs of utilities must be assessed in proportion to usage.

12.5.3. The assessment for expenses related to the shared limited common elements shall be assessed to the units and the owners thereof on the basis of the allocated interests set forth in Schedule G and any amendments thereto.

12.6. **Omission of Assessment.** The omission by the Board or the Association before the expiration of any year to fix the estimate for assessments and charges hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the owner from the obligation to pay the assessments and charges, or any installment thereof for that or any subsequent year; but the assessment and charge fixed for the preceding year shall continue until a new assessment or charge is fixed.
12.7. **Records.** The Association shall cause to be kept complete and accurate records, in the form established by the Association's accountant, of the receipts and expenditures of the Association, specifying and itemizing the maintenance and repair expenses and any other expense incurred. The financial records shall be sufficiently detailed to allow the Association to supply the information required by the Act to a unit owner upon the resale of their unit so as to enable the unit to furnish its purchaser with such information as required by the Act. Such information shall include, but not be limited to, the following:

a. A statement setting forth the amount of the regular common expense assessment and any unpaid common expense or special assessment currently due and payable from a unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;

b. A statement which shall be current to within forty-five (45) days, of any common expenses or special assessments against any unit in the Condominium that are past due over thirty (30) days;

c. A statement which shall be current to which forty-five (45) days, of any obligation of the Association which is past due over thirty (30) days;

d. A statement of other fees payable by unit owners;

e. A statement of any anticipated repair or replacement cost in excess of five percent (5%) of the annual budget of the Association that has been approved by the Board;

f. A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the Association for any specified projects;

g. The annual financial statement of the Association, including the audit report if it has been prepared, for the year immediately preceding the current year;

h. A balance sheet and revenue and expense statement of the Association prepared on an accrual basis, which shall be current to within one hundred twenty (120) days;

i. The current operating budget of the Association;
j. A statement of any unsatisfied judgments against the Association and the status of any pending suits in which the Association is a defendant;

k. A statement describing any insurance coverage provided for the benefit of unit owners;

l. A statement of the number of units, if any, still owned by the Declarant, whether the Declarant has transferred control of the Association to the unit owners, and the date of such transfer;

m. A statement of the remaining term of any leasehold estate affecting the Condominium and the provisions governing any extension or renewal thereof;

n. Any other information reasonably required by mortgagees of prospective purchasers of units;

o. A statement disclosing the effect on the proposed conveyance of any right of first refusal or other restraint on the free alienability of the unit;

p. A statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of this Declaration; and

q. A statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the Condominium.

The Association, with ten (10) days after a request by a unit owner, shall furnish a certificate containing the information necessary to enable the unit owner to comply with any statutory requirements related to a resale of his unit.

12.8. Lien Indebtedness. The Association shall have a lien on a unit for any unpaid assessments, as defined herein, levied against that unit from the time the assessment is due. Such a lien for unpaid assessments shall be prior to all other liens and encumbrances on a unit (subject to any applicable statutory alterations) except: (a) liens and encumbrances recorded before the recording of this Declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. If the Association forecloses its lien judicially pursuant to chapter 61.12 RCW, the lien of the Association shall also be
prior to the mortgages described in subsection (b) of this
Section to the extent of assessments for common expenses,
excluding any amounts for capital improvements, based on any
periodic budget adopted by the Association pursuant to
Section 12.1 which would have become due during the six (6)
months immediately preceding the date of a sheriff’s sale in an
action for judicial foreclosure by either the Association or a
mortgagee, the date of a trustee’s sale in a nonjudicial
foreclosure by a mortgagee, or the date of recording of the
declaration of forfeiture in a proceeding by the vendor under a
real estate contract. The priority of the Association’s lien
against units encumbered by a mortgage held by an eligible
mortgagee or by a mortgagee which given the Association a written
request for a notice of delinquent assessments shall be reduced
by up to three (3) months if and to the extent that the lien
priority under the preceding sentence includes delinquencies
which relate to a period after such holder becomes an eligible
mortgagee or has given such notice and before the Association
gives the holder a written notice of the delinquency. Recording
of this Declaration constitutes record notice and perfection of
the lien for assessments. While no further recording of any
claim of lien for assessment shall be required to perfect the
Association’s lien, the Association may record a notice of claim
of lien for assessments in the county in which the Condominium
is located. Such recording shall not constitute the written notice
of delinquency to a mortgagee referred to in this Section 12.8.
In addition, to constituting a lien on a unit, each assessment
shall be the joint and several obligation of the owner or owners
of the unit to which the same are assessed as of the time the
assessment is due. Suit to recover a personal judgment for any
delinquent assessment shall be maintainable in any court of
competent jurisdiction without foreclosing or waiving the lien
securing such sums. The Association may from time to time
establish reasonable late charges. Delinquent assessments shall
bear interest at the rate of twelve percent (12%) per annum from
the date of delinquency until paid. Except as provided above or
by statute, the holder of a mortgage or other purchaser of a unit
who obtains the right of possession of the unit through
foreclosure shall not be liable for assessments or installments
thereof that became due prior to such right of possession. Such
unpaid assessments shall be deemed to be common expenses
collectible from all the unit owners, including such mortgagee or
other purchaser of the unit. Foreclosure of a mortgage does not
relieve the prior owner of personal liability for assessments
accruing against the unit prior to the date of such sale. Unless
otherwise provided by law, a lien for unpaid assessments and the
personal liability for assessments is extinguished unless
proceedings to enforce the lien or collect the debt are
instituted within three (3) years after the amount of the
assessments sought to be recovered becomes due.
12.9. **Statement of Assessment.** The Association, upon written request, shall furnish to a unit owner or mortgagee, a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid assessments against the unit. The statement shall be furnished within fifteen (15) days after receipt of the request and is binding on the Association, the Board and every unit owner, unless and to the extent known by the recipient to be false.

12.10. **Rights of Encumbrancer.** Unless otherwise prohibited by law, any encumbrancer holding a lien on a unit may pay any unpaid assessments or charges with respect to such unit, and, upon such payment, such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

12.11. **Working Capital Fund.** A unit owner may be required, by the Association or by the managing agent, from time to time, to make and maintain a deposit of not less than one (1) quarterly estimated assessment, which may be collected as are other assessments and charges. Such deposits shall be held in a separate fund, be credited to such owner, and be for the purpose of establishing a working capital fund for the initial project operations and a reserve for delinquent assessments. Resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his monthly or other assessments and charges, or as a credit against any regular or special assessments to become due from such owner. Notwithstanding the foregoing it is understood that Declarant shall have the right to collect such deposit, at the time of closing, from the first purchaser of each unit. Such deposit shall be collected from Declarant on any unsold units within sixty (60) days from the closing date of the first conveyance of a unit. Declarant shall be entitled to reimbursement for any such payments from the funds collected at closing when the unsold units are sold.

12.12. **Foreclosure of Assessment Lien; Appointment of Receiver; Attorney’s Fees and Costs.** The Association or its authorized representative may initiate action to foreclose the lien of any assessment either judicially, in the manner set forth in Chapter 61.12 RCW or nonjudicially, in the manner set forth in Chapter 61.24 RCW for nonjudicial foreclosures of deeds of trust. The Association may initiate an action to foreclose the lien of any assessment by a vote or agreement of owners of units to which at least fifty-one percent (51%) votes of the Association are allocated, excluding the votes allocated to the unit the owner of which is in default. Declarant, its successors and assigns including all unit owners, for the purposes of securing the obligations of the unit owners to the Association for the payment
of assessments, do irrevocably grant, convey, bargain, sell, transfer and assign to Transamerica Title Company, whose address is 1200 Sixth Avenue, Seattle, Washington 98101 ("Trustee"), in trust, with power of sale, the Condominium composed of the Property described herein. Said power of sale shall be operative and may be exercised in accordance with applicable provisions of Washington law, in the event there is default by a unit owner in its obligation to pay assessments to the Association as provided herein. The subject Property is not used principally for agriculture or farming purposes. The Association or its authorized representative shall have the power to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental use to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ninety (90) days after the delinquency commenced. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the unit. The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment, and including its costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

12.13 Remedies Cumulative. The remedies provided in this Declaration are cumulative and the Board may pursue them concurrently, as well as any other remedies that may be available under law, although not expressed herein.

12.14 Declarant Liability. Until the Association makes a common expense assessment, the Declarant shall pay all common expenses. Thereafter, all common expenses, except as may be specially assessed against a particular unit, must be assessed against all the units in accordance with the allocated interests set forth in this Declaration.
ARTICLE 13
INSURANCE

13.1. Insurance Coverage. The Association shall obtain and maintain at all times as a common expense, with costs assessed in proportion to risk to the extent feasible, the necessary policies and bonds required to provide:

13.1.1. To the extent reasonably available, property insurance on the Condominium, which may, but need not, include equipment, improvements, and betterments in a unit installed by the Declarant or the unit owners, insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall be in an amount as near as practicable to the full insurable replacement value (without deduction for depreciation) of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. The Association shall be named as the insured, as trustee for the benefit of owners and mortgagees as their interests may appear.

13.1.2. To the extent reasonably available, liability insurance, including medical payments insurance, insuring the Board, the Association, the owners (and owners' officers, directors, employees and volunteers acting on behalf of any owner), Declarant, against any liability to the public or to the owners, their invitees or tenants, arising out of or in connection with the use, ownership, or maintenance of the common and limited common elements and management of the Condominium covering all occurrences commonly insured against for death, bodily injury and property damage the liability under which insurance shall be in an amount determined by the Board and approved by the Association after consultation with insurance consultants, but not less that $1,000,000.00 covering claims for personal injury, death and/or property damage arising out of a single occurrence. Such insurance shall contain a "Severability of Interest" endorsement or equivalent coverage precluding the insurer from denying the claim of a unit owner because of the negligent acts of the Association or another unit owner.

13.1.3. Workmen's compensation insurance to the extent required by applicable laws.

13.1.4. Such other insurance as the Association deems advisable to protect the Association and the unit owners which may include, without limitation: directors and officers legal liability insurance with such policy limits as the Association deems advisable; liability insurance coverage for any managing agent or contractor of the Association; fidelity bonds naming the
members of the Board, any manager and its employees, such other persons as may be designated by the Association as principals, and the Association as obligee, in such amounts as the Association may determine to be appropriate; and insurance against loss of personal property of the Association by all risk of direct physical loss with deductible provisions as the Association deems advisable.

13.1.5. An insurer that has issued an insurance policy under this Section 13.1 shall issue certificates or memoranda of insurance to the Association and upon, written request, to any unit owner or holder of a mortgage. The insurer issuing the policy may not modify the amount or extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions Chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy without complying with this section.

13.2. Insurance Rating. All insurance, to the extent available, shall be obtained from a carrier or carriers rated at A VI or better by the most current issue of Best's Key Rating Guide and shall be licensed to do business in the State of Washington. The Association, unless it otherwise determines, shall review the insurance coverage at least once every year, with respect to the adequacy of policy limits and coverage.

13.3. Notices. If the insurance described in subsections 13.1.1 and 13.1.2 above is not reasonably available, or is modified, canceled, or not renewed, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by first class United States mail to all unit owners, to each eligible mortgagee, and to each mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

13.4. Owner's Additional Insurance.

13.4.1. Each owner may obtain additional property insurance respecting his unit, at his own expense. Each owner shall be responsible for the contents of its unit, the additions and improvements to the unit and the decorating and furnishing thereof and shall, at its option and expense, insure such property against loss or damage. However, no owner shall be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount which the Association, or any trustee for the Association, on behalf of all of the owners, will realize under any insurance policy which the Association may have in force on the Condominium at any
particular time. Each owner is required to and agrees to notify the Association of all improvements by the owner to his unit, the value of which is in excess of Fifty Thousand Dollars ($50,000).

13.4.2. Each unit owner, and where required by the Association each lessee of a unit owner, shall obtain liability insurance insuring against claims, demands or actions arising out of or in connection with each owner's unit and limited common elements allocated to such unit and the condition thereof, each unit owner's (or lessee's) operations in and maintenance and use of its units and such limited common elements and each unit owner's (or lessee's) liability established pursuant to this Declaration or the Bylaws, the limits of such policy or policies to be not less than One Million Dollars ($1,000,000) covering all claims for personal injury, death and/or property damage arising out of a single occurrence, or with such other limits as the Association may reasonably determine.

13.4.3. All such policies shall be procured by unit owners (or lessees) from responsible insurance companies satisfactory to the Association and shall name the Board, the Association, the other unit owners and Declarant as additional insureds. If any unit owner (or lessee) maintains a self-insurance program, the Association may, in its discretion, accept such program as satisfying all or a portion of the liability insurance requirements set forth herein. Each unit owner is hereby required to file a copy of any individual policy or policies with the Association within thirty (30) days after purchase of such insurance, and the Association shall promptly review its effect with the Association's insurance broker, agent or carrier.

13.5. Insurance Proceeds. Any loss covered by the property insurance under subsection 13.1.1 above, must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a mortgage. The insurance trustee of the Association shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of Article 14, the proceeds must be disbursed for the repair or restoration of the damaged property and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored or the Condominium is terminated.

13.6.1. Insurance policies maintained by the Association pursuant to subsections 13.1.1 and 13.1.2 shall provide:

a. Each unit owner is an insured person under the policy, with respect to liability arising out of the owner's interest in the common elements or membership in the Association;

b. If, at any time, there is any other insurance in the name of a unit owner covering the same risk covered by the Association's property insurance policy or a risk arising out of a unit owner's interest in the common elements or membership in the Association covered by the Association's liability insurance, then the Association's policy shall provide primary insurance;

c. The insurer waives its right of subrogation under the policy as to any and all claims against the Association, the owner of any unit or occupants thereof and/or their respective agents, employees or tenants; and

d. With respect to the Association's property insurance and with respect to the Association's liability insurance covering liability arising out of a unit owner's interest in the common elements or membership in the Association, no act or omission by any unit owner, unless acting within the scope of the owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

13.6.2. The Association shall exercise its reasonable best efforts to have all the insurance policies identified in Section 13.1 contain, where applicable, the provisions set forth in Section 13.6.1 and contain the following provisions or meet the following criteria:

a. The liability of the insurer with respect to any property insurance obtained pursuant to Section 13.1.1 shall not be affected by, and the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of any other insurance obtained by or for any unit owner or any mortgagee;

b. Provide that despite any provision giving the insurer the right to restore damage in lieu of a cash settlement, such option shall not be exercisable: (i) without the prior written approval of the Association; (ii) when in
conflict with the provisions of any insurance trust agreement to which the Association is a party; or (iii) when in conflict with any requirement of the law; and

c. Contain, if available and appropriate, an agreed amount and inflation guard endorsement or other comparable protections.

13.7. Deductible. In the event of any loss covered by property insurance maintained by the Association pursuant to Section 13.1.1, the deductible on any such policy shall be a common expense to the extent the loss is to the common elements, shall be an expense of a shared limited common element to the extent the loss is to a shared limited common element and shall be a unit owner’s expense to the extent the loss is to an individual unit.

13.8. Indemnification. Each unit owner shall indemnify and hold harmless the other unit owners and the Association from and against any and all claims, suits, actions, or liabilities for injury to or death of any person, or for loss or damages to property, which arises out of that unit owner’s use of its unit, or from the conduct of that unit owner’s business, or from any activity, work, or thing done, permitted, or suffered by that unit owner in or about its unit except for claims, suits, actions or liabilities: (1) to the extent they are occasioned by the sole negligence or by the willful misconduct of any other unit owner or the Association; (2) to the extent they are occasioned by another unit owner’s or the Association’s exercise of easement rights in the indemnifying unit owner’s unit granted pursuant to Article 19 or pursuant to other recorded conveyances; or (3) which are the result of vandalism or theft.. Notwithstanding the foregoing, with respect to matters within the scope of RCW 4.24.115, if the injury or death of any person or the loss or damage to property is caused by or results from the concurrent negligence of the indemnifying unit owner and any other unit owner or the Association, the above indemnification responsibility shall only exist to the extent of the indemnifying unit owner’s concurrent negligence.

13.9. Mutual Waiver of Claims and Subrogation. Subject to the provisions of Section 19.1.2, the unit owners and the Association release and relieve the other, and waive their entire right of recovery for loss of or damage to property that constitutes, or is situated in, on or about the units or the common elements of the Condominium, and which arises out of the occurrence of any peril which could have been insured against in a standard "All Risk" (including earthquake and flood) physical damage insurance (property) policy with full replacement cost coverage. The foregoing waiver shall apply whether or not such
loss is due to the negligent acts or omissions of any unit owner or the Association, or their respective employees, agents, contractors, lessees or invitees. Each of the unit owners and the Association shall have their respective property insurers endorse the applicable insurance policies to reflect the foregoing waiver of claims, provided, however, that such endorsement shall not be required if the applicable policy of insurance permits the named insured to waive subrogation on a blanket basis, in which case such blanket waiver shall be acceptable.

ARTICLE 14
DAMAGE OR DESTRUCTION; RECONSTRUCTION

14.1. Initial Association Determinations. In the event of damage or destruction to any part of the Property, the Association shall promptly, and in all events within sixty (60) days after the date of damage or destruction, make the following determinations with respect thereto employing such advice as the Association deems advisable:

14.1.1. The nature and extent of the damage or destruction, together with an inventory of the improvements and property directly affected thereby.

14.1.2. A reasonably reliable estimate of the cost to repair and restore the damage and destruction, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

14.1.3. The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

14.1.4. The amount, if any, that the estimated cost of repair and restoration exceeds the anticipated insurance proceeds therefor and the amount of assessment to each unit if such excess was paid as a common expense and specially assessed against all the units in proportion to their allocated interests in the common elements.

14.2. Notice of Damage or Destruction. The Board shall promptly, and in all events within sixty (60) days after the date of damage or destruction, provide each unit owner, and each Eligible Mortgagee with a written notice summarizing the initial Association determinations made under Section 14.1. If the Association fails to do so within said sixty (60) days, then any unit owner may make the determinations required under this Section 14.2.
14.3. Definitions; Restoration; Emergency Work.

14.3.1. As used in this Article 14, the words "repair," "reconstruct," "rebuild," or "restore" shall mean restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each unit and the common and limited common elements having substantially the same vertical and horizontal boundaries as before. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made.

14.3.2. As used in this Article 14, the term "emergency work" shall mean that work which the Association deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonably protect the unit owners from liability from the condition of the site.

14.4. Restoration.

14.4.1. If any portion of the Condominium for which insurance is required to be carried by the Association pursuant to Article 13 is damaged or destroyed, such portion shall be repaired or replaced promptly by the Association unless: (a) the Condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (c) 80% of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

14.4.2. The Association shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others and to take such other action as is reasonably necessary to effectuate the repairs and restoration. The Association may further authorize the insurance carrier to proceed with repair and restoration upon satisfaction of the Association that such work will be appropriately carried out.

14.4.3. The Association may enter into a written agreement in recordable form with any reputable financial institution or trust or escrow company, that such firm or institution shall act as an insurance trustee to adjust and settle any claim for loss in excess of Fifty Thousand Dollars ($50,000), or for such firm or institution to collect the insurance proceeds and carry out the provisions of this Article.
14.5. **Limited Damage: Assessment Under $50,000.** If the amount of the estimated assessment determined under subsection 14.1.4 does not exceed Fifty Thousand Dollars ($50,000) for any one unit, then the provisions of this Section 14.5 shall apply:

14.5.1. The Board may, but shall not be required to, call a special owners' meeting to consider such repair and restoration work, which notice shall be given simultaneously with the notice required to be given by the Board under Section 14.2 above. If the Board fails to call such meeting, then any unit owner, within fifteen (15) days of receipt of the notice given by the Board under Section 14.2 above, or the expiration of such sixty (60) day period, whichever is less, may call such a special owners' meeting to consider such repair and restoration work. Any meeting called for under this Section 14.5.1 shall be convened not less than ten (10) nor more than twenty (20) days after the date of such notice of meeting. Such repair or restoration work will proceed, unless at least eighty percent (80%) of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild or unless such repair or restoration is precluded by one of the other conditions set forth in Section 14.4.1.

14.5.2. Except for emergency work, no repair and restoration work shall be commenced until after the expiration of the notice period set forth in Section 14.5.1 and until after the conclusion of said special meeting if such meeting is called within the requisite period.

14.6. **Major Damage: Assessment Over $50,000.** If the amount of the estimated assessment determined under subsection 14.1.4 exceeds Fifty Thousand Dollars ($50,000) for any one unit, then the provisions of this Section 14.6 shall apply:

14.6.1. The Board shall promptly, and in all events within sixty (60) days after the date of damage or destruction, provide written notice of a special owners' meeting to consider repair and restoration of such damage or destruction, which notice shall be delivered with the notice required to be provided under Section 14.2 above. If the Board fails to do so within said sixty (60) day period, then any unit owner may within fifteen (15) days of the expiration of said sixty (60) day period, or receipt of the notice required to be provided by the Board under Section 14.2 above, whichever is less, call a special meeting of the owners to consider repair and restoration of such damage or destruction by providing written notice of such meeting to all owners. Any meeting held pursuant to this Section 14.6 shall be called by written notice and shall be convened not less than ten (10) nor more than twenty (20) days from the date of such notice of meeting.
14.6.2. Except for emergency work, no repair and restoration work shall be commenced until the conclusion of the special owners' meeting required under subsection 14.6.1.

14.6.3. A vote of eighty percent (80%) of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, will be required to void the provision of Section 14.4 and to determine not to repair and restore the damage and destruction.

14.7. Decision Not to Restore: Disposition. If all of the damaged or destroyed portions of the Condominium are not repaired or replaced: (a) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium; (b) the insurance proceeds attributable to units and limited common elements, which are not rebuilt, shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their respective interests may appear; and (c) the remainder of the proceeds shall be distributed to all the unit owners or lien holders, as their interests may appear, in proportion to the common element interests of all the units. If the unit owners vote not to rebuild any units, that unit's allocated interests shall be automatically reallocated upon the vote as if the unit had been condemned under Article 15 of this Declaration, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, Section 21.5 of this Declaration governs the distribution of insurance proceeds if the Condominium is terminated.

14.8. Miscellaneous. The provisions of this Article 14 shall constitute the procedure by which a determination is made by the unit owners to repair, restore, reconstruct or rebuild as provided in the Act. By the act of accepting an interest in the Property, each unit owner and party claiming by, through or under such owner hereby consents and agrees to the provisions hereof. In the event that any provision of this Article 14 shall be determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the validity of any other provision of this Declaration.

ARTICLE 15
CONDEMNATION

15.1. Consequences of Condemnation. If at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the Property
shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in advance thereof, the provisions of this Article 15 shall apply. The Association shall provide each owner and each Eligible Mortgagee with a written notice of the commencement of any such condemnation proceeding and of any proposed sale or disposition in lieu of such proceeding, in advance of any such proceeding.

15.2. Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

15.3. Complete Taking. In the event that the entire Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership pursuant thereto shall terminate. The Condemnation Award must compensate the unit owner for the owner's unit and its appurtenant interest in the common elements and the award shall be apportioned among the owners on this basis. On the basis of the foregoing principal, the Association shall as soon as practicable determine the share of the Condemnation Award to which each owner is entitled, if not set forth in the condemnation decree. After first paying out of the respective share of each unit owner (to the extent sufficient for the purpose) all mortgages and liens on the interest of such unit owner, the balance remaining in each share shall then be distributed to each unit owner respectively.

15.4. Partial Taking. In the event that less than the entire Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership hereunder shall not automatically terminate. Each owner shall be entitled to a share of the Condemnation Award to be determined in the following manner:

15.4.1. If a unit is acquired by condemnation, or if part of a unit is acquired by condemnation leaving the unit owner with a remnant of a unit which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the unit owner for the owner's unit and its appurtenant interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, the condemned unit's allocated interest shall be automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the Association shall promptly prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Any remnant of a unit remaining after part of that unit is taken, shall thereafter be a common element.
15.4.2. Except as provided in section 15.4.1 above, if part of a unit is acquired by condemnation, the award must compensate the unit owner for the reduction in value of the unit and its appurtenant interest in the common elements whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides: (a) that unit's allocated interests set forth on Schedules C, E and F shall be reduced in proportion to the reduction in the value of the unit and the allocated interests set forth on Schedules D and G shall be reduced in proportion to the reduction in the square footage of the unit; and (b) the portion of the allocated interests divested from the partially acquired unit shall be automatically reallocated to that unit and the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

15.4.3. If part of the common elements are taken by condemnation, the portion of the award attributable to the common elements taken shall be paid to the owners based on their respective interests, at the time of acquisition, in the common elements and shared limited common elements as set forth on Schedules C and D, respectively, and based on their interest in the remainder of the limited common elements as set forth in Article 8.

15.4.4. The court judgment related to any condemnation shall be recorded in every county in which any portion of the Condominium is located.

15.4.5. In the event the Association should not act, based on a right reserved to the Association in this Declaration, on the owners' behalf in a condemnation process, the affected owners may individually or jointly act on their own behalf.

15.4.6. The provisions of this Article 15 shall be binding upon and inure to the benefit of all owners and mortgagees of (and other persons having or claiming to have an interest in) all units which are, as well as all units which are not, so taken or condemned. All such owners, mortgagees, and other persons agree to execute and deliver any documents, agreements or instruments (including, but not limited to, appropriate amendments to the Declaration, Survey Map and Plans) reasonably necessary to effectuate the provisions of this Article 15.

15.5. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 14 above, provided that the Board
may retain and apply such portion of each owner's share of the
condemnation award as is necessary to discharge the owner's
liability for any special assessment arising from the operation
of Article 14.

ARTICLE 16
COMPLIANCE WITH DECLARATION

16.1. Enforcement. Each owner shall comply strictly with
the provisions of this Declaration and with the Bylaws and
administrative Rules and Regulations passed thereunder, as the
same may be lawfully amended from time to time. Failure to
comply shall be grounds for an action to recover sums due for
damages or injunctive relief, or both, maintainable by the
Association, acting through its officers on behalf of the owners
or, in a proper case, by an aggrieved unit owner. Failure to
comply shall also entitle the Association to collect reasonable
attorneys fees incurred by reason of such failure, irrespective
of whether any suit or other judicial proceeding is commenced,
and if suit is brought because of such failure, all costs of suit
may be recovered in addition to reasonable attorneys fees. No
right or remedy provided or reserved by this Declaration is
exclusive of any other right or remedy, and in addition to the
foregoing, the Association shall have such rights and remedies as
may be provided in this Declaration, the Bylaws, the Act or
otherwise existing at law, in equity or by statute.

16.2. No Waiver of Strict Performance. The failure of the
Association in any one or more instances to insist upon the
strict performance of any of the terms, covenants, conditions or
restrictions of this Declaration, or of the Bylaws, or to
exercise any right or option contained in such documents, or to
serve any notice or to institute any action, shall not be
construed as a waiver or a relinquishment for the future of such
term, covenant, condition or restriction, but such term,
covenant, condition or restriction shall remain in full force and
effect. The receipt by the Association of any assessment from an
owner, with knowledge of any such breach shall not be deemed a
waiver of such breach, and no waiver by the Association of any
provision hereof shall be deemed to have been made unless
expressed in writing and signed by the Association. This Section
also extends to the Declarant or Declarant's managing agent,
exercising the powers of the Association during the initial
period of operation of the Association and the Condominium
development.
ARTICLE 17
LIMITATION OF LIABILITY

17.1. Liability for Utility Failure, Etc. Except to the extent covered by insurance obtained by the Association pursuant to Article 13, neither the Association nor the Board nor the Declarant nor Declarant's managing agent exercising the powers of the Association shall be liable for: any failure of any utility or other service to be obtained and paid for by the Association; or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may lead to or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, equipment or from any other place; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

17.2. Performance of Duties. In the performance of their duties, the officers and members of the Board are required to exercise: (a) if appointed by the Declarant, the care required of fiduciaries of the unit owners; or (b) if elected by the unit owners, ordinary and reasonable care. If such officers and directors have exercised the above referenced duties of care, then no such person shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, or error of such person; provided, that this section shall not apply where the consequences of such act, omission or error are covered by insurance obtained by the Board pursuant to Article 13.

17.3. Indemnification/Limitation of Liability.

17.3.1 To the fullest extent permitted by Washington law, the Association may indemnify, and may pay or reimburse the reasonable expenses incurred by a director, officer, unit owner, member of an Association committee or Declarant, as identified in the Declaration, who is a party to a proceeding by reason of the fact that he is or was a director, officer, member of the Association, or committee member of the Association or, in the case of Declarant, by reason of the fact that it acted on behalf of the Association. The Association may indemnify a director, officer, unit owner, member of an Association committee, or Declarant who is a party to a proceeding or advance or reimburse expenses incurred in a proceeding without regard to the limitations set forth in RCW 23B.08.510 - 23B.08.550,
provided that no such indemnity shall indemnify any such party from or in account of: (a) acts or omissions of the director, officer, unit owner, member of an Association committee or Declarant finally adjudged to be intentional misconduct or a knowing violation of law; (b) conduct of the director, office, unit owner, member of an Association committee or Declarant finally adjudged to be in violation of RCW 23B.08.330; or (c) any transaction with respect to which it was finally adjudged that such director, officer, unit owner, member of an Association committee or Declarant personally received a benefit in money, property, or services to which the director, officer, unit owner, member of an Association committee or Declarant was not legally entitled.

17.3.2 To the fullest extent permitted by Washington law, a director’s, officer’s, unit owner’s, and member of an Association committee’s personal liability to the Association, and to the Association members for monetary damages for conduct as a director, officer, member of the Association, or member of an Association committee, shall be eliminated, except for liability for acts or omissions that involve intentional misconduct by such party or a knowing violation of law by such party, for conduct violating RCW 23B.08.310, for any transaction from which the director, officer, unit owner, or member of an Association committee will personally receive a benefit in money, property, or services to which the director, officer, unit owner, member of an Association committee is not legally entitled, or for any act or omission occurring prior to the effective date of the Articles of Incorporation of the Association.

ARTICLE 18
MORTGAGEE PROTECTION

18.1. Copies of Notices. Written notice that an owner/mortgagor of a unit has for more than thirty (30) days failed to meet any obligation under this Declaration shall be given by the Association to any eligible mortgagee of such unit who has requested to be so notified. Any eligible mortgagee shall, upon request, be entitled to receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

18.2. Insurance.

18.2.1. Where an eligible mortgagee of a unit has filed a written request with the Association, the Association shall:

   a. Furnish such mortgagee with a copy of any insurance policy or evidence thereof which is intended to cover the unit on which such mortgagee has a lien.
b. Furnish notices as set forth in Section 13.3.

c. Give such mortgagee written notice of any loss or taking affecting common elements, if such loss or taking exceeds $10,000.

d. Give such mortgagee written notice of any loss, damage or taking affecting any unit or limited common elements in which it has an interest, if such loss, damage or taking exceeds One Thousand Dollars ($1,000).

18.2.2. In addition, the Association shall exercise its best efforts to have the insurance policies required under Section 15.1 provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any unit or unit lease or sublease of the Condominium, in their respective order and preference, whether or not named therein.

18.3. Inspection of Books. Eligible mortgagees, unit owners, insurers and guarantors of the first mortgage on any unit shall be entitled by the Association to inspect at all reasonable hours of week days all of the books and records of the Association, including current copies of the Declaration, Bylaws and Rules and Regulations governing the Condominium, and other books, records and financial statements of the Association and, upon request, to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, Bylaws, and Rules and Regulations governing the Condominium, and the most recent annual financial statement, if such is prepared.

18.4. Rights of City. For so long as the bonds issued by the Declarant pursuant to City of Seattle Ordinance 113639 are outstanding, the City of Seattle, with respect to units owned by Declarant, shall have the same rights as an eligible mortgagee as provided for in this Declaration.

ARTICLE 19
EASEMENTS

19.1. In General. It is intended that in addition to rights under the Act:

19.1.1. Each unit has an easement in and through each other unit and the common and limited common elements for all support elements and utilities, wiring, heat and service elements, and for reasonable access thereto, including access to
utility rooms located within the boundaries of one unit but which serve other units, as required to effectuate and continue proper operation of this Condominium plan. Without limiting the generality of the foregoing, each unit and all common and limited common elements are specifically subject to an easement for the benefit of each of the other units in the building for all duct work for the several units for fireplaces and associated flues or chimneys, if any. In addition, each unit and all the common and limited common elements are specifically subject to easements as required for intercom and electrical entry system, if any; for electrical wiring and plumbing; for air conditioning lines and equipment, if any; for the vacuum system in each unit, if any; and for the master antenna cable system, if any. Each unit as it is constructed is granted an easement to which each other unit and all common and limited common elements are subject for the location and maintenance of all the original equipment and facilities and utilities for such unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common facilities reserved by law.

Each unit owner grants to the Association and the other unit owners, and to their agents and employees, an easement for access through the owner's unit and limited common elements assigned thereto reasonably necessary for the Association and unit owners to carry out their respective maintenance, repair and replacement responsibilities as set forth in this Declaration.

19.1.2. If damage is inflicted on the common elements, or on any unit through which access is taken, in connection with the exercise of easement rights granted in Section 19.1.1, the unit owner responsible for the damage, or the Association, if it is responsible, shall be liable for the repair thereof. Each unit owner shall indemnify and hold harmless the other unit owners and the Association from and against any and all claims, suits, actions or liabilities for injury to or death of any person, or for loss or damage to property, which arises out of that unit owner's exercise of the easement rights granted pursuant to this Article 19, except for claims, suits, actions or liabilities to the extent they are occasioned by the sole negligence or by willful misconduct of any other unit owner or the Association. Notwithstanding the foregoing, with respect to matters within the scope of RCW 4.24.115, if the injury or death of any person or the loss or damage to property is caused by or results from the concurrent negligence of the indemnifying unit owner and any other unit owner or the Association, the above indemnification responsibility shall only exist to the extent of the indemnifying unit owner's concurrent negligence.

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19.2. **Authority.** The Association, on behalf of all members thereof, shall have authority to grant utility, road and similar easements, licenses and permits under, through or over the common elements, which easements the Association determines are reasonably necessary to the ongoing development and operation of the Property.

19.3. **Association Functions.** There is hereby reserved to Declarant and the Association, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Declaration, the Bylaws, or the Association Rules and Regulations.

19.4. **Encroachments.** Each unit and all common and limited common elements are hereby declared to have an easement over all adjoining units and common and limited common elements for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, reconstruction, repair, settlement or shifting or movement of any portion of the building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if such encroachment occurred due to the willful act or acts with full knowledge of such owner or owners. In the event a unit area or common or limited common element is partially or totally destroyed, and then repaired or rebuilt, the owners agree that minor encroachments over adjoining units and common and limited common elements shall be permitted, and that there shall be valid easements for the maintenance of such encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any unit.

19.5. **Declarant's Easement.** Declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising special declarant rights, whether arising under the Act or this Declaration, including without limitation Article 22 of this Declaration. In exercising this right, Declarant shall indemnify and hold harmless the unit owners and the Association in accordance with the provisions of Section 19.1.2.

19.6. **Aerial Easement.** Declarant reserves, for the benefit of Unit No. 1, an aerial easement as described on the Survey Map.
and Plans in, through and over the Property for the purposes of
operating, maintaining, repairing, replacing or demolishing a
skybridge. In exercising this right, the owner of Unit No. 1
shall indemnify and hold harmless the other unit owners and the
Association in accordance with the provisions of Section 19.1.2.

19.7 Survival. All easements set forth in or arising out of
this Article 19 shall be perpetual (except to the extent
specifically limited herein), shall run with the land, and shall
bind each and every unit owner or person intended to be
benefitted thereby, and shall survive any termination, whether
voluntary or involuntary, of this Declaration.

ARTICLE 20
ALTERATIONS OF UNITS; REALLOCATION OF
BOUNDARIES; AND SUBDIVISION OF UNITS

20.1. Alterations of Units. Subject to the provisions of
this Declaration or other provisions of law, a unit owner:

20.1.1. May make any improvements or alterations to
the owner's unit that do not affect the structural integrity or
mechanical or electrical systems or lessen the support of any
portion of the Condominium;

20.1.2. After acquiring an adjoining unit or an
adjoining part of an adjoining unit may, with approval of the
Board and the Association, remove or alter any intervening
partition or create apertures therein, even if the partition in
whole or in part is a common element, if those acts do not
adversely affect the structural integrity and mechanical or
electrical systems or lessen the support of any portion of the
Condominium. Removal of partitions or creation of apertures
under this subsection is not a reallocation of boundaries. The
Board and the Association shall approve a unit owner's request,
which request shall include the plans and specifications for the
proposed removal or alteration, under this subsection 20.1.3
within sixty (60) days, unless the proposed alteration does not
comply with the Act, or this Declaration, or impairs the
structural integrity or mechanical or electrical systems in the
Condominium. The failure of the Board to act upon a request
within such period shall be deemed approval thereof.

20.2. Relocation of Boundaries Between Adjoining Units.
Subject to the provisions of this Declaration and other
provisions of the law, the boundaries between adjoining units may
only be relocated by an amendment to this Declaration upon
application to the Association by the owners of the affected
units. If the owners of the adjoining units have specified a
reallocation between their units of their allocated interests,
the application must state the proposed reallocations. Unless
the Association determines within sixty (60) days that the
allocations are unreasonable, the Association shall prepare an
amendment that identifies the units involved, states the
reallocations, is executed by those unit owners, contains words
of conveyance between them, and is recorded in the name of the
grantor and the grantee. The Association shall record and obtain
survey maps or plans complying with the requirements of the act
necessary to show the altered boundaries between adjoining units
and their dimensions and identifying numbers. Any costs
associated with the preparation or recording of such survey
maps or plans and special costs related to consultants or experts
employed by the Board or the Association to determine the
reasonableness of such reallocations, shall be due and payable by
the owners of the unit which are affected.

20.3. Subdivision of Units. Division of any unit or units
and their appurtenant limited common elements are authorized only
as follows:

20.3.1. Any owner of any unit or units may propose any
subdividing of a unit or units and appurtenant limited common
elements in writing, together with complete plans and
specifications for accomplishing the same and a proposed
amendment to the Declaration, Survey Map and Plans covering such
subdividing, to the Board, which shall then notify all other unit
owners of the requested subdivision.

20.3.2. Upon prior written approval of those unit
owners holding eighty percent (80%) of the total allocated votes
in the Association, and upon prior written approval of the
owner(s) of the unit(s) to be subdivided, the owner making the
proposal may proceed according to such plans and specifications;
provided, however, the Association may in its discretion (but it
is not mandatory that the Association exercise this authority)
require that the Association administer the work or that
provisions for the protection of other units or common elements
or reasonable deadlines for completion of the work be inserted in
the contracts for the work.

20.3.3. The changes in the Survey Map, if any, and the
changes in the Plans and Declaration shall be placed of record as
amendments to the Survey Map, Plans, and Declaration of the
Condominium in accordance with the provisions of section 21.1.

20.3.4. The amendment to the Declaration related to
any such subdivision of a unit or units must be executed by the
owner of the unit to be subdivided, assign an identifying number
to each unit created, and reallocate the allocated interests
formerly allocated to the subdivided unit to the new units in any
reasonable and equitable manner prescribed by the owner of the subdivided unit. The Association shall have the ultimate authority and responsibility for executing and recording an amendment to the Declaration, including Survey Maps and Plans related to the subdivision of that unit. However, any costs related to the preparation or recording of such documents and/or any costs related to consultant's or experts employed by the Association to assess the reasonableness of the proposed subdivision, shall be assessed to and paid by the owner of the unit to be subdivided.

ARTICLE 21
AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

21.1. Declaration Amendment. Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration or the Act, amendments may be adopted only by vote or agreement of unit owners of units to which at least eighty percent (80%) of the votes of the Association are allocated. If such amendment is adopted without a meeting all owners must have been duly notified of the proposed amendment and the requisite consent from the owners with the specified percentage of votes must be in writing; provided, however, except as otherwise expressly permitted or required by the Act and the provisions of this Declaration, implementing said provisions of the Act, no amendment may create or increase special Declarant rights, increase the number of units, change the boundaries of any unit, change the uses to which any unit is restricted, or change the allocated interests of a unit without the vote or agreement of the owners of each unit particularly affected and the owners of units to which at least ninety percent (90%) of the votes in the Association are allocated, other than the Declarant, provided that for the purposes of this Section 21.1, the owner of Unit Nos. 1 and 4 shall no longer be considered Declarant and such owner's votes shall not be excluded after Declarant's control of the Association terminates pursuant to Section 10.2. Amendments once properly adopted shall be effective upon recording in the appropriate governmental offices. It is specifically covenanted and understood that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration or the Survey Map and Plans unless otherwise specifically provided in the Section being amended or the amendment itself. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article 21 may be brought more than one year after the amendment is recorded. Any amendment shall be indexed in the name of the Condominium and shall contain a cross

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reference by recording number to this Declaration and each previously recorded amendment thereto. Amendments to the Declaration to be recorded shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for the purpose, or in the absence of such designation by the president of the Association. No amendment may restrict, eliminate, or otherwise modify any special Declarant right provided in this Declaration without the consent of the Declarant and any mortgagee of record with a security interest in the special Declarant right or in any real property subject thereto, excluding mortgagees of units owned by persons other than the Declarant. Every amendment to this Declaration must be recorded in every county in which any portion of the Condominium is located and is effective only upon recording.

21.2. Map and Plans Amendment. Except as otherwise provided herein, the Survey Map and Plans may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to the Declaration adopted as provided for herein. Copies of any such proposed amendment to the Survey Map and Plans shall be made available for the examination of every owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county office in conjunction with the Declaration amendment.

21.3. Amendment by Declarant. The Declarant may during the period of Declarant's management authority provided under Section 10.2, record an amendment changing the person who is to receive service of process.

21.4. Amendments to Conform to Construction. In addition, Declarant, upon Declarant's sole signature, may at any time, until the first unit has been sold by Declarant, file an amendment to the Declaration and to the Survey Map and Plans to conform them to the actual location of any of the constructed improvements and to establish, vacate and relocate utility easements, access road easements, and parking areas.

21.5. Termination of Condominium.

21.5.1. Except in the case of a taking of all the units by condemnation, this Condominium may be terminated only by agreement of unit owners of units to which at least eighty percent (80%) of the votes in the Association are allocated. Any agreement to terminate must be evidenced by the execution of a termination agreement or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date and
shall contain a description of the manner in which the creditors of the Association will be paid or provided for. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording. The termination agreement may be amended by complying with all of the requirements of this Section. A termination agreement may provide that all the common elements of the Condominium shall be sold following termination. If, pursuant to the agreement, any real property in the Condominium is to be sold following termination, the termination agreement must set forth minimum terms of the sale.

21.5.2. The Association, on behalf of the unit owners, may contract for the sale of real property in the Condominium, but the contract is not binding on the unit owners until approved pursuant to subsection 21.5.1 above. If any real property in the Condominium is to be sold following termination, title to that real property, upon termination, vests in the Association as trustee for the holders of all interests in the units. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lienholders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection 21.5.5 below. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real property, each unit owner and the owner's successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the owner's unit. During the period of that occupancy, each unit owner and the owners' successors in interest remain liable for all assessments and other obligations imposed on unit owners by this Declaration or the Act.

21.5.3. If the real property constituting the Condominium is not to be sold following termination, title to all the real property in the Condominium vests in the unit owners upon termination as tenants in common, in proportion to their respective interests, as provided in subsection 21.5.5 below and liens on the unit shift accordingly. While the tenancy in common exists, each unit owner and their successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the owner's unit.

21.5.4. Following termination of the Condominium, the proceeds of any sale of real property, together with the assets of the Association, are held by the Association as trustee for unit owners and holders of liens on the units and creditors of
the Association as their interests may appear. No such proceeds or assets may be disbursed to the owners until all of the creditors of the Association have been paid or provided for. Following termination, creditors of the Association holding liens on the units, which were recorded or perfected under RCW 4.64.020 before termination, may enforce those liens in the same manner as any lienholder.

21.5.5. The respective interests of unit owners referred to in subsections 21.5.2, 21.5.3, and 21.5.4, are as follows:

a. Except as provided in 21.5.5(b), the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests, immediately before the termination, as determined by one or more independent appraisers, selected by the Association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved, within thirty (30) days after distribution, by unit owners of units to which twenty-five percent (25%) of the votes in the Association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of the units and common elements.

b. If any unit or limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are the respective allocated interests in the common elements, immediately before the termination.

21.5.6. Except as provided in subsection 21.5.7, foreclosure or enforcement of a lien or encumbrance against the entire Condominium does not, of itself, terminate the Condominium, and foreclosure or enforcement of the lien or encumbrance against a portion of the Condominium, other than withdrawable real property, does not withdraw that portion from the Condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real property does not, of itself, withdraw that real property from the Condominium, but the person taking title thereto has a right to require from the Association, upon request, an amendment excluding the real property from the Condominium.

21.5.7. If a lien or encumbrance against a portion of the real property that is withdrawable from the Condominium has priority over this Declaration, and the lien or encumbrance has not been partially released as to a unit, the parties foreclosing the lien or encumbrance may, upon foreclosure, record an
instrument excluding the real property subject to that lien or encumbrance from the Condominium. The Board shall reallocate interests as if the foreclosed portion were condemned.

21.5.6. The right of partition under Chapter 7.52 RCW shall be suspended if an agreement to sell the Property is provided for in the termination agreement pursuant to subsection 21.6.1 above. The suspension of the right to partition shall continue unless and until no binding obligation to sell exists three (3) months after the recording of the termination agreement, the binding sale agreement is terminated, or one (1) year after the termination agreement is recorded, whichever first occurs.

ARTICLE 22
SPECIAL DECLARANT RIGHTS/DEVELOPMENT RIGHT

22.1. Reservation. Declarant hereby reserves the right to create one additional unit, which shall be known as Unit No. 5. Unit No. 5 shall be a self-standing building of approximately seven hundred and fifty (750) square feet which shall be constructed in the plaza area portion of the Condominium as shown on the Survey Map and Plans. Unit No. 5 shall be used on an ownership, rental or lease basis for commercial, office, restaurant, service or retail purposes and other reasonable uses normally incident to such purposes and also for such additional uses and purposes as are determined appropriate by the Association and permitted under applicable zoning and other regulations of the City of Seattle. Unit No. 5 may be partitioned at the discretion of the owner and individual units created within the unit may be used, leased, rented and occupied by the owner and its successors, tenants, subtenants, grantees and assignees, but such individual units shall not be separately sold or transferred except as may be specifically provided herein. This development right must be exercised within fifteen (15) years from the date this Declaration is recorded. Notwithstanding any other provision of this Declaration, no prior consent from the Association or any unit owners shall be required prior to Declarant's exercise of this right.

22.2. Amendment to Declaration. To exercise the development right set forth in Section 22.1, Declarant shall prepare, execute and record an amendment to the Declaration and shall record a new Survey Map and Plans or a new certification of the previously recorded Survey Map and Plans as required by the Act. The amendment to the declaration shall assign an identifying number to the new unit created and shall reallocate the allocated interests among all the units in accordance with Exhibit H attached hereto. Any amendment which reallocates allocated interests other than as provided in Exhibit H, shall
require consent of unit owners as provided in Section 21.1. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, a designation of the unit or units to which each is allocated.

22.3. Expenses. Prior to Declarant’s exercise of the development right set forth in Section 22.1, Declarant alone is liable for all expenses in connection with the real property subject to said development right, except to the extent that such real property is comprised of common elements used by the unit owners, in which event the expenses associated with the operation, maintenance, repair and replacement of such common elements shall be paid by the Association as a common expense.

22.4. Northern Boundary. Subsequent to the recording of this Declaration, it is anticipated that the northern boundary of the property will be moved north to the center line of Pine Street as shown on the Survey Map and Plans. Upon receipt of a deed from the City of Seattle for such additional property, Declarant reserves the right to add such additional property to the Condominium and no prior consent from the Association or any unit owners shall be required prior to Declarant’s exercise of this right. This development right must be exercised within five (5) years from the date this Declaration is recorded. To exercise this right, Declarant shall prepare, execute and record an amendment to the Declaration and shall record a new Survey Map and Plans or a new certification of the previously recorded Survey Map and Plans as required by the Act. The amendment shall identify the additional land as common element.

ARTICLE 23
RIGHTS OF FIRST REFUSAL

The Association shall have a right of first offer and refusal with respect to the sale or transfer of Unit No. 3, after the initial conveyance by Declarant, and a document granting such right shall be recorded at the time of initial conveyance by Declarant of Unit No. 3. Declarant shall be granted a right of first offer and refusal with respect to the sale or transfer of Unit No. 2, after the initial conveyance by Declarant, and the initial purchaser of Unit No. 2 shall be granted a right of first offer and refusal with respect to the sale or transfer of Unit Nos. 1, 4 and 5 and a document granting such rights shall be recorded at the time of initial conveyance by Declarant of Unit No. 2.

ARTICLE 24
MEDIATION AND ARBITRATION
24.1. Selection. In the event the owners of Unit No. 1 and Unit No. 2 cannot agree on any of the issues listed in subsection (b) below the dispute shall be submitted to the American Arbitration Association, or a similar organization agreed to by the parties, to be heard and decided in accordance with that organization's rules. Within thirty (30) days after written notice by one party to the other that a dispute has occurred, the arbitration or mediation process as set forth below shall be commenced. Prior to submitting the dispute to arbitration either of the above-referenced owners may require that the dispute be submitted to mediation by an impartial mediator. The owners shall select such a mediator. If they are unable to agree on the mediator, each owner shall designate a possible mediator. The two mediators so designated will together select a third mediator who will mediate the dispute. If the dispute is not resolved by the mediator, it will be submitted to arbitration.

24.2. Disputed Issue. In conducting the business of the Association if the owners of Unit No. 1 and Unit No. 2 cannot agree on what action should be taken regarding the following matters, the provisions of subsection 24.1 above shall take effect:

(a) Adoption of proposed budgets or ratification of final budgets pursuant to Section 12.1;

(b) Distribution of insurance proceeds pursuant to Section 14.7;

(c) Distribution of Condemnation Award pursuant to Sections 15.3 and 15.4;

(d) Reallocation of unit's allocated interests pursuant to Section 14.7 and Article 15;

(e) The scope of insurance coverage carried by the Association pursuant to Sections 13.1.1 and 13.1.2;

(f) The need for the Association to maintain or repair any unit, limited common element or shared limited common element pursuant to Section 10.4.1.9.

(g) The determination of the fair market value of the respective interests of the unit owners pursuant to Section 21.5.5.

24.3 Costs. The owners of Unit Nos. 1 and 2 shall share equally in the costs of any mediator or arbitrator, but each such owner shall bear its own costs, including attorneys' fees,
25.1. Service of Process. The initial person upon whom process may be served is Shelly Yapp and her address is Pike Place Market Preservation and Development Authority, 85 Pike Street, Room 500, Seattle, Washington 98101. After termination of Declarant's management authority under Article 10, service of process for the purposes provided in the Act shall be made upon the president of the Association. The Association may at any time designate a new or different person or agency for such purposes by filing an amendment to this Declaration limited to the sole purpose of making such change, and such amendment need only be signed and acknowledged by the then president of the Association. The Declarant may, at any time before the Board is organized, change such designation by amendment to the Declaration signed and acknowledged only by Declarant. Any person designated for service of process shall be a resident of King County or shall maintain a place of business in King County.

25.2. Notices for All Purposes.

25.2.1. Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered twenty-four (24) hours after a copy has been deposited in the United States mail, postage prepaid, for first class mail, addressed to the person entitled to such notice at the most recent address given by such person to the Association, in writing, for the purpose of service of such notice, or to the most recent address known to the Association. Notice to the owner or owners of any unit shall be sufficient if mailed to the unit of such person or persons, if no other mailing address has been given to the Association by any of the persons so entitled. Mailing addresses may be changed from time to time by notice in writing to the Association. Notice to be given to the Association may be given to Declarant until the Association and Association have been constituted and thereafter shall be given to the president or secretary of the Association.

25.2.2. Mortgagee Notice. Upon written request therefor, and for a period of three years (or such longer time as the Board may set) after such request, a vendor, mortgagee, or deed of trust beneficiary of any unit shall be entitled to be sent a copy of any notices respecting the unit covered by his
security instrument until the request is withdrawn or the security instrument discharged. Such written request may be renewed an unlimited number of times.

25.3. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the act.

25.4. Effective Date. This Declaration shall take effect upon recording.

25.5. Reference to Survey Map and Plans. The Survey Map and Plans of the buildings referred to herein were filed with the Recorder of King County, Washington, simultaneously with the recording of this Declaration under File No. 611570/126 in Volume 109 of Condominiums, pages 49 through 50.

25.6. Conveyance; Notice Required. The right of a unit owner to sell, transfer, or otherwise convey their unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf except as otherwise provided herein. An owner intending to sell a unit shall deliver a written notice to the Board, at least two (2) weeks before closing, specifying: the unit being sold; the name and address of the purchaser, of the closing agent, and of the title insurance company insuring the purchaser's interest; and the estimated closing date. The Board shall have the right to notify the purchaser, the closing agent, and the title insurance company, of the amount of any unpaid assessments and charges outstanding against the unit, whether or not such information is requested. Promptly upon the conveyance of a unit, the new unit owner shall notify the Association of the date of the conveyance and the unit owner's name and address. The Association shall notify each insurance company that has issued an insurance policy to the Association for the benefit of the owners under Article 13 of the name and address of the owner and request that the new owner be made a named insured under such policy.

25.7. Warranties. The only express warranties made by Declarant to any purchaser are as set forth in their respective purchase and sale agreements or contracts of sale and there are no other express warranties created pursuant to the provisions of RCW 63.34.445 or otherwise. The provisions of RCW 63.34.445 with respect to implied warranties by Declarant may be modified or
excluded in the purchase and sale agreement or contract of sale in accordance with the provisions of RCW 64.34.450.

DECLARANT: Pike Place Market Preservation and Development Authority, a public corporation

By: Shelly Yapp
Its: Executive Director

STATE OF WASHINGTON )
COUNTY OF KING ) SS.

On this 6th day of August, 1990 before me personally appeared Shelly Yapp, known to be the Executive Director, of the Pike Place Market Preservation and Development Authority, the public corporation that executed the within and foregoing instrument, and acknowledged the 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 she was authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Notary Public in and for the State of Washington residing at Auburn
My appointment expires: 10-6-93
SCHEDULE A

LEGAL DESCRIPTION

Lots 1, 2, 3, 4, 5, 6, 7 and 8 in Block H of Addition to the Town of Seattle as laid out by A.A. Denny (commonly known as A.A. Denny's 4th Addition to the City of Seattle). As per plat recorded in Volume 1 of Plats, page 69, Records of King County;

EXCEPT that portion of said Lot 2 condemned for widening and extension of Western Avenue pursuant to Ordinance No. 18109 of the City of Seattle;

AND except that portion taken for Armory Way in King County Superior Court Cause No. 22384, described as that portion of Lots 1, 4, 5 and 8 in Block H lying southwesterly of a line 31.25 feet southwesterly from and parallel with the southwesterly margin of the alley as platted in said Block H;

TOGETHER with that portion of the alley in said Block H as vacated by Ordinance No. 107097 lying northwesterly of the southeasterly line extended of Lots 7 and 8 in said Block H and that portion of Pine Street as vacated by Ordinance No. 23613 and Ordinance No. 107097 lying between the northwesterly line of said Block H and a line parallel to and 30 feet northwesterly of the northwesterly line of said Block H and that portion of the northwesterly 15 feet of Elliott Avenue (Alaskan Freeway, formerly Armory Way) as vacated by Ordinance No. 114230 lying between a line 140 feet northwesterly of the northwesterly line of Pine Street (being the production northwesterly of the southeasterly line of Lot 8 in Block H of said A.A. Denny's 4th Addition) and a line 30 feet northwesterly of and parallel with the northwesterly line of said Block H;

SITUATE in the City of Seattle, County of King, State of Washington.
SCHEDULE B

UNIT DESCRIPTIONS

UNIT NO. 1

Approx. sq. ft.: 156,000

Number of bathrooms: 2 (in food bank)

Number of bedrooms: 0

Number of built-in fireplaces: 0

Level or levels on which located: 1-6

Type of heat and heat service: 0

Number of parking spaces and whether covered, uncovered or enclosed: 543

Boundaries to the extent different from those stated in Section 1.9.23:
The boundaries of Unit No. 1 are the exterior surfaces of the walls, floors, and ceilings of the garage portion of said unit. All structural elements of the Condominium contained within the boundaries of Unit No. 1, including, without limitation, the lid, foundations, columns, girders, studding, joists, beams, supports, walls, floors and ceilings, are part of said unit. All portions of the garage elevator tower shown on the Survey Map and Plans, and the shaft of said elevator are part of said unit.
UNIT NO. 2
Approx. sq. ft.: 38,800
Number of bathrooms:

1st Floor: 7 resident
2nd Floor: 26
5 public
3rd Floor: 27

Number of bedrooms:

1st Floor: 7
2nd Floor: 27
one double occ.
3rd Floor: 28
one double occ.

Number of built-in fireplaces: 0
Level or levels on which located: 1st, 2nd & 3rd floor
Type of heat and heat service:

* All resident rooms have individually controlled electric baseboard heat.
* All public rooms on first floor have gas fired, multi-zoned HVAC systems mounted on roof.

Number of parking spaces and whether covered, uncovered or enclosed: 0

UNIT NO. 3
Approx. sq. ft.: 1440
Number of bathrooms: 1
Number of bedrooms: 0
Number of built-in fireplaces: 0
Level or levels on which located: 1st floor
Type of heat and heat service: Gas fired multi-zoned HVAC mounted on roof.

Number of parking spaces and whether covered, uncovered or enclosed: 0
UNIT NO. 4
Approx. sq. ft.: 1155
Number of bathrooms: 0 - Easement granted through Unit 2 to public R.R.
Number of bedrooms: 0
Number of built-in fireplaces: 0
Level or levels on which located: 1st floor
Type of heat and heat service: Future: Gas fired multi-zoned HVAC mounted on roof.
Number of parking spaces and whether covered, uncovered or enclosed: 0
SCHEDULE C

REALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS
OTHER THAN LIMITED COMMON ELEMENTS

Formula for allocating undivided interests in common elements:

<table>
<thead>
<tr>
<th>UNIT NO.</th>
<th>VALUE</th>
<th>ALLOCATED UNDIVIDED INTEREST IN COMMON ELEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8,697,500</td>
<td>71%</td>
</tr>
<tr>
<td>2</td>
<td>3,185,000</td>
<td>26%</td>
</tr>
<tr>
<td>3</td>
<td>245,000</td>
<td>2%</td>
</tr>
<tr>
<td>4</td>
<td>122,500</td>
<td>1%</td>
</tr>
</tbody>
</table>

TOTAL 12,250,000 100%
SCHEDULE D

ALLOCATION OF UNDIVIDED INTERESTS IN SHARED LIMITED COMMON ELEMENTS

I. Formula for allocating undivided interests in shared limited common elements identified in the first sentence of Section 7.1.2:

<table>
<thead>
<tr>
<th>Square Footage of Unit</th>
<th>ALLOCATED UNDIVIDED INTEREST IN SHARED COMMON ELEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Square footage of Unit Nos. 2, 3, and 4</td>
<td></td>
</tr>
<tr>
<td>UNIT NO.</td>
<td>SQUARE FOOTAGE</td>
</tr>
<tr>
<td>2</td>
<td>38,800</td>
</tr>
<tr>
<td>3</td>
<td>1,440</td>
</tr>
<tr>
<td>4</td>
<td>1,155</td>
</tr>
<tr>
<td>TOTAL</td>
<td>41,395</td>
</tr>
</tbody>
</table>

II. Formula for allocating undivided interests in shared limited common elements which are portions of central services:

Square Footage of Unit
Total square footage of units served by portion of central services

1
SCHEDULE E

ALLOCATION OF VOTES IN THE ASSOCIATION

FORMULA FOR ALLOCATING VOTES IN THE ASSOCIATION:

<table>
<thead>
<tr>
<th>UNIT NO.</th>
<th>VALUE</th>
<th>ALLOCATED VOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8,697,500</td>
<td>71%</td>
</tr>
<tr>
<td>2</td>
<td>3,185,000</td>
<td>26%</td>
</tr>
<tr>
<td>3</td>
<td>245,000</td>
<td>2%</td>
</tr>
<tr>
<td>4</td>
<td>122,500</td>
<td>1%</td>
</tr>
</tbody>
</table>

TOTAL 12,250,000 100%
SCHEDULE F

ALLOCATION OF COMMON EXPENSES
OTHER THAN EXPENSES OF SHARED LIMITED COMMON ELEMENTS

Formula for allocating common expenses:

<table>
<thead>
<tr>
<th>UNIT NO</th>
<th>VALUE</th>
<th>ALLOCATED</th>
<th>UNDIVIDED INTEREST IN COMMON EXPENSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8,697,000</td>
<td>71%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>3,185,000</td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>245,000</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>122,500</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>12,250,000</td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE G

ALLOCATION OF EXPENSES OF SHARED LIMITED COMMON ELEMENTS

I. Formula for allocating expenses of shared limited common elements identified in the first sentence of Section 7.1.2:

Square Footage of Unit
Square footage of Unit Nos. 2, 3, and 4

<table>
<thead>
<tr>
<th>UNIT NO.</th>
<th>SQUARE FEET</th>
<th>ALLOCATED INTEREST IN EXPENSES OF SHARED LIMITED COMMON ELEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>38,800</td>
<td>93.7%</td>
</tr>
<tr>
<td>3</td>
<td>1,440</td>
<td>3.4%</td>
</tr>
<tr>
<td>4</td>
<td>1,155</td>
<td>2.9%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>41,395</td>
<td>100%</td>
</tr>
</tbody>
</table>

II. Formula for allocating expenses of shared limited common elements which are portions of central services:

Square Footage of Unit
Total square footage of units served by portions of central services
SCHEDULE H

ALLOCATION OF INTERESTS TO UNIT NO. 5

Upon exercise of Declarant's development right as reserved in Section 22.1, for the purposes of Schedules C, E, and F, the value of Unit No. 5 shall not exceed $612,500 and Unit No. 5's allocated undivided interest in the common elements shall not exceed five percent (5%), allocated votes in the Association shall not exceed five percent (5%), and allocated undivided interest in common expenses shall not exceed five percent (5%). The value of Unit No. 1 and Unit No. 1's allocated interests as set forth on Schedules C, E and F shall be reduced by the amount of value and the percentage of allocated interests allocated by Declarant to Unit No. 5 in accordance with the provisions of this Schedule H.
EXHIBIT F: Current Lease between Providence and SHA
RESTATED MASTER LEASE AGREEMENT
HERITAGE HOUSE

This agreement is made this 5th day of March, 2013 by and between the HOUSING AUTHORITY OF THE CITY OF SEATTLE, a/k/a SEATTLE HOUSING AUTHORITY, a Washington public body corporate and politic (the "Owner" or "SHA") and Providence Health & Services-Washington, a Washington non-profit corporation (the "Tenant" or "PH&S") regarding the lease of a facility (known as "Heritage House") located in the Pike Place Market area of the City of Seattle.

RECITALS:

A. In 1990, SHA acquired Heritage House from the Pike Place Market Preservation and Development Authority.

B. In 1990, SHA and Tenant’s predecessor in interest (Sisters of Providence in Washington) executed an “Agreement to Provide Congregate Care Facility and Operating Lease” for Heritage House.

C. Pursuant to the terms of the Agreement, PH&S exercised its option to renew its leasehold interest in Heritage House for additional terms ending December 31, 2005.

D. By that certain Master Lease Agreement – Heritage House, between the parties, effective January 1, 2002 (the “Second Lease”), Tenant continued to lease and operate Heritage House “as a licensed boarding facility” and since January 1, 2006, Heritage House has been leased by Tenant on a month to month basis under the terms of the Second Lease that expired in December 2005.

E. The parties wish to enter into a new Restated Master Lease (“Lease”) to accurately reflect their agreements for operating Heritage House as an Assisted Living Facility beginning January 1, 2013.

NOW, THEREFORE, it is agreed as follows:

1. Description of Property.

The property to be leased by the Tenant is Unit #2 of the PC-1 South Condominium (the “Property”) consisting of 63 dwelling units and related appurtenances comprising a licensed Assisted Living Facility. The Property is described more fully in the Survey recorded under King County Recording No. 9008071209 as well as the Declaration and Covenants, Conditions, Restrictions and Reservations for PC-1 South Condominium dated August 7, 1990, King County
2. **Term of Lease.**

This Lease shall be for a term of ten (10) years, commencing on January 1, 2013 and continuing in force until the 31st day of December, 2022, unless terminated earlier or extended longer as provided herein:

(a) This Lease may be renewed for additional one-year terms, subject to the mutual agreement of Owner and Tenant.

(b) This Lease may be terminated for cause, by either the Owner or the Tenant; provided that thirty (30) days advance written notice is provided to the other.

(c) In the event a petition in bankruptcy is filed by or against either the Owner or Tenant, or in the event either makes an assignment for the benefit of creditors or takes advantage of any Federal or state insolvency act, the other party may terminate this Lease by giving not less than sixty (60) days written notice to the other.

(d) Within 30 days following termination of this Lease the parties shall account to each other about any amounts due and all other matters outstanding as of the date of termination. The Owner will pay to the Tenant any sums due to Tenant for any obligations or liabilities which the Tenant may have incurred on behalf of the Owner pursuant to this Lease. Tenant will pay to Owner any sums due to Owner.

3. **Operations; Restrictions on Use.**

The Property shall be used principally as a home for Elderly Persons of Low Income. The term “Elderly” shall mean persons age sixty-two or older. The term “Persons of Low Income” shall mean individuals or households who lack the amount of income necessary to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding, as determined by SHA pursuant to RCW 35.82.020(10). Tenant shall select its tenants and shall establish rents and other charges to such tenants and shall establish rents and other charges to such tenants in accordance with the requirements the Cooperation Agreement between the Owner and the City of Seattle governing the Seattle Senior Housing Bond Program. Forty (40) beds in the home shall be reserved for Elderly Persons of Low Income who meet the Medicaid eligibility criteria of the Department of Social and Health Services. SHA shall be entitled to conduct at least once each year, at SHA’s expense, a program review which may include an audit of tenant’s books and records to determine compliance with this Lease.

4. **Other Requirements.**
This Property may be subject to Regulatory Agreement, Mortgage, and Housing Assistance Payments ("HAP") Contracts. Within 30 days of execution of this Lease, the Owner shall furnish the Tenant with copies of the Regulatory Agreement, Mortgage, and any HAP Contracts. In performing its duties under this Lease, the Owner agrees that the Tenant shall comply with all pertinent requirements of the Regulatory Agreement, Mortgage and HAP Contract as well as other pertinent statutory and regulatory requirements. In the event of any instruction from the Owner which is in contravention of actual contractual, statutory or regulatory requirements, those requirements rather than the Owner’s instructions shall be followed. In the event that the Owner instructs the Tenant to act in contravention of contractual, statutory or regulatory requirements and the Tenant follows such instruction, the Owner agrees to defend, indemnify and hold the Tenant harmless with respect to any costs or damages, including reasonable attorneys’ fees, which result from compliance with such instructions.

5. Rentals.

Tenant hereby agrees to pay SHA $73,080 as annual rental for the first year of this Lease payable as follows: Twelve equal installments of $6,090 on the first of each month, beginning January 1, 2013. Payment shall be made by mail to Seattle Housing Authority, Attention: Accounts Receivable, 190 Queen Anne Avenue North, P.O. Box 19028, Seattle Washington, 98109-1028. In the memo line Tenant shall add "Lease No. 294686" to ensure the payment is credited to the correct lease account.

Rental payments for subsequent years of the term or any extended term shall be negotiated at least sixty (60) days prior to the end of each year of the term. The amount of rent for the initial term as well as any extended term shall take into account the following SHA costs relating specifically to the Property: to SHA’s anticipated operating expenses including but not limited to the following:

(a) SHA’s management and overhead expenses related to the Property;

(b) SHA’s property insurance related to the Property;

(c) SHA’s replacement reserves for major systems;

(d) SHA’s accounting and audit expenses;

(e) Condominium dues and assessments and reserves;

(f) Costs of any contract services.

Tenant shall be responsible for the payment of all Operating Expenses (defined below) of the Property, commencing with the date of this Lease. All Operating Expenses shall be billed directly to and paid by Tenant. If Tenant fails to timely pay any Operating Expense when it becomes due and payable, Owner shall have the right, at its option, to make such payment at the expenses of the Tenant as reasonably required. Any amount so expended by Owner shall be paid
by Tenant promptly after demand. With respect to those Operating Expenses paid by the Owner, Tenant’s payment of Operating Expenses shall be due on the later of fifteen (15) days after receipt of an itemized statement thereof from Owner or thirty (30) days after the end of the calendar quarter. The Owner shall maintain detailed records of the Operating Expenses to be paid by Tenant and shall make these available on a reasonable basis for examination by Tenant. Within sixty (60) days of the end of each calendar year, Owner shall provide to Tenant an annual itemized statement of Operating Expenses with an explanation of any corrections to any statement issued during the prior year and the next payment to Owner shall be adjusted to the extend necessary to take into account any such corrections.

“Operating Expenses” as used herein means:

a) All costs of utilities, including without limitation, water, sewer, power, garbage removal and recycling services.

b) Except for capital expenses (which shall remain the exclusive responsibility of Owner per Section 7), usual and customary expenses incurred by Owner in connection with the operation, management, maintenance, and upkeep of the Property as a home for Elderly Low Income Persons.

c) All costs of replacement or repair of all furniture, fixtures, and equipment necessary for the operation of Heritage House as a home for Elderly Low Income Persons.

d) All costs of obtaining and keeping all necessary state, local or Federal licenses to operate the facility as a home for Elderly Low Income Persons.

6. Utilities.

Tenant hereby covenants and agrees during the term of this Lease to be responsible for providing and paying for all utilities serving the Property including (but not limited to) steam, gas, electricity, water, sewer and garbage collection; or, in the alternative shall be responsible for insuring that Tenant’s subtenants who occupy the Property provide and pay for said utilities. SHA shall provide authorization to PH&S to permit direct billing by the City of Seattle to SPW of water, sewer, heat, electricity and garbage costs as applicable. In the case of utilities which are paid by the PC1 South Condominium, Tenant shall pay the Condominium Association for those costs allocated to Unit 2 (Heritage House).

7. Maintenance and Repair.

Tenant shall maintain and repair all furniture, fixtures and equipment necessary to operate the Property as a home for Elderly Low Income Persons including but not limited to floor covering, window coverings, kitchen appliances, and individual heating and cooling devices. Tenant shall negotiate and pay for an elevator maintenance contract and all related costs and shall pay the cost of routine elevator maintenance costs not covered by said contract. Tenant shall negotiate and pay for fire alarm monitoring and related services as required by the City of Seattle. All
contracts will be made available to Owner upon request. Tenant shall be responsible for all plumbing and electrical fixtures and equipment.

SHA agrees to maintain responsibility for capital expenses related to the Property. Capital expenses shall be defined as improvements which extend the life of the asset/Property, including but not limited to the exterior of the Property on the schedule required by the Condominium Declaration and prudent asset management, repairs to the elevator system, plumbing system, and electrical system, heating, ventilation and cooling, building envelope system or fire alarm system. Tenant shall immediately inform Owner of any needs for capital repairs or failures in any of the Owner maintained Property elements.

Tenant understands and agrees that maintenance of the trash room on the first floor of the facility is the sole responsibility of Tenant. Tenant may establish reasonable rules regarding use of the trash room by other owners of the Condominium. Tenant may not charge other Condominium Owners for use of the trash room without the consent of the Owner.

In the event Tenant fails to maintain or repair the Property as required herein, Owner shall give Tenant notice of such failure. If Tenant fails to comment the required maintenance or repair within ten (10) days of notice, or as soon thereafter as any necessary permits or approvals can be obtained with reasonable due diligence or fails to diligently prosecute the same to completion then Owner shall have the right, at its option, to do such acts and expend such funds at the expense of Tenant as reasonable required to perform the repairs. Any amount so expended by Owner shall be paid by Tenant promptly after demand. Owner shall have no liability to Tenant for any damage, inconvenience, or interference with the use of the Property by Tenant as a result of performing any such work.

In addition to the above and except as otherwise set forth above, maintenance of any systems or equipment serving the Property shall be performed by and paid for by Tenant.

8. Hazardous Substances

Tenant shall not, without Owner’s prior written consent, keep on or around the Property for use, disposal, transportation, treatment, storage or sale, any subject designated as, or containing components designated as, hazardous, dangerous, toxic or harmful (collectively referred to as “Hazardous Substances”) and/or subject to regulation by any federal, state or local law, regulation, statute or ordinance, except those which are normally used day-to-day for standard residential purposes.
9. Alterations, Additions and Improvements.

Neither party shall make alterations, additions or improvements to the Property without obtaining all necessary Condominium approvals. Tenant shall advise Owner before making any interior alteration, additions, or improvement and obtain the prior written consent of the Owner which shall not be unreasonably withheld. All such alterations, additions and improvements shall become part of the Property and shall be the sole property of Owner except for trade fixtures installed by Tenant and which can be removed without damage to the Condominium. Such trade fixtures shall be and remain the property of Tenant.

All alteration, additions and improvements made by the Tenant to the Property and approved by Owner will comply with the State of Washington requirements for the payment of prevailing wages and will be performed in a workmanlike manner and in compliance with all applicable laws and ordinances. Tenant shall indemnify and hold Owner harmless from and against all damages, loss, liens or expenses arising out of such work, except to the extent caused by Owner’s negligence or intentional misconduct. All alterations, additions and improvements to the Property will not pay sales taxes but may be subject to Use Tax.

Tenant and its clients shall not tamper with fire suppression sprinklers, fire extinguishers, smoke and carbon monoxide detectors, equipment or circuit breakers. Tenant shall ensure that all safety systems are maintained in good working order at all times.

10. Entry.

SHA shall have the right to enter the Property in an emergency or upon 48-hour notice during all reasonable times during the term of this Lease. SHA shall inspect the Property not less than once annually to determine the physical condition of the Property and compliance by Owner with the provisions of this Lease.


Tenant shall not permit anything to be done on the Property tending to create a nuisance or a disturbance to other owners of Condominium apartments. Tenant shall not do or permit anything to be done on the Property which will increase the rate of insurance for the Property beyond that use for which the Condominium is intended. Tenant agrees to comply with all statutes, ordinances and regulations of all government agencies applicable to or regulating the use by Tenant of the Property.

12. Smoking Not Permitted

SHA’s properties are 100% smoke-free. Smoking is not permitted in the Property. In addition, State of Washington regulations (RW 70.160.075) prohibit smoking within 25 feet of public places and places of employment. Smoking will only be allowed in outside areas designated by SHA in consultation with Tenant. Tenant, its employees and its subtenants are responsible for the proper and safe disposal of matches or cigarette butts, so as not to pose a fire hazard or litter
the ground near the Property. Tenant shall use its best efforts to enforce the smoking ban with its employees, subtenants, visitors, contractors, or others.


It shall be the responsibility of Tenant to obtain a leasehold excise tax exemption from the State of Washington. If no exemption is granted, or if Tenant fails to apply for or renew the exemption, Tenant shall pay SHA the amount of any leasehold excise tax which may be due in respect of the leasehold created by this Lease. SHA shall cooperate with Tenant in securing such exemption.


Tenant recognizes that SHA is a public body receiving its financial support from federal, state and municipal sources and that it is a strictly non-sectarian governmental agency. Tenant’s leasing activities and other operations shall not favor or disfavor persons from any particular religion or denomination.

15. Operation Not for Profit.

Tenant’s operations at the Property shall be conducted on a not-for-profit basis.

16. Records and Reports.

The Tenant will have the following responsibilities with respect to records and reports.

(a) The Tenant will establish and maintain a comprehensive system of records, books and accounts in a manner conforming to requirements set forth by contract, statute and regulation, and otherwise satisfactory to the Owner. All records, books and accounts will be subject to examination at reasonable working hours by any authorized representative of the Owner.

(b) The Tenant will furnish such information (including but not limited to occupancy reports) as may be reasonably requested by the Owner from time to time with respect to the financial, physical, or operational condition of the Property. Reporting requirements from the Tenant to the Owner will include annual reports containing tenant income levels; rental amounts in effect for each unit; tenants’ race; sex; disability status; elderly status; prior homelessness status; average monthly utility expenses; a description of affirmative marketing efforts; status of reserve accounts and any other such information as required by any provision of any applicable loan and/or regulatory documents.
17. **Tenant-Management Relations.**

The Tenant will maintain good-faith communication with tenants and any representative organizations, such that problems affecting the Property and its residents might be avoided or solved on the basis of mutual self-interest.

18. **Insurance.**

Tenant shall obtain and maintain hazard insurance covering the Tenant Improvements and their contents in an amount not less that replacement cost, as the cost is adjusted from time to time which shall insure against all perils of fire, lighting, extended coverage, vandalism and malicious mischief, extended by special extended coverage endorsement to insure against all other risks of direct physical loss, and such other coverage as prudent owner would carry. If a casualty occurs to the tenant improvements the insurance proceeds shall be payable to the Tenant or its lender or Owner as their interests may appear and shall be used for restoration of the tenant improvements. All personal property on the Property shall be at the risk of the Tenant.

Tenant shall, at its sole cost and expense, keep in full force and effect commercial general liability insurance insuring Tenant against any liability arising out of the Lease, use, occupancy or maintenance of the Property, the tenant improvements and all areas appurtenant thereto. Such insurance shall be in the amount of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate for injury to, or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence. The Tenant's commercial general liability (CGL) insurance shall also include fire legal liability in an amount not less than $300,000 per occurrence.

The CGL insurance policy described above shall include Owner as an additional insured on a primary and non-contributory basis on the Tenant's policy(ies) and proof of such coverage shall be provided to Owner at the beginning of the Term and annually thereafter.

The Hazard Insurance and CGL insurance policies shall each contain:

(i) the agreement of the insurer to give Owner at least thirty(30) days' notice prior to cancellation or any material change in the policies;

(ii) a provision that no act or omission of the Tenant shall affect or limit the obligation of the insurer to pay the amount of any loss sustained; and

(iii) a waiver by the insurer of all rights of subrogation against Owner's officers, directors, employee and agent in connection with any loss or damage thereby insured except to the extent caused by the negligence or willful misconduct of Owner, its employees or agents;

(iv) Owner reserves the right to allow its insurers to inspect the Property at any time for purposes of loss control; should the insurer recommend measures or improvements related to safety or loss prevention, Tenant shall cooperate with Owner to implement insurer's recommendations.
Insurance policies, amount of deductibles, self-insured option/retentions, and insurance carriers will be subject to review and approval by Owner. All insurance must be carried with companies that are financially responsible. Generally all carriers of insurance must have and maintain a rating of "AVII" or better as identified in the A.M. Best Insurance Rating Guide, most recent edition. Insurance carriers who do not have rating of "AVII" or better may be used without written approval of Owner's Risk Manager.


During the performance of this Lease, the Tenant agrees as follows:

(a) Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.

(b) Tenant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to: (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other form of compensation, and (8) selection for training.

(c) Tenant shall post in a conspicuous place to employees and applicants for employment the notices to be provided by the Tenant that explain these Equal Employment Opportunity guidelines.

(d) Tenant shall in all solicitations or advertisements for employees placed on or in behalf of the Tenant, state that all qualified applicants will receive consideration for employment without regard to race, color religion, sex, national origin, or handicap.

20. Reasonable Accommodations.

The Tenant has a legal obligation to provide reasonable accommodations to persons with disabilities residing at the Property. A reasonable accommodation is some modification or change to the property or procedures at the Property. While the tenants must be able to meet the essential obligations of tenancy, a tenant may request an alternative format of the lease at the Property, if it is related to a disability and will assist the tenant in meeting his or her obligations.

21. Indemnification

21.1 Tenant shall indemnify, defend and hold Owner and its directors, officers, employees, contractors and Tenants harmless from any and all liabilities, damages of every kind and nature whatsoever that may be claimed or accrued by reason of any bodily injury, personal injury, accident or property damage arising from any negligent or wrongful act or omission of
Tenant, or its invitees, employees, guests, or visitors in, on, or around the Property, except to the extent caused by the negligence or willful misconduct of Landlord, its employees, officers, contractors, or Tenants.

21.2 Tenant hereby agrees that except in the case of Owner’s gross negligence or willful misconduct, Owner shall not be liable to Tenant’s business or any loss of income therefrom or from damage to goods, wares, merchandise or other property of Tenant, Tenant’s employees, invitees, sub-tenants, customers, or any other person in or about the Property, nor, unless through its negligence, shall Owner be liable for injury to the person of Tenant, Tenant’s employees, agents, contractors and invitees, whether such damage or injury results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction, or other defect of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the damage or injury results from conditions arising upon the Property or upon other portions of the building of which the Property is a part, or from other sources or places, regardless of whether the cause of such damage or injury or the means of repairing the same in inaccessible to Owner or Tenant.

22. Successors. All covenants, agreements, terms and conditions contained in this Lease shall apply to and are binding upon Owner and Tenant and their respective successors and/or assigns.

23. Labor and Material Liens. Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for the Tenant at or for use in the Property, which, claims are or may be secured by any mechanics’ or materialmen’s lien against the Property or an interest therein. If the Tenant, in good faith, contests the validity of any lien, claim or demand, the Tenant shall, at its sole expense, defend itself and Owner and Tenant shall satisfy any adverse judgment before any enforcement against Owner or the Property.

24. Assignment, Subletting or Substitution of Tenants, Encumbrances. Tenant shall not create or permit any lien or encumbrance against the Property or assign its interest as Tenant in this Lease or sublet all or a part of the Property without Owner’s prior written consent, which shall not be unreasonably withheld or conditioned. Notwithstanding any permitted encumbrance, assignment or subletting, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of the Rent and for compliance with all of its other obligations under the terms of this Lease. Owner may assign this lease without Tenant’s consent provided the assignee replaces Owner in all its responsibilities under this Lease.

25. Defaults: Remedies.

25.1 Defaults. Each of the following is a material default and breach of this Lease by the Tenant:

(a) Failure to pay any sum, including payment of Rent, as and when due, if the failure continues for a period of ten (10) days after written notice from Owner.
(b) Failure to comply with any of the covenants or provisions of this Lease, other than those described in subparagraph (a), if the failure continues for a period of ten (10) days after written notice from Owner. If the nature of the Tenant's default reasonably requires more than ten (10) days for its cure, the Tenant will not be in default if it commences to cure within the ten (10) day period and thereafter diligently completes its cure.

(c) Tenant permits waste upon the Property, or sets up or carries thereon any unlawful business, or when Tenant erects, suffers, permits, or maintains on or about the Property any nuisance and maintains in possession after the service upon Tenant of three (3) days' notice to quit.

(d) Tenant vacates the Property (defined as an absence for at least 15 consecutive days without prior notice to Landlord), or Tenant abandons the Property (defined as an absence of five (5) days or more while Tenant is in breach of some other term of this Lease). Tenant's vacation or abandonment of the Property shall not be subject to any notice or right to cure.

(e) Tenant's making any general assignment or arrangement for the benefit of creditors; the filing by or against the Tenant of a petition to have it adjudged a bankrupt or a petition for reorganization or arrangement under any bankruptcy law (unless any petition filed against the Tenant is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of the Tenant's assets at the Property or its interest in this Lease, if possession is not restored to the Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of the Tenant's assets at the Property or its interest in this Lease, if that seizure is not discharged within thirty (30) days.

25.2 Remedies. If any material default or breach by the Tenant occurs, Owner may at any time thereafter without notice or demand exercise any of the following remedies, all of which remedies shall to the greatest extent possible, be cumulative, such that exercise of one shall not exclude any other:

(a) Terminate this Lease and Tenant's right to possession of the Property by any lawful means and upon such notice as may be required hereunder and by law in order for Tenant to satisfy its statutory obligations to any residents at the Property, in which case this Lease shall terminate and Owner may re-enter and take possession of and remove all persons or property, and Tenant shall surrender possession of the Property to Landlord. Notwithstanding the foregoing, Tenant shall proceed expeditiously to re-locate any such residents at the Property and shall report to Owner monthly on Tenant's efforts to relocate its residents. In the event of a termination under this subsection (a) Owner shall be entitled to recover from Tenant all past due payments of Rent and any other payments due hereunder, including but not limited to any unamortized Tenant Improvements paid for by Owner, plus the value at the time of award of the amount by which Tenant's share of unpaid Rent and other payments due hereunder for the balance of the Term after the time of such award (discounted to present value at the discount rate of the Federal Reserve Bank of San Francisco plus one percent (1%) exceeds the amount of such loss for the same period that Tenant proves Owner could have avoided through reasonable attempts at mitigation. Owner may recover from the Tenant all damages incurred by Owner because of the Tenant's default.
(b) Subject to the Tenant’s termination rights hereunder, continue the Lease in effect whether or not Tenant shall have abandoned the Property. In such event, Owner shall be entitled to enforce all of Owner's rights and remedies under this Lease, including the right to recover Rent payments and any other payments due hereunder as they become due and/or re-let the Property in Tenant's or Owner's name, enter the Property and incur expenses to remove all persons and property from the Property, and to restore the same at Tenant's risk and expense, to put the Property in tenantable condition and to alter or improve the Property as required for any new tenant, or remedy any other default of Tenant and to obtain a new tenant, which costs and expenses shall be considered rent and shall become due and payable by Tenant with interest at the rate per annum of interest charged on judgments issued by King County Superior Court from time to time. Owner shall use reasonable diligence to re-let the Property in order to mitigate Owner's damages. Notwithstanding that Owner may elect to keep this Lease in force, Owner may thereafter terminate the Lease for any previous default that remains uncured or for any subsequent default.

(c) Pursue any other remedy available to Owner under the law or in equity, including the right to recover any other amount necessary to compensate Owner for all reasonably foreseeable damages proximately caused by the Tenant's failure to perform its obligations under this Lease.

25.3 Remedies Cumulative. Pursuit of any of the foregoing remedies shall not preclude pursuit of any remedy provided in this Lease or by law (all such remedies being cumulative), nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any payment of Rent or other sum payable under this Lease or of any damages accruing to Owner by reason of the violation of any of the covenants or conditions contained in this Lease.

25.4 Defaults by Owner. Owner is not in default unless it fails to perform obligations required of it within a reasonable time and not later than thirty (30) days after delivery of written notice by the Tenant to Owner specifying Owner's failures to perform its obligations. If Owner's obligation reasonably requires more than thirty (30) days for performance or cure, Owner is not in default if it commences performance or cure within the 30-day period and thereafter diligently prosecutes the same to completion.

25.5 Condemnation. If the Property or any portion thereof are taken under the power of eminent domain, or sold by Owner under the threat of the exercise of said power (all of which is herein referred to as “condemnation”), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If more than twenty-five percent (25%) of the floor area of the Property, is taken by condemnation, either Owner or Tenant may terminate this Lease as of the date the condemning authority takes possession by notice in writing of such election within twenty (20) days after Owner shall have notified Tenant of the taking, or, in the absence of such notice, then within twenty (20) days after the condemning authority shall have taken possession.
If this Lease is not terminated by either Owner or Tenant then it shall remain in full force and effect as to the portion of the Property remaining, provided the rental shall be reduced in proportion to the floor area taken within the Property as bears to the total floor area of all buildings located on the Property. In the event this Lease is not so terminated, then Owner agrees, at Owner’s sole cost, as soon as reasonably possible, to restore the Property to a complete unit of like quality and character as existed prior to the condemnation. All awards for the taking of any part of the Property or any payment made under the threat of the exercise of power of eminent domain shall be the property of Owner, whether made as compensation for diminution of value of the leasehold or for the taking of the fee or as severance damages; provided, however, that Tenant shall be entitled to any award for loss or damage to Tenant’s trade fixtures and removable personal property.


26.1 Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provisions hereof and such other provisions shall remain in full force and effect.

26.2 Time of Essence. Time is of the essence of this Lease.

26.3 Notices. Any notice given under this Lease shall be in writing and may be given by personal delivery or by certified mail, postage prepaid, or by air courier, addressed to the Tenant or to Owner at their addresses set forth above their signatures below, and shall be effective when received or by electronic transmission with a response from the recipient indicating receipt or sent by fax with a machine-printed or other written confirmation of receipt by the other party. Notices personally delivered are considered received upon delivery. Mailed notices are considered received five (5) days after deposit in the mail or such other courier. Either party may by notice under this section change its address for notice purposes. A copy of all notices given to Owner shall be concurrently transmitted to any person designated in writing by the Owner.

Owner’s Notice Address: Housing Authority of the City of Seattle
P.O. Box 19028
190 Queen Anne Avenue North
Seattle, WA 98109-1028
Attention: Asset Manager

With a copy to: Housing Authority of the City of Seattle
Attn: General Counsel
P.O. Box 19028
190 Queen Anne Avenue North
Seattle, WA 98109-1028

Tenant’s Notice Address: Providence Health & Services – Washington
26.4 Waiver. Waiver by Owner of the breach of any provision of this Lease is not a waiver of any subsequent breach by the Tenant of the same or any other provision. Owner's consent to or approval of any act does not make Owner's consent to or approval of any subsequent act unnecessary. Acceptance of rent or other payment due hereunder by Owner is not a waiver of any preceding breach of any provision of this Lease, other than the Tenant's failure to pay the rent or payment so accepted.

26.5 Covenants and Conditions. Each provision of this Lease performable by Owner or the Tenant is both a covenant and a condition.

26.6 Authority. Owner and Tenant represent to each other that they are legally constituted entities having full power and authority to enter into this Lease and to perform their obligations and duties hereunder. Owner represents and warrants to Tenant that each individual executing this Lease on behalf of Owner is duly authorized to execute and deliver this Lease on behalf of Owner, and that this Lease is binding upon Owner in accordance with its terms. Tenant represents and warrants to Owner that each individual executing this Lease on behalf of Tenant is duly authorized to execute and deliver this Lease on behalf of Tenant, and that this Lease is binding upon Tenant in accordance with its terms.

26.7 Attorneys’ Fees. In any action to enforce or interpret this Lease the prevailing party is entitled to recover reasonable attorneys’ fees from the losing party.

26.8 Quiet Possession. Upon paying the rent and observing and performing all of its covenants and conditions, the Tenant shall have quiet possession of the Property for the entire term subject to all of the provisions of this Lease.

26.9 Relationship of Parties/Liability. For the purposes of this Lease, the relationship of the parties hereto is strictly that of landlord and tenant. Nothing herein shall be construed so as to create a partnership, joint venture, or agency.

26.10 Consent. Consent or approval of parties whenever required under this Lease shall not be unreasonably withheld, unless otherwise specifically provided by the terms of this Lease.

26.11 Governing Law. The validity of this Lease, the interpretation of the rights and duties of the parties hereunder and the construction of the terms hereof shall be governed in
accordance with the internal laws of the State of Washington. Venue in the event of any dispute shall be King County, Washington.

26.12 Subordination and Attornment. Upon request of Owner, Tenant will sign any reasonably requested estoppel certificate or will subordinate its rights and interest hereunder to the lien of any mortgage or deed of trust hereafter in force against the Property, the Building or the Land and to all advances made or hereafter to be made upon the security thereof; provided so long as Tenant is not in default under this Lease, Tenant shall have continued enjoyment of the Property and related common areas, as provided herein, free from any disturbance or interruption by reason of any foreclosure or transfer in lieu of foreclosure of said mortgage or deed of trust. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust given by Owner covering the Property, the Building or the Land, Tenant shall attorn to the purchaser upon such foreclosure or sale and recognize the same as landlord under this Lease, and such purchaser shall recognize the Lease.

26.13 Severability. The invalidity, unenforceability, or waiver of any provision of this Lease shall not affect or impair any other provision.

26.14 Full Agreement. No provision of this Lease may be amended or added except by an agreement in writing signed by the parties hereto.

27. Surrender of Property
At the end of the term of the Lease or earlier termination of the Lease, Tenant shall deliver the Property and any tenant improvements to Owner in good and sound condition and appearance as received, ordinary wear and tear excepted. Tenant shall repair any damage to the Property occasioned by its use thereof, or by the removal of Tenant’s fixtures, furnishings, or equipment. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Property to Owner in the same condition as received, broom clean, except ordinary wear and tear, and make any necessary repairs, including but not limited to, the patching and filling of holes, repairing the floor, and repairing any structural damage caused by Tenant.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.
OWNER:

HOUSING AUTHORITY OF THE CITY OF SEATTLE, a/k/a SEATTLE HOUSING AUTHORITY, a Washington body public and corporate

By ______________________

Its ______________________

STATE OF WASHINGTON  

) ss.

COUNTY OF KING  

I certify that I know or have satisfactory evidence that Andrew J. Lofton is the person who appeared before me and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Executive Director of the HOUSING AUTHORITY OF THE CITY OF SEATTLE, a public body corporate and politic, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 8th day of March, 2013.

________________________________________
Ellen L. Callahan

Print Name: Ellen L. Callahan

Residing: Langley WA

My Commission expires: 04-01-2014
TENANT:  

PROVIDENCE HEALTH & SERVICES – WASHINGTON, a Washington non-profit corporation

By Robert T. Hellriegel
its Chief Executive, Senior and Community Services

STATE OF WASHINGTON )
COUNTY OF KING ) ss.

I certify that I know or have satisfactory evidence that Robert T. Hellriegel is the person who appeared before me and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Chief Executive, Senior and Community Services of the PROVIDENCE HEALTH & SERVICES – WASHINGTON, a Washington non-profit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 1st day of March, 2013.

Notary Public
State of Washington
JAMES JOSHUA CHARLES JR
My Appointment Expires May 18, 2015

Print Name: James Joshua Charles Jr
Residing: Providence - Renton, WA 98057
My Commission expires: May 18, 2015
EXHIBIT G: Projected Cash Flow and Maintenance Reserve Contribution
<table>
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<tr>
<th>YEAR</th>
<th>A: Total Cost Estimate (4% COLA)</th>
<th>B: Tenant FFE</th>
<th>C: Owner Portion for Capital Needs</th>
<th>D: Rental Income</th>
<th>E: Less Taxes, Fees, other Op costs</th>
<th>F: Rent available for reserves</th>
<th>G: Reserve Balance beginning</th>
<th>Additions from rent</th>
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16 year total: $7,546,100 | $(3,115,600) | $4,430,500

Present Value of Gap: 2% $2,561,182

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if $200,000 per year add: $694,335
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<td>$426,000</td>
<td>$1,181,000</td>
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<td>$903,000</td>
<td>$1,944,400</td>
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Assumption: COLA 4%
## Capital Needs Assessment for Heritage House

10/18/2013

<table>
<thead>
<tr>
<th>Component</th>
<th>Life</th>
<th>estimate through 2030</th>
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<td><strong>SYSTEM</strong></td>
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<tr>
<td>Lighting</td>
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