CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117999

AN ORDINANCE related to the sale and redevelopment of the former Public Safety Building block; authorizing the execution of amendments to the Purchase and Sale Agreement, to continue implementation of the sale and redevelopment of such property, as previously authorized by Ordinance 122612, and accepting payment therefor.

WHEREAS, Ordinance 122612, authorized the Director of Finance and Administrative Services to execute agreements with Triad Civic Center LLC ("Triad") for the sale and redevelopment of the former Public Safety Building site consistent with the City's vision for civic public open space (commonly referred to as the Civic Square), private development, underground parking, and pedestrian access to the Metro/Sound Transit tunnel; and;

WHEREAS, in 2008, Triad obtained approval of the project design for the Civic Square, and adjacent office and residential tower, by the combined Downtown Design Review Board and Seattle Design Commission, at which time the Department of Planning and Development issued a Master Use Permit for the project, and;

WHEREAS, due to the negative impact of regional and global economic conditions on the real estate market, Ordinance 123005 extended the closing date to December 2013 and established conditions for Triad to obtain two additional one-year extensions to position the project to move forward at the earliest possible moment; and;

WHEREAS, in 2013, Triad requested the City's acceptance of a Promissory Note in lieu of a cash payment into escrow to obtain an extension of the closing date, together with prepaid interest of $50,000; and;

WHEREAS, amending the Purchase and Sale Agreement to modify the terms for the extension of the closing date will provide Triad with additional cash to enhance marketing efforts on the site in the near-term; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Finance and Administrative Services or his or her designee is authorized to execute the Second Amendment to the Purchase and Sale Agreement, substantially in the form attached hereto as "Attachment A."

Section 2. Upon receipt, the compensation for prepaid interest on the Promissory Note, in the amount of $50,000, shall be deposited into the Cumulative Reserve Subfund – Unrestricted Subaccount (00164).

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment A: Second Amendment to the Purchase and Sale Agreement

Attachment A Exhibit A: Promissory Note

Attachment A Exhibit B: Personal Guaranty of Financial Obligations in Purchase and Sale Agreement

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT ("***Amendment***") is made and entered into as of _____ __, 201_, by and between **THE CITY OF SEATTLE**, a Washington municipal corporation (the "***Seller***") and **TRIAD CIVIC CENTER LLC,** a Washington limited liability company ("***Purchaser***").

RECITALS

WHEREAS Purchaser and Seller have entered into that certain Purchase and Sale Agreement dated as of February 19, 2008 (the "***Agreement***"), as amended on July 2, 2009; and

WHEREAS Purchaser and Seller desire to further amend certain provisions of the Agreement, all upon the terms and conditions set forth in this Amendment;

NOW, THEREFORE,

IN CONSIDERATION of the respective agreements hereinafter set forth, Seller and Purchaser do each hereby covenant and agree with the other as follows:

1. AMENDMENT. The Agreement is amended as follows:

a. **Section 11(c)(i)(1)-(3).** Section 11(c)(i)(1)-(3) of the Agreement is deleted and the following is substituted:

> (1) For the first extension, Purchaser must (a) provide written notice to Seller of Purchaser's election to extend the Expiration Date not later than June 30, 2013, (b) execute a "Promissory Note" in the amount of one million dollars ($1,000,000.00) substantially in the form of Exhibit A (the "**First Extension Payment**"), c) provide a fully executed "Personal Guarantee" substantially in the form of Exhibit B and d) pay the Seller in cash prepaid and nonrefundable interest on the Promissory Note in the amount of fifty thousand dollars ($50,000.00) per year for each calendar year that the Closing Date is extended.
>
> (2) For the second extension, Purchaser must (a) have validly extended the Expiration Date under subsection (1) above, (b) provide written notice to Seller of Purchaser's election to extend the Expiration Date not later than June 30, 2014 and (c) provide the Seller with a cash payment of one million dollars ($1,000,000.00). At the Seller's sole discretion, it shall have the right to determine whether the Purchaser may, in lieu of the

$1,000,000.00 cash payment, provide a second executed Promissory Note and Personal Guarantee, or other form of security for the same amount, or deposit a cash payment with Title Company ("the "**Second Extension Payment**", and together with the First Extension Payment, the "**Extension Payments**"). Prepaid and nonrefundable interest in the amount of fifty thousand ($50,000.00) on the Second Extension shall be due and payable on June 30, 2014 if the Seller elects to accept the Promissory Note in lieu of payment in cash.

(3) The Extension Payments made by Purchaser pursuant to item (2) above (a) shall be in consideration for the extension of the Expiration Date; (b) shall not be considered as part of the Earnest Money; (c) if directed by the Seller to be paid in cash shall be paid to the Title Company to be held in an interest bearing account until Closing or until the termination of the Agreement (with all interest thereon considered part of the Extension Payments); and (d) shall not be refundable to the Purchaser. The Extension Payments made by Purchaser pursuant to items (1) and (2) above shall be applicable to the Minimum Purchase Price (and returned to Purchaser to the extent provided in Section 2(a)(iii) above) if Purchaser completes the purchase of the Property prior to the Expiration Date, as extended, and otherwise shall be released to Seller at the same time as Seller is entitled to a release of the Earnest Money. Prepaid and nonrefundable interest shall become the sole property of the Seller immediately upon payment, and shall not be considered a part of the Minimum Purchase Price or the Earnest 'Money, but solely consideration by Purchaser to Seller for the change in the form of the Extension Payments.

2. **EFFECT OF AMENDMENT.** Except as modified by this Amendment, the Agreement remains in full force and effect as originally stated. Purchaser and Seller each represent and warrant to the other that there exists no defense or claim to their respective obligations under the Agreement, as amended.

[Remainder of page intentionally left blank. Signatures on following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

SELLER: The City of Seattle,
a Washington municipal corporation

By: _____
Its: _____

PURCHASER: Triad Civic Center LLC,
a Washington limited liability company

By: _____
Frederick W. Grimm
Its: Manager

Exhibit A – Promissory Note
Exhibit B – Personal Guaranty

EXHIBIT A

PROMISSORY NOTE

$1,000,000 **Seattle, WA**

FOR VALUE RECEIVED, the undersigned, [TRIAD CIVIC CENTER LLC, a Washington limited liability company] ("Triad") pursuant to that certain Purchase and Sale Agreement by and between Triad and The City of Seattle, a Washington municipal corporation (the "City"), as amended on _____ and _____201_, ("Purchase Agreement"), promise to pay in lawful money of the United States of America to the order of the City, at The City of Seattle, Law Department, 600 Fourth Avenue -4th floor, Seattle, WA 981024, Attention Jenifer Merkel, the sum of One Million and 00/100 Dollars ($1,000,000.00) (the "Extension Payment").

The Extension Payment shall be due (a) at such time as provided for in Section ___ of the Second Amendment to the Purchase Agreement, dated _____, 201_ ("Due Date").

If such amount is not paid when due on the Due Date, it will thereafter accrue interest at the rate of twelve percent (12%) per annum until paid.

This note is secured, among other documents, by a personal guaranty made by the principals of Triad, John Goodman and Frederick Grimm ("Personal Guaranty"). This promissory note, the Personal Guaranty, and all other related instruments and documents are collectively referred to herein as the "Security Documents".

If any amount due and owing under this note is not paid on the Due Date, Triad shall, without notice or demand from the City, be in default under this Note ("Default").

Upon the occurrence of a Default, the City may, without demand or presentment, declare the Extension Payment and all accrued interest, due and payable, and thereupon the City shall have and may exercise any one or more of the rights and remedies provided herein, or in any other agreement, or other document relating hereto. The remedies provided for hereunder are cumulative to the remedies for collection of the amounts owing hereunder as provided by law

If there is a Default under this note and the City consults an attorney regarding the enforcement of any of its rights or remedies under this note or any of the other Security Documents, or if this note is placed in the hands of an attorney for collection, or if suit is brought to enforce this note or any of the other Security Documents, Triad promises to pay the City on demand for all fees, costs and expenses, including attorneys' fees, incurred in connection therewith. Such fees, costs and expenses shall include those incurred with or without suit and those incurred at or in preparation for any trial, appeal or review or in any proceedings under any present or further federal bankruptcy act or state receivership law, and any post-judgment collection proceedings.

Acceptance by the City of any payment in an amount less than the full amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be an event of Default. Upon any Default, neither the failure of the City promptly to exercise its right to declare the outstanding the Extension Payment and accrued unpaid interest hereunder to be immediately due and payable, nor the failure of the City to demand strict performance of any other obligation of Triad or any other person who may be liable hereunder shall constitute a waiver of any such rights, nor a waiver of such rights in connection with any future default on the part of the Triad or any other person who may be liable hereunder.

Except as expressly provided in this note to the contrary, Triad waives presentment, protest and demand for payment, notice of protest, demand, dishonor and nonpayment of this note.

This Note shall be construed, enforced and otherwise governed by the laws of the State of Washington.

TRIAD CIVIC CENTER, LLC
A Washington limited liability company

By:_____
Name:_____
Title:_____

EXHIBIT B
PERSONAL GUARANTY OF FINANCIAL OBLIGATIONS IN PURCHASE AND SALE AGREEMENT

This Personal Guaranty ("Guaranty") is entered into by _____, and _____ (collectively referred to herein as "Guarantor") in favor of **THE CITY OF SEATTLE**, a municipal corporation of the State of Washington, (the "City" or "Seller").

RECITALS

A. Triad Civic Center LLC, ("Purchaser") and Seller are parties to a Purchase and Sale Agreement dated February 19, 2008 ("Purchase and Sale Agreement"), as amended by the First Amendment to Purchase and Sale Agreement dated July 2, 2009 ("First Amendment"), and seek to enter into a Second Amendment to Purchase and Sale Agreement ("Second Amendment") in the form attached at Exhibit A, and as may be further modified or amended by Seller and Purchaser during the term of this Guaranty.

B. Purchaser seeks to enter into the Second Amendment with Purchaser, and Seller is willing to enter into the Second Amendment conditioned upon the personal guaranty of John Goodman and Frederick W. Grimm (collectively "Guarantor") of Purchaser's financial obligations to make the Extension Payments described in the Second Amendment and promissory note, in the form attached as Exhibit ___ ("Note").

GUARANTY

For other good and valuable consideration receipt of which Guarantor hereby acknowledges, Guarantor agrees as follows:

1. Guaranty. Guarantor unconditionally guarantees to Seller and its successors and assigns, Purchaser's full and punctual performance of all financial obligations, including, but not limited to, payment of the Extension Payments as described in the Note due to Seller from Purchaser (the "Guaranteed Obligations").

2. Term of Guaranty. This Guaranty will be effective upon the full execution and delivery of the Second Amendment and shall continue in full force until the Guaranteed Obligations have been fully paid and performed or released.

3. Joint and Several Liability. John Goodman, and Frederick W. Grimm shall be personally and jointly and severally liable as Guarantor under this Guaranty. Purchaser and Guarantor shall be jointly and severally liable for the full and complete performance of Purchaser's obligations to make the Extension Payments under the Second Amendment and Note.

4. Right of City to Proceed Against Guarantor. In the event of a failure by Purchaser to perform any Guaranteed Obligation, the City shall have the right to proceed first and directly against the Guarantor under this Guaranty and without proceeding against Purchaser or exhausting any other remedies against Purchaser which the City may have. Without limiting the foregoing, the Guarantor agrees that it shall not be necessary, and that the Guarantor shall not be entitled to require, as a condition of enforcing the liability of the Guarantor hereunder, that the City (1) file suit or proceed to obtain a judgment against Purchaser, (2) make any other effort to obtain payment or performance of the Guaranteed Obligations from Purchaser other than providing Purchaser with notice of such payment or performance as may be required by the terms of the Agreement or required to be given to Purchaser under applicable law, or (3) exercise any other right or remedy to which the City is or may be entitled in connection with the Guaranteed Obligations. Upon any unexcused failure by Purchaser in the payment of the Guaranteed Obligation and the giving of such notice or demand, if any, to Purchaser and Guarantor as may be required in connection with such Guaranteed Obligation and this Guaranty, the liability of the Guarantor shall be effective and shall immediately be paid or performed.

5. Guaranty Absolute and Unconditional. The obligations of the Guarantor are absolute, present, irrevocable and unconditional and shall remain in full force and effect until Purchaser shall have fully discharged the Guaranteed Obligations in accordance with the terms of the Note and Second Amendment and shall not be subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, such Guaranteed Obligations) based on any claim that the Guarantor may have against Purchaser, the City or any other person. Without limiting the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged or in any way modified by reason of any of the following (whether with or without notice to, knowledge by or further consent of the Guarantor):

   (a) any permitted transfer or assignment of rights or obligations under the Agreement;

   (b) any amendment, change or modification to of any of the Guaranteed Obligations, and in such case the liability of Guarantor shall be deemed modified in accordance with such amendment or modification of the Agreement;

   (c) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium arrangement, composition with creditors or readjustment of, or other similar proceedings against Purchaser or the Guarantor, or any of the property of either of them, or any allegation or contest of the validity of this Guaranty in any such proceeding (it is specifically understood, consented and agreed to that, to the extent permitted by law, this Guaranty shall remain and continue in

full force and effect and shall be enforceable against the Guarantor to the same extent and with the same force and effect as if any such proceeding had not been instituted and as if no rejection, stay, termination, assumption or modification had occurred as a result thereof, it being the intent and purpose of this Guaranty that the Guarantor shall and does hereby waive all rights and benefits which might accrue to them by reason of any such proceedings);

(d) any failure on the part of Purchaser for any reason to perform or comply with any agreement with the Guarantor;

(e) any sale, lease, transfer, abandonment or other disposition of any or all of the property of Purchaser;

(f) any legal disability of any party to the Guaranty; or

(g) the fact that entering into the Guaranty by Purchaser was invalid or in excess of its powers.

Should any money due or owing under the Second Amendment, Note or this Guaranty not be recoverable from the Purchaser due to any of the matters specified in subparagraphs (a) through (g) above, then, in any such case, such money, together with all additional sums due hereunder, shall nevertheless be recoverable from the Guarantor as though the Guarantor were principal obligor in place of Purchaser pursuant to the terms of the Agreement and not merely a guarantor and shall be paid by the Guarantor forthwith subject to the terms of this Guaranty. Notwithstanding anything to the contrary expressed in this Guaranty, nothing in this Guaranty shall be deemed to amend, modify, clarify, expand or reduce Purchaser's rights, benefits, duties or obligations under the Purchase and Sale Agreement, First Amendment, Second Amendment, and Note. To the extent that any of the matters specified in subparagraphs (a) through (c) and (e) through (i) would provide a defense to, release, discharge or otherwise affect Purchaser's Guaranteed Obligations, the Guarantor' obligations under this Guaranty shall be treated the same.

6. Guarantor's Consent. Guarantor hereby consents to the Guaranty, and further consents and agrees that the City may, without further consent or disclosure and without affecting or releasing the Guaranteed Obligations of Guarantor hereunder, except as otherwise specifically set forth herein: (a) surrender, exchange, release, assign, or sell any collateral securing any Guaranteed Obligation or waive, release, assign, sell, or subordinate any security interest, in whole or in part; (b) waive or delay the exercise of any rights or remedies of the City against Purchaser, its successor or permitted assigns; (c) waive or delay the exercise of any rights or remedies of the City against any surety or guarantor (including without limitation, rights or remedies of the City against Guarantor under this Guaranty); (d) waive or delay the exercise of any rights or remedies of the City in respect of any collateral or security interest now or hereafter held; (e) release any

surety or guarantor; or (f) renew, extend, waive or modify the terms of the obligations of any other surety or guarantor, or any instrument or agreement evidencing the same.

7. Guarantor' Waiver. Except for any notice specifically required by the terms of this Guaranty, Guarantor waives notice of (a) the City's acceptance of this Guaranty or its intention to act or its actions in reliance hereon; (b) the present existence or future incurring of any Guaranteed Obligations or any terms or amounts thereof; (c) any default by Purchaser, its successor or permitted assigns or any surety or guarantor; (d) the obtaining of any guaranty or surety agreement (in addition to this Guaranty); (e) the obtaining of any pledge, assignment or other security for any Guaranteed Obligations; (f) the release of any surety or guarantor; (g) the release of any collateral; (h) any change in Purchaser's business or financial condition or the business or financial condition of its successor or permitted assigns; (i) any acts or omissions of the City consented to in Section 5 hereof; and (j) any other demands or notices whatsoever with respect to the Guaranteed Obligations or this Guaranty. Except for any notice specifically required by the terms of this Guaranty, Guarantor further waive notice of presentment, demand, protest, notice of nonpayment and notice of protest in relation to any instrument or agreement evidencing any Guaranteed Obligation. In addition, Guarantor hereby unconditionally and irrevocably waives:

   (a) to the fullest extent lawfully possible, any statute of limitations defense based on a statute of limitations period which may be applicable to Guarantor (or parties in similar relationships) which would be shorter than the applicable statute of limitations period for the underlying claim;

   (b) any right to require a proceeding first against Purchaser;

   (c) the requirement of, or the notice of, the filing of claims by the City in the event of the receivership or bankruptcy of Purchaser; and

   (d) all demands upon Purchaser or any other person and all other formalities the omission of any of which, or delay in performance of which, might, but for the provisions of this Section 7, by rule of law or otherwise, constitute grounds for relieving or discharging the Guarantor in whole or in part from its absolute, present, irrevocable, unconditional and continuing obligations hereunder.

8. Guarantor's Knowledge of Purchaser's Economic Condition. Guarantor represents and warrants to the City that it has reviewed such documents and other information as it deemed appropriate in order to permit it to be fully apprised of Purchaser's financial condition and operations and has, in entering into this Guaranty made its own credit analysis independently and without reliance upon any information communicated by the City. Guarantor covenants for the benefit of the City to remain apprised of all material economic or other developments relating to or affecting Purchaser, its successor or permitted assigns or their properties or businesses.

9. Unconditional Guaranty. Except as specifically set forth elsewhere in this Guaranty, the obligations of Guarantor under this Guaranty are absolute and unconditional without regard to the obligations of any other party or person and shall not be in any way limited or affected by any circumstance whatsoever.

10. Separate Obligations; Reinstatement. The joint and several obligations of the Guarantor to make any payment or to perform and discharge any other duties, agreements, covenants, undertakings or obligations hereunder shall (a) give rise to separate and independent causes of action against either or both Guarantor and Purchaser (b) apply irrespective of any indulgence granted from time to time by the City. The Guarantor agrees that this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment or performance by or on behalf of Purchaser is rescinded or must be otherwise restored by the City, whether as a result of any proceedings in bankruptcy, reorganization or similar proceeding, unless such rescission or restoration is pursuant to the terms of the Agreement or Purchaser's enforcement of such terms under applicable law.

11. Notices. Any notice permitted hereunder may be given to Guarantor by personal delivery, by fax (with confirmation of receipt by telephone), or by certified mail addressed to:

    _____

    _____

    _____

12. Amendments; Waiver. This Guaranty may not be amended or modified except by written agreement of Guarantor and the City. Except as otherwise provided herein, no provision of this Guaranty may be waived except in writing and then only in the specific instance and for the specific purpose for which given.

13. No Third-Party Beneficiaries. Nothing contained herein shall be construed as creating a third-party beneficiary relationship.

14. Governing Law; Severability. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of Washington. The parties hereto intend and believe that each provision in this Guaranty comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Guaranty is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Guaranty to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Guaranty shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions

were not contained therein, and that the rights, obligations and interest of the City under the remainder of this Guaranty shall continue in full force and effect.

15. Assignment. Without the prior written consent of the City, this Guaranty may not be assigned by the Guarantor.

16. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings given in the Second Amendment and/or Note unless another meaning is clearly contemplated herein.

17. Substitution of Letter of Credit; Release of Guaranty. Notwithstanding anything to the contrary elsewhere herein, Purchaser may, at its option, provide Seller with a letter of credit (the "Letter of Credit") in form reasonably acceptable to Seller from an issuing bank reasonably acceptable to Seller, for an amount equal to the Guaranteed Obligations. Upon Seller's acceptance of the original Letter of Credit, Seller shall return the original of this Guaranty to Guarantor and all of Guarantor's liability hereunder shall automatically terminate.

Signed this _____ day of _____, 2013, in the City of Seattle, King County, Washington.

GUARANTOR:

_____ _____
Date

_____ _____
Date

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
FAS	Hillary Hamilton 684-0421	Jennifer Devore /615-1328

Legislation Title:
AN ORDINANCE related to the sale and redevelopment of the former Public Safety Building block; authorizing the execution of amendments to the Purchase and Sale Agreement, to continue implementation of the sale and redevelopment of such property, as previously authorized by Ordinance 122612, and accepting payment therefor.

Summary of the Legislation:
The legislation authorizes the Director of Finance and Administrative Services to execute a Second Amendment to the Purchase and Sale Agreement with Triad Civic Square LLC (Triad). The amendment modifies the form of consideration Triad will pay the City in exchange for an option extending the deadline for closing the transaction. It allows Triad to substitute a combination of prepaid interest, promissory notes, and personal guarantees for $1 million in escrow deposits.

Background:
Ordinance 122612, passed in December 2007, authorized the redevelopment of the former Public Safety Building site (the Site), as the final project in the implementation of the Civic Center Master Plan. Triad was selected through a competitive process to redevelop the Site. Triad commissioned an international team to design a project that would enhance the vibrancy of the area and contribute to its economic vitality. Triad would develop a publicly-owned plaza with adjacent retail buildings (Civic Square) on the southern portion of the Site. On the northern portion of the Site, Triad would develop a privately-owned mixed-use office / residential tower with ground floor retail and underground parking.

Ordinance 122612 authorized the execution of a purchase and sale agreement and other development-related documents. Those agreements provided that the City would sell the Site to Triad as consideration for the Civic Square improvements, together with a revenue stream (annuity payments) designed to support the operation and maintenance of the Civic Square. The original project schedule provided that the purchase and sale would close upon completion of construction drawings in July 2009. Project completion was anticipated in approximately 2012.

Due to the Great Recession, the City Council authorized the First Amendment to the Purchase and Sale Agreement in 2009. The development schedule was revised, extending the closing date to December 2013. The amendment also granted Triad two one-year closing extension options, conditional upon the deposit of $1,000,000 into escrow for each option.

Poor real estate market conditions in the area have resulted in the excavated site remaining undeveloped for significantly longer than the parties originally contemplated. In addition to Triad's Civic Square tower, there are two additional towers within a four-block radius that have obtained Master Use Permits. However, the earliest any building could reach the market is 2015, and that is dependent on developers pre-leasing the building or finding anchor tenants that will take an equity stake in the development, assuring lenders that the building will succeed. Vacancy rates remain high in older office towers in Seattle. While vacancy rates in downtown are generally improving, the submarket near the Civic Campus has lagged behind the north part of the Central Business District.

Consistent with the requirements of the First Amendment, Triad notified FAS in June 2013 that it wished to exercise the first one-year option to extend the closing date. However, in lieu of placing $1,000,000 into escrow, Triad requested that the City accept a Promissory Note and personal guarantees for $1,000,000 as well as $50,000 in prepaid interest. Triad intends to use the funds made liquid by avoiding the cash deposit to step up its marketing efforts to find an anchor tenant for the office portion of the tower, which is necessary in order to begin construction.

__X__ This legislation has financial implications.

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2013 Appropriation	2014 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2013 Revenue	2014 Revenue
Cumulative Reserve Subfund – Unrestricted Subaccount (00164)	Cumulative Reserve Subfund	Purchaser (Triad)	$50,000	$50,000
TOTAL			**$50,000**	**$50,000**

Revenue/Reimbursement Notes: These funds will be deposited into the Cumulative Reserve Subfund – Unrestricted Subaccount in order to help the financial position of this fund.

Total Regular Positions Created, Modified, or Abrogated through this Legislation,
Not applicable.

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2013 Expenditures	2014 Anticipated Expenditures
TOTAL				

** See budget book to obtain the appropriate Budget Control Level for your department.*

Spending/Cash Flow Notes:

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
The legislation does not have indirect or long-term implications. The legislation changes the specific mechanism for Triad to extend the closing date. Currently, Triad is obligated to put $1,000,000 into escrow until the deal closes and/or they terminate the agreement. As proposed, the Promissory Note attached to the legislation is written to provide a low-risk alternative, and the City has a high likelihood of obtaining the funds as promised.

b) **What is the financial cost of not implementing the legislation?**
This legislation provides the City with up to $150,000 over two years for any municipal purpose, in the form of payments by Triad of prepaid interest. Without the legislation, these payments will not be made. Finally, not implementing the legislation increases the cost of funds for Triad, which reduces the financial resources available to them for marketing the building.

c) **Does this legislation affect any departments besides the originating department?**
No.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
There are no alternatives that achieve the same or similar objectives. While the promissory notes and personal guarantees are considered low risk in this situation, other financial vehicles could be substituted for the $1 million Triad deposits. However, these vehicles would be more expensive, and would not meet Triad's objective of lowering their cost of funds.

e) **Is a public hearing required for this legislation?**
No.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle***

Times **required for this legislation?**
No.

g) Does this legislation affect a piece of property?
Yes. See Attachment 1.

h) Other Issues:

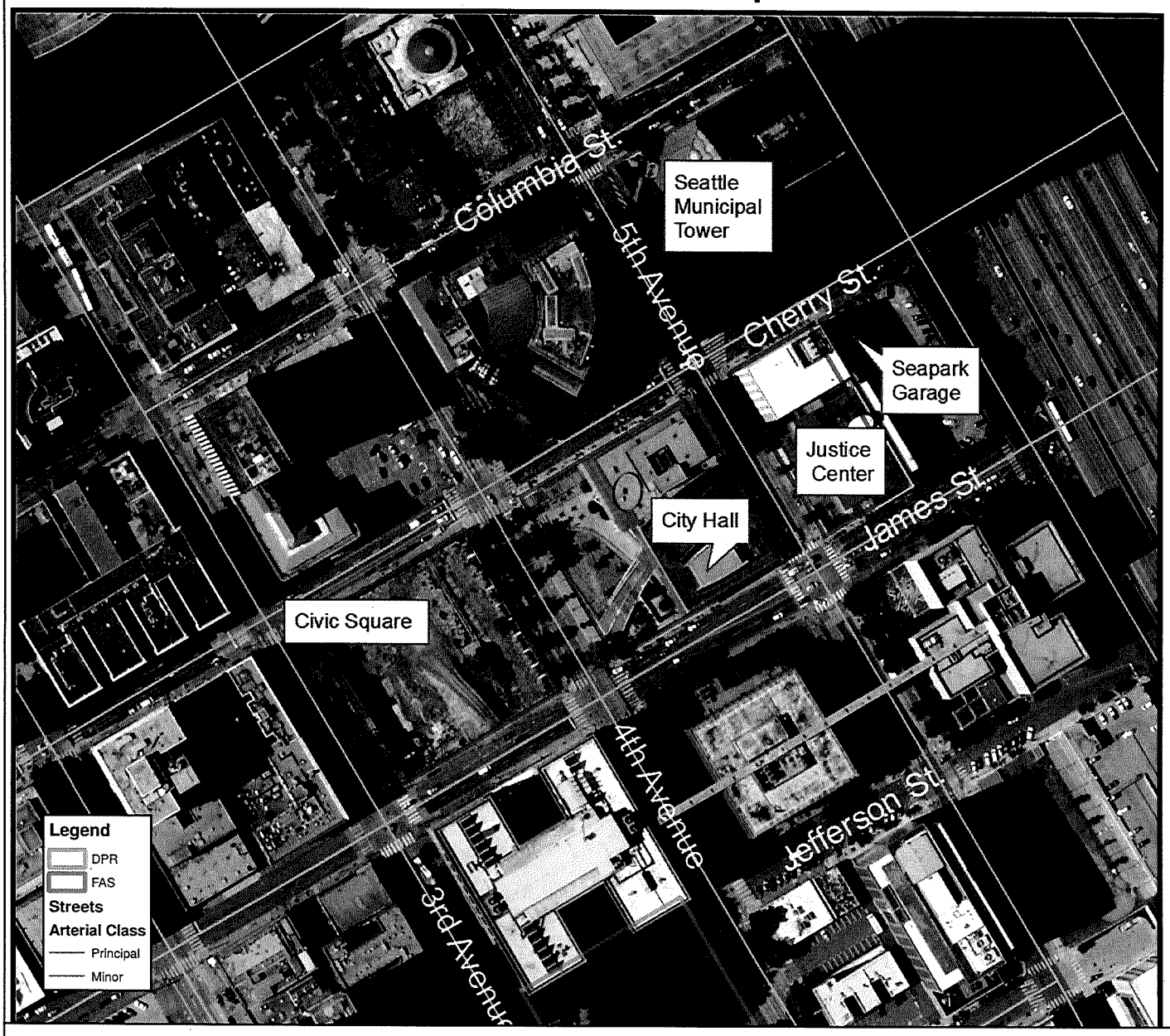
List attachments to the fiscal note below:

Attachment 1. Civic Campus Map

Hillary Hamilton
FAS Civic Square Amendment FISC ATT 1
November 12, 2013
Version #3

City of Seattle

Civic Campus



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0 105 210 420 630 840 Feet

Attachment 1 to the FAS Civic Square 2nd Amendment Fiscal Note

City of Seattle
Office of the Mayor

November 19, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill authorizing a Second Amendment to the Purchase and Sale Agreement with Triad Civic Center LLC ("Triad") for the Civic Square Plaza, formerly the site of the Public Safety Building. This amendment modifies certain provisions of the agreement related to extension of the closing date.

The redevelopment of the former Public Safety Building site is the final project in the implementation of the Civic Center Master Plan. Triad was contracted to develop a publicly-owned plaza with adjacent retail buildings on the southern portion of the site, to complement a private mixed-use tower with ground floor retail and underground parking on the northern portion of the site. Due to the Great Recession, the agreement was amended in 2009 by Ordinance 123005, to extend the closing date to 2013 and provide two one-year extensions. The proposed Second Amendment changes the requirements for Triad to obtain those two one-year extensions and increases compensation to the City by up to $150,000 over two years.

Approving the Second Amendment to the PSA will provide Triad with additional resources to enhance their marketing efforts for the site. Thank you for your consideration of this legislation. Should you have questions, please contact Chris Potter at 386-1576.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
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