

# 286674

*Exhibits to*

~~Supporting Documents~~ for Ordinance 107423,  
which authorizes the sale of land and  
buildings in Lots 9, 10, 11 & 12, Block H,  
A.A. Denny's 4th Addition in the Pike  
Place Urban Renewal Project, to the  
Elliott Bay Partnership No. 1.

# 286674

PART I OF  
CONTRACT FOR SALE OF PROPERTY FOR REDEVELOPMENT

THIS AGREEMENT made on or as of the        day of        ,  
1978, by and between the CITY OF SEATTLE, a Municipal Corporation  
of the State of Washington, having its offices at the Seattle  
Municipal Building, 600 Fourth Avenue, in the City of Seattle,  
Washington (hereinafter called "City") and The Elliott Bay  
Partnership No. 1,        a Washington general partnership having  
its offices in the City of Seattle at 1520 Third Avenue, 8th Floor,  
Seattle, Washington 98101 (hereinafter called "Redeveloper"),

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal  
Law (RCW 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 connec-  
tion is engaged in carrying out an urban renewal project known as  
the "Pike Place Urban Renewal Project, WASH. R-17" (hereinafter  
called "Project") in an area (hereinafter called "Project Area")  
located in the City; and

WHEREAS, for the purposes of this agreement the words con-  
struct, construction, and constructing shall be used interchangeably  
with the words rehabilitate, rehabilitation, and rehabilitating,  
respectively; and

WHEREAS, as of the date of this Agreement, there has been  
prepared and approved by City an Urban Renewal Plan for the 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 "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 the Project Area available for redevelopment by private enterprise 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 represents and warrants that it is the fee simple owner of all of the real property described below and represents and warrants that the City has full power and authority to enter into this Agreement and to sell the property pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto, for and in consideration of the promises and the mutual obligations herein undertaken, do hereby agree as follows:

Sec. 1. Sale and Purchase Price. Subject to all of the terms and conditions of this Agreement, the City will sell that certain real property in the Project Area more particularly described as follows:

Lots 9, 10, 11 and 12, Block H, and vacated alley adjoining all in 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 thereof recorded in Volume 1 of Plats, Page 69, records of King County, Washington; EXCEPT that portion of Said Lots 9 and 12 condemned by City of Seattle Ordinance No. 67125; EXCEPT the southeasterly 20 feet of that portion of the above described Lot 12 and vacated alley adjoining Lots 11 and 12, Subject to easements and restrictions of record.

Together with a restrictive easement for the benefit of the public on and over Lots 7 and 8 of Block H of A. A. Denny's 4th Addition to the City of Seattle and vacated alley adjoining said Lots, requiring that any improvements constructed on said Lots 7 and 8 and alley adjoining other than landscaping be set back twenty (20) feet from the lot lines common to Lots 9 and 10 and 7 and 8 of said block and addition.

Subject to an easement over the following described real property between the elevations of 50.80 feet and elevation 61.57 feet, and between elevation 73.59 feet and elevation 83.59 feet, based on City datum.

Beginning at the easternmost corner of said Lot 11 (at the intersection of the Western Avenue and Pike Street rights-of-way), thence northwesterly along the northeast line thereof for a distance of 20 feet; thence southerly in a straight line to a point on the southeast line 20 feet from the easternmost corner; thence northeasterly along the southeast line to the point of true beginning. Prohibiting any structure, construction or use of said areas which intereferes with its use as a waiting zone for elevation passengers. This restrictive easement shall not preclude the renegotiation of this easement in the event that the existing building is demolished and another constructed.

Subject also to an easement for the placement of five light fixtures on the southeast facade and one light fixture on the southwesterly facade of the building on Lot 11, Block H of A. A. Denny's 4th Addition to the City of Seattle, together with related wiring, conduit, and electrical apparatus as described in the attached diagram.

Subject to an easement for a public walkway five feet wide to provide continuous pedestrian passage to and from other properties in Block H, said addition to the Pike Street right-of-way over the southwest 25 feet of said Lots 9 and 12, at the existing grade.

(which above-described real estate is hereinafter called "Property") to the Redeveloper and the Redeveloper will purchase the Property for a consideration consisting of (1) a payment to the City of the sum of Three Hundred Three Thousand Dollars (\$303,000.00), such payment to be in cash, or by such check as shall be satisfactory to the City, and (2) the covenants, promises and undertakings of the Redeveloper herein contained.

Sec. 2. Conveyance. The City warrants and upon payment in full by Redeveloper of the monetary portion of the consideration that is \$303,000, the City shall convey title to the Property to the Redeveloper by Warranty Deed (hereinafter called "Deed") free and clear of any exceptions, conditions, restrictions, or other conditions, covenants, and restrictions except for those set forth or referred to elsewhere in this Agreement, and except for:

Subsequent to the conveyance of the Property to the Redeveloper, the Redeveloper shall assume responsibility for the payment of all costs to be incurred by the City in connection with its ordinary maintenance and repair of the passenger elevator adjoining the southeast corner of Lot 11, Block H, of A. A. Denny's 4th Addition to the City of Seattle.

Sec. 3. Title Insurance. The City shall provide the Redeveloper with an owner's policy of title insurance in standard form, acceptable to the Redeveloper and pay the costs of said Title Insurance Policy and for the necessary State Revenue Stamps. A preliminary title report will be provided by the City for the Redeveloper's inspection.

Sec. 4. Escrow Fee. The escrow fee charged in connection with this closing shall be paid one-half each by the Redeveloper and the City.

Sec. 5. Procedure for Delivery of Deed.

(a) 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 grantee, 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 and for payment to the City by the Redeveloper of that portion of the consideration consisting of cash, or a check in lieu thereof, shall be as follows:

- (1) The deed will be prepared by the City and submitted to the Redeveloper for approval.
- (2) Upon agreement by the City and the Redeveloper as to the form and content of the deed, the Redeveloper will endorse its approval thereupon and return the same to the City.
- (3) The City, upon passage of legislation, if any, necessary to authorize execution of the deed on its behalf, shall cause such deed to be executed and thereupon delivered to the escrow office of the Safeco Title Insurance Company with instructions to record the same on behalf of the grantor City as soon as the Redeveloper has deposited with the escrow agent aforesaid a check in the sum of \$303,000 payable to The City of Seattle, provided, however, the escrow agent shall be instructed not to record the deed or in any other way deliver the same until advised by the City that the form and character of the check is acceptable to the City.

(4) The escrow agent shall be instructed to in turn instruct the King County Office of Records and Elections (County Recorder) to mail the original of the deed, following recording, to the Redeveloper.

(b) Time and Place for Delivery of Deed. The City shall deliver the Deed and possession of the Property to the Redeveloper on February 28, 1979, or on such earlier date as the parties hereto may mutually agree in writing. Conveyance shall be made at the principal office of the City and the Redeveloper shall accept such conveyance and pay the Purchase Price to the City at such time and place.

Sec. 6. Good Faith Deposit.

(a) Amount. The Redeveloper has, prior to the execution of the Agreement by the City, delivered to the City a good faith deposit of a certified check to the City in the amount of Fourteen Thousand One Hundred Dollars (\$14,100.00)----- hereinafter called "Deposit" as security for the performance of the obligations of the Redeveloper to be performed prior to the return of the Deposit. The Redeveloper, or its retention by the City as liquidated application on account of purchase price, as the case may be, in accordance with the Agreement. The Deposit, if cash or certified check, shall be deposited in an account of the City in a bank or trust company selected by it.

(b) Interest. The City shall be under no obligation to pay or earn interest on the Deposit, but if interest is payable thereon, such interest when received by the City shall be promptly paid to the Redeveloper.

(c) Application to Purchase Price. In the event the Redeveloper is otherwise entitled to return of the Deposit pursuant to paragraph (a) of this Section, upon written request of the Redeveloper the amount of the Deposit if paid in cash or by certified check shall be applied on account of the Purchase Price at the time payment of the Purchase Price is made.

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(b) Interest. The City shall be under no obligation to pay or earn interest on the Deposit, but if interest is payable thereon, such interest when received by the City shall be promptly paid to the Redeveloper.

(c) Application to Purchase Price. In the event the Redeveloper is otherwise entitled to return of the Deposit pursuant to paragraph (e) of this Section, upon written request of the Redeveloper the amount of the Deposit if paid in cash or by certified check shall be applied on account of the Purchase Price at the time payment of the Purchase Price is made.

(d) Retention by City. Upon termination of the Agreement as provided in Sections 703 and 704, the Deposit or the proceeds of the Deposit, if not theretofore returned to the Redeveloper pursuant to paragraph (e) of this Section, including all interest payable on such Deposit or the proceeds thereof after such termination, shall be retained by the City as provided in Sections 703 and 704 hereof.

(e) Return to Redeveloper. Upon termination of the Agreement as provided in Section 702 hereof, the Deposit shall be returned to the Redeveloper by the City as provided in Section 702 hereof. If the Agreement shall not have been theretofore terminated and if no cause for termination then exists, the City shall return the Deposit to the Redeveloper upon receipt by the City of the following:

- (1) A copy of the commitment or commitments obtained by the Redeveloper for the mortgage loan or loans to assist in financing the construction of the Improvements (as defined in Section 301 hereof), certified by the Redeveloper to be a true and correct copy or copies thereof;
- (2) Evidence satisfactory to the City that the interest mortgage loan to assist in financing the construction of the Improvements has been initially closed;
- (3) A copy of the contract between the Redeveloper and the general contractor for the construction of the Improvements, certified by the Redeveloper to be a true and correct copy thereof; and
- (4) A copy of the contract bond provided by the general contractor in connection with the aforesaid construction contract which bond shall be in a penal sum equal to not less than ten percent (10%) of the contract price under said construction contract, certified by the Redeveloper to be a true and correct copy thereof.

Sec. 7. Time for Commencement and Completion of Improvements.

The construction of the Improvements referred to in Section 301 hereof shall be commenced in any event within three (3) months after the date of the Deed, and except as otherwise provided in the Agreement, shall be completed within eighteen (18) months after such date.

Sec. 8. Time for Certain Other Actions.

(a) Time for Submission of Construction Plans. The time within which the Redeveloper shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City in any event, pursuant to Section 301 hereof, shall be not later than One Hundred Eighty Days (180) from the date of the Agreement.

(b) Time for Submission of Corrected Construction Plans. Except as provided in Paragraph (c) of this Section 8, the time within which the Redeveloper shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall be not later than thirty (30) days after the date the Redeveloper receives written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.

(c) Maximum Time for Approved Construction Plans. In any event, the time within which the Redeveloper shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City shall be not later than sixty (60) days after the date the Redeveloper receives written notice from the City of the City's first rejection of the original Construction Plans submitted to it by the Redeveloper.

(d) Time for City Action on Change in Construction Plans. The time within which the City may reject any change in the Construction Plans, as provided in Section 302 hereof, shall be Thirty (30) days after the date of the City's receipt of notice of such change.

(e) Time for Submission of Evidence of Equity Capital and Mortgage Financing. The time within which the Redeveloper shall submit to the City, in any event, evidence as to equity capital and any commitment necessary for mortgage financing, as

provided in Section 303 hereof, shall be not later than Ninety (90) days after the date of written notice to the Redeveloper of approval of the Construction Plans by the City, or, if the Construction Plans shall be deemed to have been approved as provided in Section 303 hereof, after the expiration of thirty (30) days following the date of receipt by the City of the Construction Plans so deemed approved.

Sec. 9. Period of Duration of Covenant on Use. The covenant pertaining to the use of the Property, set forth in Section 401 hereof, shall remain in effect from the date of the Deed until January 4, 2014, the period specified or referred to in the Urban Renewal Plan, or until such date thereafter to which it may be extended by proper amendment of the Urban Renewal Plan, on which date, as the case may be, such covenant shall terminate.

Sec. 10. Notices and Demands. A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by Registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

(1) in the case of the Redeveloper, is addressed to or delivered personally to the Redeveloper at 1520 - Third Avenue, 8th Floor, Seattle, Washington 98101; and

(2) in the case of the City, is addressed to or delivered personally to the City at 400 Yesler Building, Seattle, Washington 98104

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Sec. 11. Counterparts. The Agreement is executed in three (3) counterparts, each of which shall constitute one and the same instrument.

PART II OF

CONTRACT FOR SALE OF PROPERTY FOR REDEVELOPMENT

ARTICLE I. PREPARATION OF PROPERTY FOR REDEVELOPMENT

Sec. 101. Acceptance by Redeveloper. By its execution of this Agreement, the Redeveloper certifies that it has inspected the property and that it accepts the property in the condition in which it existed as of the date of such execution, subject, however, to exceptions as follows:

NONE

ARTICLE II. RIGHTS OF ACCESS TO PROPERTY

Sec. 201. Access to Property. Prior to the conveyance of the property by the City to the Redeveloper, the City shall permit representatives of the Redeveloper to have access to any part of the Property as to which the City holds title, at all reasonable times for the purpose of obtaining data and making various tests concerning the Property necessary to carry out the Agreement. After the conveyance of the Property by the City to the Redeveloper, the Redeveloper shall permit the representatives of the City and the United States of America access to the Property at all reasonable times which any of them deems necessary for the purposes of the Agreement, the Cooperation Agreement, or the Contract for Loan and Capital Grant, including, but not limited to, inspection of all work being performed in connection with the construction of the Improvements. No compensation shall be payable nor shall any charge be made in any form by any part for the access provided for in this Section.

ARTICLE III. CONSTRUCTION PLANS: CONSTRUCTION OF IMPROVEMENTS: CERTIFICATE OF COMPLETION

Sec. 301. Plans for Construction of Improvements. Plans and specifications with respect to the redevelopment of the Property and the construction of improvements thereon shall be in conformity with

the Urban Renewal Plan, the Agreement, and all applicable State and local laws and regulations. As promptly as possible after the date of this Agreement, and, in any event no later than the time specified therefor in Paragraph (A) Section 8 of Part I hereof, the Redeveloper shall submit to the City, for approval by the City, plans, drawings, specifications, and related documents, and the proposed construction schedule (which plans, drawings, specifications, related documents, and progress schedule, together with any and all changes therein that may thereafter be made and submitted to the City as hereinafter collectively called "Construction Plans") with respect to the improvements to be constructed by the Redeveloper on the Property, in sufficient completeness and detail to show that such improvements and construction thereof will be in accordance with the provisions of the Urban Renewal Plan and Agreement. The City shall, if the Construction Plans originally submitted conform to the provisions of the Urban Renewal Plan and the Agreement, approve in writing such Construction Plans and no further filing by the Redeveloper or approval by the City thereof shall be required except with respect to any material change. Such Construction Plans shall, in any event, be deemed approved unless rejection thereof in writing by the City, in whole or in part, setting forth in detail the reasons therefor, shall be made within thirty (30) days after the date of their receipt by the City. If the City so rejects the Construction Plans in whole or in part as not being in conformity with the Urban Renewal Plan or the Agreement, the Redeveloper shall submit new or corrected Construction Plans which are in conformity with the Urban Renewal Plan and the Agreement, within the time specified therefor in Paragraph (B), Section 8 of Part I hereof, after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection, and resubmission of corrected Construction Plans hereinabove provided with respect to the original Construction Plans shall continue to apply until the Construction Plans have been approved by the City: Provided, That in any event, the Redeveloper shall submit Construction Plans which are in conformity with the requirements of the

Urban Renewal Plan and the Agreement, as determined by the City, no later than the time specified therefor in Paragraph (C), Section 8 of Part I hereof. All work with respect to the improvements to be constructed or provided by the Redeveloper on the Property shall be in conformity with the Construction Plans as approved by the City. The term "Improvements," as used in this Agreement, shall be deemed to have reference to the improvements as provided and specified in the Construction Plans as so approved.

Sec. 302. Changes in Construction Plans. If the Redeveloper desires to make any change in the Construction Plans after their approval by the City, the Redeveloper shall submit the proposed change to the City for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of Section 301 hereof with respect to such previously approved Construction Plans, the City shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the City unless rejection thereof, in whole or in part, by written notice thereof by the City to the Redeveloper, setting forth in detail the reasons therefor, shall be made within the period specified therefor in Paragraph (D), Section 8 of Part I hereof.

Sec. 303. Evidence of Equity Capital and Mortgage Financing. As promptly as possible after approval by the City of the Construction Plans, and, in any event, no later than the time specified therefor in Paragraph (E), Section 8 of Part I hereof, the Redeveloper shall submit to the City evidence satisfactory to the City that the Redeveloper has the equity capital and commitments for mortgage financing necessary for the construction of the Improvements.

Sec. 304. Approvals of Construction Plans and Evidence of Financing as Conditions Precedent to Conveyance. The submission of Construction Plans and their approval by the City as provided in Section 301 hereof, and the submission of evidence of equity capital and commitments for mortgage financing as provided in Section 303 hereof, are conditions precedent to the obligation of the City to convey the Property to the Redeveloper.

Sec. 305. Commencement and Completion of Construction of Improvements. The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself and such successors and assigns, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the construction of the Improvements thereon, and that such construction shall in any event be begun within the period specified in Section 8 of Part I hereof and be completed within the period specified in such Section 8. It is intended and agreed, and the Deed shall so expressly provide, that such agreement conditions subsequent / and covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of the community and the City and enforceable by the City against the Redeveloper and its successors and assigns to or of the Property or any part thereof or any interest therein.

Sec. 306. Progress Reports. Subsequent to conveyance of the Property, or any part thereof, to the Redeveloper, and until construction of the Improvements has been completed, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the City, as to the actual progress of the Redeveloper with respect to such construction.

Sec. 307. Certificate of Completion.

(a) Promptly after completion of the Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Redeveloper to construct the Improvements (including the dates for beginning and completion thereof), the City will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the City shall be (and it shall be so provided in the Deed and in the certification itself) a conclusive determination of satisfaction and termination of the

agreements and covenants in the Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements and the dates for the beginning and completion thereof.

(b) With respect to such individual parts or parcels of the Property which, if so provided in Part I hereof, the Redeveloper may convey or lease as the Improvements to be constructed thereon are completed, the City will also, upon proper completion of the Improvements relating to any such part or parcel, certify to the Redeveloper that such Improvements have been made in accordance with the provisions of the Agreement. Such certification shall mean and provide and the Deed shall so state, (1) that any party purchasing or leasing such individual part or parcel pursuant to the authorization herein contained shall not (because of such purchase or lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Property; and (2) that neither the City nor any other party shall thereafter have or be entitled to exercise with respect to any such individual part or parcel so sold (or, in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of the Agreement or the Deed by the Redeveloper or any successor in interest or assign, unless (1) such default or breach be by the purchaser or lessee, or any successor in interest to or assign of such individual part or parcel with respect to the covenants contained and referred to in Section 401 hereof, and (2) the right, remedy, or control relating to such default or breach.

(c) Each certification provided for in this Section 307 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property, including the Deed. If the City shall refuse or fail to

provide any certification in accordance with the provisions of this Section, the City shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

ARTICLE IV. RESTRICTIONS UPON USE OF PROPERTY

Sec. 401. Restrictions on Use. The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself, and such successors and assigns, that the Redeveloper, and such successors and assigns, shall:

(a) Devote the Property to, and only to and in accordance with, the uses specified in the <sup>applicable provisions of</sup> Urban Renewal Plan; <sup>and</sup> <sup>or approved modifications thereof</sup>

(b) Not discriminate upon the basis of race, color, religion, sex, or national origin in the sale, lease, or rental or in the use or occupancy of the Property or any Improvements erected or to be erected thereon, or any part thereof.

(c) All advertising (including signs) for sale and/or rental of the whole or any part of the Property shall include the legend "An Open Occupancy Building" in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

(d) Comply with the regulations issued by the Secretary of Housing and Urban Development set forth in 37 F.R. 22732-3 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards.

Sec. 402. Covenants; Binding Upon Successors in Interest;

Period of Duration. It is intended and agreed, and the Deed shall <sup>conditions subsequent</sup> so expressly provide, that the agreements/and covenants provided in Section 401 hereof shall ~~be covenants~~ running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, its successors and assigns, and any successor in interest to the property, or any part thereof, and the owner of any other land (or of any interest in such land) in the Project Area which is subject to the land use requirements and restrictions of the Urban Renewal Plan, and the United States (in the case of the covenant provided in subdivision (b) of Section 401 hereof), against the Redeveloper, its successors and assigns and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy <sup>of</sup> of the Property or any part thereof. It is further intended and agreed that the agreement <sup>conditions subsequent</sup> /and covenants provided in subdivisions (a), (c) and (d) of Section 401 hereof shall remain in effect until January 4, 2014, the period specified in the Urban Renewal Plan, or until such date thereafter to which it may be extended by proper amendments of the Urban Renewal Plan (at which time such <sup>condition subsequent</sup> agreement/and covenant shall terminate) and that the agreements/and <sup>conditions subsequent</sup> covenants provided in subdivision (b) of Section 401 hereof shall remain in effect without limitation as to time: Provided, That <sup>conditions subsequent</sup> such agreements/and covenants shall be binding on the Redeveloper itself, each successor in interest to the Property, and every part thereof, and each party in possession or occupancy, respectively, only for such period as such successor or party shall have title to, or an interest in, or possession or occupancy of, the Property or part thereof. The terms "uses specified in the Urban Renewal Plan" and "land use" referring to provisions of the Urban Renewal Plan, or similar language, in the Agreement shall include the land and all buildings, housing, and other requirements or restrictions

of the Urban Renewal Plan pertaining to such land.

Sec. 403. City and United States Rights to Enforce. In amplification, and not in restriction of, the provisions of the preceding Section, it is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the agreements/and covenants provided in Section 401 hereof, and the United States shall be deemed a beneficiary of the covenant provided in subdivisions (b), (c), and (d) of Section 401 hereof, both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements/and covenants shall (and the Deed shall so state) run in favor of the City and the United States, for the entire period during which such agreements/and covenants shall be in force and effect, without regard to whether the City or the United States has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements/and covenants relate. The City shall have the right, in the event of any breach of any such agreement/or covenant, and the United States shall have the right in the event of any breach of the covenant provided in subdivisions (b), (c), and (d) of Section 401 hereof, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement/or covenant, to which it or any other beneficiaries of such agreement/or covenant may be entitled.

ARTICLE V. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

Sec. 501. Representations as to Redevelopment. The Redeveloper represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of:

(a) The importance of the redevelopment of the Property to the general welfare of the community;

(b) the substantial financing and other public aids that have been made available by law and by the federal and local governments for the purpose of making such redevelopment possible; and

(c) the fact that a transfer of the partnership units in the Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such partnership units or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, is for practical purposes a transfer or disposition of the Property then owned by the Redeveloper;

the qualifications and identity of the Redeveloper, and its partners, are of particular concern to the community and the City. The Redeveloper further recognizes that it is because of such qualifications and identity that the City is entering into the Agreement with the Redeveloper, and in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed without requiring in addition a surety bond or similar undertaking for such performance of all undertakings and covenants of this Agreement.

Sec. 502. Prohibition Against Transfer of Partnership Units Binding Upon Partners Individually. For the foregoing reasons, the Redeveloper represents and agrees for itself, its partners, and any successor in interest of itself and its partners, respectively, that: Prior to completion of the Improvements as certified by the City, and without the prior written approval of the City,

(a) there shall be no transfer by any party owning ten (10) percent or more of the partnership units in the Redeveloper (which term shall be deemed for the purposes of this and related provisions

to include successors in interest of such partnership units or any part thereof or interest therein), (b) nor shall any such owner suffer any such transfer to be made, (c) nor shall there be or be suffered to be by the Redeveloper, or by any owner of ten (10) percent or more of the partnership units therein, any other similarly significant change in the ownership of such partnership units, in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional or new partnership units, or otherwise. With respect to this provision, the Redeveloper and the parties signing the Agreement on behalf of the Redeveloper represent that they have the authority of all of its existing partners to agree to this provision on their behalf and to bind them with respect thereto.

Sec. 503. Prohibition Against Transfer of Property and Assignment of Agreement. Also, for the foregoing reasons the Redeveloper represents and agrees for itself, and its successors and assigns, that:

(a) Except only

- (1) by way of security for, and only for (i) the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to making the Improvements under the Agreement, and (ii) any other purpose authorized by the Agreement, and
- (2) as to any individual parts or parcels of the Property on which the Improvements to be constructed thereon have been completed, and which, by the terms of the Agreement, the Redeveloper is authorized to convey or lease as such Improvements are completed,

the Redeveloper (except as so authorized) has not made or created, and that it will not, prior to the proper completion of the Improvements as certified by the City, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form, of or with respect to the Agreement or the Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City, Provided, That, prior to the issuance by the City of the certificate provided for in Section 307 hereof as to completion of construction of the Improvements, the Redeveloper may enter into any agreement to sell, lease, or otherwise transfer, after the issuance of such certificate, the Property or any part thereof or interest therein, which agreement shall not provide for payment of or on account of the purchase price or rent for the Property, or the part thereof, or the interest therein, to be so transferred, prior to the issuance of such certificate.

(b) The Agency shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval, that:

- (1) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper (or, in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part).
- (2) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of the Redeveloper under the

Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, That the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the City) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of the Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights and remedies or controls provided in or resulting from the Agreement with respect to the Property and the construction of the Improvements that the City would have had, had there been no such transfer or change.

- (3) There shall be submitted to the City for review all instruments and other legal documents involved in effecting transfer; and if approved by the City, its approval shall be indicated to the Redeveloper in writing.
- (4) The consideration payable for the transfer by the transferee or on its behalf shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Property (or allocable to the part thereof or interest therein transferred) and the Improvements, if any, theretofore made thereon by it; it being the intent of this provision to preclude assignment of the Agreement or transfer of the Property (or any parts thereof other than those referred to in subdivision (2), Paragraph (a) of this Section 503) for profit prior to the completion of the Improvements and to provide that in the event any such assignment or transfer is made (and is not cancelled), the City shall be entitled to increase the Purchase Price to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this subdivision (4), and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the City.
- (5) The Redeveloper and its transferee shall comply with such other conditions as the City may find desirable in order to achieve and safeguard the purposes of the Urban Renewal Act and the Urban Renewal Plan.

Provided, That in the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Redeveloper, or any other party bound

in any way by the Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

Sec. 504. Information as to Partners. In order to assist effectuation of the purposes of this Article V and the statutory objectives generally, the Redeveloper agrees that during the period between execution of the Agreement and completion of the Improvements as certified by the City, (a) the Redeveloper will promptly notify the City of any and all changes whatsoever in the ownership of partnership units legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership of such partnership units or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information; and (b) the Redeveloper shall, at such time or times as the City may request, furnish the City with a complete statement, subscribed and sworn to by the General Partner, setting forth all of the partners of the Redeveloper and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such partnership units their names and the extent of such interest, all as determined or indicated by the records of the Redeveloper, by specific inquiry made by any such officer, of all parties who on the basis of such records own 10 percent or more of the partnership units in the Redeveloper, and by such other knowledge or information as such officer shall have. Such lists, data, and information shall in any event be furnished the City immediately prior to the delivery of the Deed to the Redeveloper and as a condition precedent thereto, and annually thereafter on the anniversary of the date of the Deed until the issuance of a certificate of completion for all the Property.

ARTICLE VI. MORTGAGE FINANCING: RIGHTS OF MORTGAGEES

Sec. 601. Limitation Upon Encumbrance of Property. Prior to the completion of the Improvements, as certified by the City, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating 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, except for the purposes of obtaining (a) funds only to the extent necessary for making the improvements and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by the Redeveloper to the City. The Redeveloper (or successor in interest) shall notify the City in advance of any financing, secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Property, whether by voluntary act of the Redeveloper or otherwise. For the purposes of such mortgage financing as may be made pursuant to the Agreement, the Property may, at the option of the Redeveloper (or successor in interest) be divided into several parts or parcels, provided that such subdivision, in the opinion of the City, is not inconsistent with the purposes of the Urban Renewal Plan and the Agreement and is approved in writing by the City.

Sec. 602. Mortgagee Not Obligated to Construct. Notwithstanding any of the provisions of the Agreement, including but not limited to those which are intended to be covenants running with the land, the holder of any mortgage authorized by the Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall in wise be obligated

by the provisions of the Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any <sup>condition subsequent or</sup> covenant or any other provision in the Deed be construed to so obligate such holder: Provided, That nothing in this Section or any other Section or provision of the Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided or permitted in the Urban Renewal Plan and in the Agreement.

Sec. 603. Copy of Notice of Default to Mortgagee. Whenever the Agency shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper in its obligations or covenants under the Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement at the last address of such holder shown in the records of the City.

Sec. 604. Mortgagee's Option to Cure Defaults. After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default (or such default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage: Provided, That if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of the Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the City, by written agreement satisfactory to the City, to complete, in the manner provided in the Agreement, the Improvements on the Property or the

part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the City, to a certification or certifications by the City to such effect in the manner provided in Section 307 of the Agreement, and any such certification shall, if so requested by such holder, mean and provide that any remedies or rights with respect to recapture of or reversion or reversioning of title to the Property that the City shall have or be entitled to because of failure of the Redeveloper or any successor in interest to the Property, or any part thereof, to cure or remedy any default with respect to the construction of the Improvements on other parts or parcels of the Property, or because of any other default in or breach of the Agreement by the Redeveloper or such successor, shall not apply to the part or parcel of the Property to which such certifications relates.

Sec. 605. City's Option to Pay Mortgage Debt or Purchase Property. In any case, where, subsequent to default or breach by the Redeveloper (or successor in interest) under the Agreement, the holder of any mortgage on the property or part thereof:

(a) has, but does not exercise, the option to construct or complete the Improvements relating to the Property or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of sixty (60) days after the holder has been notified or informed of the default or breach; or

(b) undertakes construction or completion of the Improvements but does not complete such construction within the period as agreed upon by the City and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in the Agreement), and such default shall not have been cured within sixty (60) days after written demand by the City so to do,

the City shall (and every mortgage instrument made prior to completion of the Improvements with respect to the Property by the

Redeveloper or successor in interest shall so provide) have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the City shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of an amount equal to the sum of:

- (1) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);
- (2) all expenses with respect to the foreclosure;
- (3) the net expense, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property;
- (4) the costs of any Improvements made by such holder; and
- (5) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

Sec. 606. City's Option to Cure Mortgage Default. In the event of a default or breach prior to the completion of the Improvements by the Redeveloper, or any successor in interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the City may at its option cure such default or breach, in which case the City shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by the Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs and expenses incurred by the City in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement: Provided, That any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made by) any then existing

mortgages on the Property authorized by the Agreement.

Sec. 607. Mortgage and Holder. For the purposes of the Agreement: The term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust, including, but not limited to, the Federal Housing Commissioner, the Administrator of Veterans Affairs, and any successor in office of either such official.

#### ARTICLE VII. REMEDIES

Sec. 701. In General. Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, 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, proceedings to compel specific performance by the party in default or breach of its obligations.

Sec. 702. Termination by Redeveloper Prior to Conveyance.

In the event that:

(a) the city does not tender conveyance of the Property, or possession thereof, in the manner and condition, and by the date provided in the Agreement, and any such failure shall not be cured within thirty (30) days after the date of written demand by the Redeveloper, or

(b) the Redeveloper shall, after preparation of Construction Plans satisfactory to the City, furnish evidence satisfactory to

the City that it has been unable, after and despite diligent effort for a period of sixty (60) days after approval by the City of the Construction Plans, to obtain mortgage financing for the construction of the Improvements on a basis and on terms that would generally be considered satisfactory by builders or contractors for improvements of the nature and type provided in such Construction Plans, and the Redeveloper shall, after having submitted such evidence and if so requested by the City, continue to make diligent efforts to obtain such financing for a period of sixty (60) days after such request, but without success,

then, the Agreement shall, at the option of the Redeveloper, be terminated by written notice thereof to the City, and, except with respect to the return of the Deposit as provided in Paragraph (e), Section 5 of Part I hereof, neither the City nor the Redeveloper shall have any further rights against or liability to the other under the Agreement.

Sec. 703. Termination by City Prior to Conveyance. In the event that:

(a) prior to conveyance of the Property to the Redeveloper and in violation of the Agreement

- (1) the Redeveloper (or any successor in interest) assigns or attempts to assign the Agreement or any rights therein, or in the Property, or
- (2) there is any change in the ownership or distribution of the partnership units of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or the degree thereof; or

(b) the Redeveloper does not submit Construction Plans, as required by the Agreement, or (except as excused under subdivision (b) of Section 702 hereof) evidence that it has the necessary equity capital and mortgage financing, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefor; or

(c) the Redeveloper does not pay the Purchase Price and take title to the Property upon tender of conveyance by the City pursuant to the Agreement, and if any default or failure referred to in subdivisions (b) and (c) of this Section 703 shall not be cured within thirty (30) days after the date of written demand by the City, then the Agreement, and any rights of the Redeveloper, or any assignee or transferee, in the 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 which event, as provided in Paragraph (d), section 5 of Part I hereof, the Deposit shall be retained by the City as liquidated damages and as its property without any deduction, offset, or recoupment whatsoever, and neither the Redeveloper (or assignee or transferee) nor the City shall have any further rights against or liability to the other under the Agreement.

Sec. 704. Revesting Title in City Upon Happening of Event Subsequent to Conveyance to Redeveloper. In the event that subsequent to conveyance of the Property or any part thereof to the Redeveloper and prior to completion of the Improvements as certified by the City:

(a) the Redeveloper (or successor in interest) shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within three (3) months (six (6) months, if the default is with respect to the date for completion of the Improvements) after written demand by the City so to do; or

(b) the Redeveloper (or successor in interest) shall fail to pay real estate taxes or assessments on the Property or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by the Agreement, or shall suffer any levy or attachment to be made, or any materialmen's or mechanic's lien, or any other unauthorized encumbrance or lien to attach, and such taxes or

assessemnts shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the City made for such payment, removal, or discharge, within ninety (90) days after written demand by the City so to do; or

(c) there is, in violation of the Agreement, any transfer of the Property or any part thereof, or any change in the ownership or distribution of the partnership units of the Redeveloper, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, and such violation shall not be cured within sixty (60) days after written demand by the City to the Redeveloper,

then the City shall have the right to re-enter and take possession of the Property and to terminate (and revert in the City) the estate conveyed by the Deed to the Redeveloper, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Property to the Redeveloper shall be made upon, and that the Deed shall contain a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by the Redeveloper specified in subdivisions (a), (b), and (c) of this Section 704, failure on the part of the Redeveloper to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in such subdivisions, the City at its option may declare a termination in favor of the City of the title, and of all the rights and interests in and to the Property conveyed by the Deed to the Redeveloper, and that such title and all rights and interests of the Redeveloper, and any assigns or successors in interest to and in the Property, shall revert to the City: Provided, That such condition subsequent and any reversion of title as a result thereof in the City:

(a) shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way (1) the lien of any mortgage authorized by the Agreement, and (2) any rights or interests provided in the Agreement for the protection of the holders of such mortgages; and

(b) shall not apply to individual parts or parcels of the Property (or, in the case of parts or parcels leased, the leasehold interest) on which the Improvements to be constructed thereon have been completed in accordance with the Agreement and for which a certificate of completion is issued therefor as provided in Section 307 hereof.

~~In addition to, and without in any way limiting the City's right to re-entry as provided for in the preceding sentence, the City shall have the right to retain the Deposit, as provided in Paragraph (d), Section 5 of Part I hereof, without any deduction, offset or recoupment whatsoever, in the event of a default, violation, or failure of the Redeveloper as specified in the preceding sentence.~~

Sec. 705. Resale of Reacquired Property: Disposition of Proceeds. Upon the revesting in the City of title to the Property or any part thereof as provided in Section 704, the City shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or part thereof (subject to such mortgage liens and leasehold interests as in Section 704 set forth and provided) as soon and in such manner as the City shall find feasible and consistent with the objectives of such law and of the Urban Renewal Plan to a qualified and responsible party or parties (as determined by the City) who will assume the obligation of making or completing the Improvements or such other improvements in their stead as shall be satisfactory to the City and in accordance with the uses specified for such Property or part thereof in the Urban Renewal Plan. Upon such resale of the Property, the proceeds thereof shall be applied:

(a) First, to reimburse the City for all costs and expenses incurred by the City, including but not limited to salaries of personnel, in connection with the recapture, management, and resale of the Property or part thereof (but less any income derived by the City from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the

event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the City, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of revesting of title thereto in the City or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Redeveloper, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing the City by the Redeveloper and its successor or transferee; and

(b) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to (1) the sum of the purchase price paid by it for the Property (or allocable to the part thereof) and the cash actually invested by it in making any of the Improvements on the Property or part thereof, less (2) any gains or income withdrawn or made by it from the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by the City as its property.

Sec. 706. Other Rights and Remedies of City; No Waiver By Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article VII, including also the right to execute and record or file among the public land records, in the office in which the Deed is recorded, a written declaration of the termination of all the right, title, and interest of the Redeveloper, and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been

completed, in accordance with the Agreement, and for which a certificate of completion as provided in Section 307 hereof is to be delivered, and subject to such mortgage liens and leasehold interests as provided in Section 704 hereof) its successors in interest and assigns, in the Property, and the revesting of title thereto in the City: Provided, That any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article VII shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by the City with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

Sec. 707. Enforced Delay in Performance by Causes Beyond Control of Party. For the purposes of any of the provisions of the Agreement, neither the City nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligation with respect to the preparation of the Property for redevelopment, or the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control, and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays

of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City with respect to the preparation of the Property for redevelopment or of the Redeveloper with respect to construction of the Improvements, as the case may be, shall be extended for the period of the enforced delay as determined by the City: Provided, That the party seeking the benefit of the provisions of this Section shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and requested an extension for the period of the enforced delay.

Sec. 708. Rights and Remedies Cumulative. The rights and remedies of the parties to the Agreement, whether provided by law or by the Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

Sec. 709. Party in Position of Surety With Respect to Obligations. The Redeveloper, for itself and its successors and assigns, and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any

and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

ARTICLE VIII. MISCELLANEOUS

Sec. 801. Conflict of Interest; City Representatives Not Individually Liable. No member, official, or employee of the City shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the City shall be personally liable to the Redeveloper, 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 Redeveloper or successor or on any obligations under the terms of the Agreement.

Sec. 802. Payment Opportunity. The Developer, for itself and its successors and assigns, agrees that it will include the following provisions of this Section 802 in every contract or purchase order which may hereafter be entered into between the Developer and any party (hereafter in this Section called "Contractor") for or in connection with the construction of the Improvements, or any part thereof, provided for in this Agreement, unless such contract or purchase order is exempted by rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965: (for the purpose of including such provisions in any construction contract or purchase order, as required by this Section 802, the term "Developer" and the term "Contractor" may be changed to reflect appropriate July 1965

names or designation of the parties to such contract or purchase order.)

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin.

The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment, without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations and order of the Secretary of Labor or the Secretary of Housing and Urban Development pursuant thereto, and will permit access to the Contractor's books, records, and accounts by the City, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(g) The Contractor will include provisions of Section (a) through (g) of this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any construction contract, subcontract, or purchase order as the City or the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliances: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City or the Department of Housing and Urban Development, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

Sec. 803. Provisions Not Merged With Deed. None of the provisions of the Agreement are intended to or shall be merged by reason of any deed transferring title to the Property from the City to the Redeveloper or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of the Agreement.

Sec. 804. Titles of Articles and Sections. Any titles of the several parts, articles, and sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

IN WITNESS WHEREOF, the City has caused the Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested to by its Comptroller, and the Redeveloper has caused the Agreement to be duly executed in its name and behalf by its President.

ELLIOTT BAY ASSOCIATES

THE CITY OF SEATTLE

By \_\_\_\_\_

By \_\_\_\_\_  
Charles Royer, Mayor

Attest:

By \_\_\_\_\_  
E. L. Kidd, Comptroller

EXHIBIT II

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, THAT

WHEREAS, an Urban Renewal Plan (which, together with all modifications thereof, made after the date of this Deed in accordance with applicable law, is hereinafter referred to as the "Urban Renewal Plan") for the Pike Place Project (hereinafter referred to as the "Project") has been adopted and approved by the City of Seattle on December 26, 1973, which Urban Renewal Plan, as it exists on the date hereof, is recorded in the Office of Records and Elections of King County, Washington (hereinafter referred to as the "Recorder"), File No. 7501170268; and

WHEREAS, the City of Seattle is owner and holder of record of fee simple title to certain real property located in the Project area; and

WHEREAS, pursuant to the Urban Renewal Plan and Ordinance No. 102916 the City of Seattle is authorized to sell individual portions of land in the Project area;

NOW THEREFORE, THIS DEED, made this \_\_\_\_\_ day of \_\_\_\_\_, 1978, by and between The City of Seattle (hereinafter referred to as the "Grantor"), acting herein pursuant to the above-mentioned Ordinance, and The Elliott Bay Partnership No. 1, a Washington general partnership:

WITNESSETH, that for and in consideration of the sum of Three Hundred and Three Thousand Dollars (\$303,000.00), receipt of which is hereby acknowledged, the Grantor, by this Warranty Deed, conveys and warrants (pursuant to RCW 64.04.030) unto the Grantee to have and to hold fee simple title, together with all and singular, the hereditaments and appurtenances thereunto belonging or in any wise appertaining, in and to the following described land and premises, situate in the City of Seattle, King County, Washington):

Lots 9, 10, 11 and 12, Block H, and vacated alley adjoining all in 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 thereof recorded in Volume 1 of Plats, Page 69, records of King County, Washington; EXCEPT that portion of said Lots 9 and 12 condemned by City of Seattle Ordinance No. 67125; EXCEPT the southeasterly 20 feet of that portion of the above described Lot 12 and vacated alley adjoining Lots 11 and 12, subject to easements and restrictions of record.

Together with a restrictive easement for the benefit of the public hereby conveyed on and over Lots 7 and 8 of Block H of A. A. Denny's 4th Addition to the City of Seattle and vacated alley adjoining said lots, requiring that any improvements constructed on said Lots 7 and 8 and alley adjoining other than landscaping be set back twenty (20) feet from the lot lines common to Lots 9 and 10 and 7 and 8 of said block and addition.

Subject to an easement hereby reserved over the following described real property between the elevations of 50.80 feet and elevation 61.57 feet, and between elevation 73.59 feet and elevation 83.59 feet, based on City Datum.

Beginning at the easternmost corner of said Lot 11 (at the intersection of the Western Avenue and Pike Street rights-of-way), thence northwesterly along the northeast line thereof for a distance of 20 feet; thence southerly in a straight line to a point on the southeast line 20 feet from the easternmost corner; thence northeasterly along the southeast line to the point of true beginning. Prohibiting any structure, construction or use of said areas which interferes with its use as a waiting zone for elevator passengers. This restrictive easement shall not preclude the renegotiation of this easement in the event that the existing building is demolished and another constructed.

Subject also to an easement hereby reserved for the placement of five light fixtures on the southeast facade and one light fixture on the southwesterly facade of the building on Lot 11, Block H of A. A. Denny's 4th Addition to the City of Seattle, together with related wiring, conduit, and electrical apparatus as described in the attached diagram.

Subject to an easement hereby reserved for a public walkway five feet wide to provide continuous pedestrian passage to and from other properties in Block H, said addition to the Pike Street right-of-way, over the southwest 25 feet of said Lots 9 and 12, at the existing grade.

AND, the Grantor further covenants that it will execute such further assurances thereof as may be requisite: Provided, however, That this Deed is made and executed upon and is subject to certain express conditions subsequent and covenants, said conditions subsequent and covenants being a part of the consideration for the property hereby conveyed and are to be taken and construed as running with the land and upon the continued observance of which and each of which, with the sole exception of covenant and condition

subsequent numbered FIFTH, the continued existence of the estate hereby granted shall depend, and by its acceptance of this Deed the Grantee hereby binds itself and its successors, assigns, grantees, and lessees forever to these covenants and conditions subsequent, which covenants and conditions subsequent are as follows:

FIRST: The Grantee shall devote the property hereby conveyed only to the uses specified in the applicable provisions of the Urban Renewal Plan or approved modifications thereof;

SECOND: The Grantee shall pay real estate taxes or assessments on the property hereby conveyed or any part thereof when due and shall not place thereon any encumbrance or lien other than for temporary and permanent financing of construction of the Improvements on the property hereby conveyed as provided for in the Construction Plans, approved by the Grantor in accordance with Section 301 of the Contract of Sale dated the \_\_\_\_\_ day of \_\_\_\_\_, 1978, between the parties hereto, (hereinafter referred to as the "Contract of Sale") which Contract of Sale is duly recorded in the Office of Records and Elections in King County, Washington, and for additional funds, if any, in an amount not to exceed the consideration herein specified, and shall not suffer any levy or attachment to be made or any other encumbrance or lien to attach until the Grantor certifies that all building construction and other physical improvements specified to be done and made by the Grantee have been completed;

THIRD: The Grantee shall commence promptly the construction of the aforesaid Improvements on the property hereby conveyed in accordance with the said Construction Plans and shall prosecute diligently the construction of said Improvements to completion: Provided, That in any event, construction shall commence within three months from the date of this deed and shall be completed within eighteen months from the commencement of such construction;

FOURTH: Until the Grantor certifies that all the aforesaid Improvements specified to be done and made by the Grantee have been completed, the Grantee shall have no power to mortgage

this property nor to convey the property hereby conveyed or any part thereof without the prior written consent of the Grantor except to a Trustee under a Deed of Trust permitted by this Deed and, except as security for obtaining financing permitted by this Deed, and the Grantee shall not permit any transfer there shall be no transfer, by any party, owning ten percent or more of the partnership units of the Grantee, of such partnership units, nor shall there be, or be suffered to be by the Grantee, any other similarly significant change in the ownership of such partnership units or in the relative distribution thereof, or with respect to the identity of the parties in control of the Grantee or the degree thereof, by any other method or means including, but not limited to, increased capitalization, merger, issuance of additional or new partnership units or classification of such units, or otherwise;

FIFTH: The Grantee and any successor in interest shall not discriminate upon the basis of race, color, religion, sex or national origin in the sale, lease, or rental or in the use or occupancy of the property hereby conveyed or any Improvements erected or to be erected thereon or any part thereof.

SIXTH: All advertising (including signs) for sale and/or rental of the whole or any part of the Property shall include the legend, "An Open Occupancy Building" in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

SEVENTH: The Grantee shall comply with the regulations issued by the Secretary of Housing and Urban Development set forth in 37 F.R. 22732-3 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards.

The covenants and conditions subsequent numbered FIRST, SIXTH, and SEVENTH shall terminate on January 4, 2014. The covenants and conditions subsequent numbered SECOND, THIRD, and FOURTH shall terminate on the date the Grantor issues the Certificate of Completion as herein provided except only that the termination of the

covenant and condition subsequent numbered SECOND shall in no way be construed to release the Grantee from its obligation to pay real estate taxes or assessments on the property hereby conveyed or any part thereof. The covenant and condition subsequent numbered FIFTH shall remain in effect without any limitation as to time.

In case of the breach or violation of any one of the covenants and conditions subsequent numbered SECOND, THIRD, and FOURTH at any time prior to the time the Grantor certifies that all building construction and other physical improvements have been completed, and in case such breach or such violation shall not be cured, ended or remedied within 60 days after written demand by the Grantor so to do with respect to covenant and condition subsequent numbered FOURTH and three (3) months after written demand by the Grantor so to do with respect to covenants and conditions subsequent numbered SECOND and THIRD (Provided, That a breach or violation with respect to the portion of the covenant and condition subsequent numbered THIRD dealing with completion of the Improvements may be cured, ended or remedied within six (6) months after written demand by the Grantor so to do) or any further extension thereof that may be granted by the Grantor in its sole discretion, then the Grantor may enter and terminate the estate conveyed under this Deed, whereupon title in fee simple to the same shall revert to and become re-vested in the Grantor, and such title shall be re-vested fully and completely in it, (and continuously thereafter, the said Grantor, its successors or assigns, shall be entitled to and may of right enter upon and maintain possession of the said property): Provided, That any such re-vesting of title to the Grantor:

- (1) Shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way
  - (i) the lien of any mortgage or Deed of Trust permitted by this Deed; and
  - (ii) any rights or interests provided in the Contract of Sale for the protection of the trustees of any such Deed of Trust or the holders of any such mortgage; and

(2) In the event that title to the said property or part thereof shall revert in the Grantor in accordance with the provisions of this Deed, the Grantor shall, pursuant to its responsibilities under applicable law, use its best efforts to resell the property or part thereof (subject to such mortgage liens as hereinabove set forth and provided) as soon and in such manner as the Grantor shall find feasible and consistent with the objectives of such law, and of the Urban Renewal Plan, to a qualified and responsible party or parties (as determined by the Grantor) who will assume the obligation of making or completing the Improvements or such other Improvements in their stead as shall be satisfactory to the Grantor and in accordance with the uses specified for the above described property or any part thereof in the Urban Renewal Plan. Upon such resale of the property, the proceeds thereof shall be applied:

First: to reimburse the Grantor, on its own behalf or on behalf of The City of Seattle for all costs and expenses incurred by the Grantor including, but not limited to, salaries of personnel in connection with the recapture, management and resale of the property or part thereof (but less any income derived by the Grantor from the property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the property or part thereof; (or in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the City, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the property or part

thereof at the time of re-vesting of title thereto in the Grantor or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Grantee, its successors, or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing the Grantor by the Grantee and its successors or transferees; and

Second: to reimburse the Grantee, its successors or transferees up to an amount equal to the sum of the purchase price paid by it for the property (allocable to the part thereof) and the cash actually invested by it in making any of the Improvements on the property or part thereof, less any gains or income withdrawn or made by it from this conveyance or from the property.

Any balance remaining after such reimbursements shall be retained by the Grantor.

The Grantor shall be deemed a beneficiary of covenants and conditions subsequent numbered FIRST through SEVENTH, and the United States shall be deemed a beneficiary of the covenants/<sup>and conditions subsequent</sup> numbered FIFTH, SIXTH, and SEVENTH, and such covenants/<sup>and conditions subsequent</sup> shall run in favor of the Grantor and the United States for the entire period during which such covenants/<sup>and conditions subsequent</sup> shall be in force and effect, without regard to whether the Grantor and the United States is or remains an owner of any land or interest therein to which such covenants/<sup>and conditions subsequent</sup> relate. As such a beneficiary, the Grantor, in the event of any breach of any such covenant,<sup>and conditions subsequent</sup> and the United States in the event of any breach of the covenants/<sup>and conditions subsequent</sup> numbered FIFTH, SIXTH, and SEVENTH shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach, to which beneficiaries of such covenant or condition subsequent may be entitled.

Promptly after the completion of the above-mentioned Improvements in accordance with the provisions of the Construction plans, the Grantor will furnish the Grantee with an appropriate instrument so certifying in accordance with the terms of the Contract of Sale. Such certification (and it shall be so provided in the certification itself) shall be a conclusive determination of satisfaction and termination of the agreements and covenants and conditions subsequent in the Contract of Sale and the conditions subsequent and covenants in this Deed obligating the Grantee and its successors and assigns, with respect to the construction of the Improvements and the dates for beginning and completion thereof.

The certification provided for in the paragraph next above shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the property hereby conveyed. If the Grantor shall refuse or fail to provide such certification, the Grantor shall, within thirty (30) days after written request by the Grantee provide the Grantee with a written statement, indicating in what respects the Grantee has failed to duly complete said Improvements and what measures or acts will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

The Grantor certifies that all conditions precedent to the valid execution and delivery of this Warranty Deed on its part have been complied with and that all things necessary to constitute this Warranty Deed its valid, binding, and legal agreement on the terms and conditions and for the purposes set forth herein have been done and performed and have happened, and that the execution and delivery of this Warranty Deed on its part have been and are in all respects authorized in accordance with law. The Grantee similarly certifies with reference to its execution and delivery of this Warranty Deed.

Grantee shall assume responsibility for the payment of all costs to be incurred by the City in connection with the ordinary

Maintenance and repair of the passenger elevator adjoining the southeast corner of Lot 11, Block H, of A. A. Denny's 4th Addition to the City of Seattle, all as heretofore provided for in the Contract of Sale.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 1978.

THE CITY OF SEATTLE

By \_\_\_\_\_  
Its Mayor

Attest:

By \_\_\_\_\_  
City Comptroller

Authorized by Ordinance No. \_\_\_\_\_

STATE OF WASHINGTON) ) ss  
COUNTY OF KING ) )

On this day personally appeared before me \_\_\_\_\_ and \_\_\_\_\_, to me known to be the Mayor and the City Comptroller respectively of the municipal corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath stated that they are authorized to execute said instrument and that the seal affixed is the corporate seal of said municipal corporation.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington residing at \_\_\_\_\_

Your  
Seattle  
Community Development

RECEIVED

MAY 11 1978

OFFICE OF MANAGEMENT  
& BUDGET



Darel Grothaus, Director  
Charles Royer, Mayor

May 8, 1978

Honorable Charles Royer  
Mayor, City of Seattle  
1200 Municipal Building  
Seattle, Washington 98104

Attention: Mr. Casey Jones, Director  
Office of Management and Budget

Dear Mayor Royer:

Subject: Request for Legislation, Development of Disposition  
Parcels 6 and 7, Pike Place Project, WASH. R-17

During the latter part of 1977, the Department of Community Development began a process for selection of a developer for Disposition Parcels 6 and 7 in the Pike Place Urban Renewal Project. In February, 1978, the Department accepted the development proposal of The Elliott Bay Associates, and began detailed negotiations of the terms and conditions of the proposed sale with Mr. Paul Schell, the company's president.

At this time, agreement has been reached between The Elliott Bay Associates, the Department of Community Development, The City Attorney, and the U. S. Department of Housing and Urban Development, with regard to the terms and conditions of sale. Therefore, will you please request legislation authorizing the Mayor to execute the attached Contract of Sale and Warranty Deed.

Under the terms of the sale, the City will convey the property to The Elliott Bay Partnership No. 1, a Washington general partnership formed by the principals of the Elliott Bay Associates expressly for the development of this property. Paul Schell, Jim Youngren and Jon Jerde are the three general partners.

With the execution of the Contract of Sale, the redevelopers are committed to purchase the property for a sum of \$303,000 and to proceed expeditiously with the rehabilitation of the existing structures and thereby provide a mix of commercial, retail, and residential units. Construction is scheduled to begin in the summer of 1978 and to be completed by the spring of 1979. The total value of the completed project is estimated to be \$2,500,000.

The development parcels were offered for sale in July-August, 1976, after the start of Hillclimb construction, and although there was a good show of interest from three developer teams, no firm proposals were received. The Department's Pike Project staff continued

Mayor Charles Royer, Attention: Casey Jones  
Page 2  
May 8, 1978

working with prospective developer teams, in an effort to build interest in the properties. When it was evident that one or more developer teams were prepared to make firm competitive proposals, the Department proceeded with the offering of the properties. A prospectus inviting bids was prepared and circulated to all who had shown interest.

In accordance with established procedures, the City Council passed Resolution No. 25658 on October 24, 1977, establishing the minimum sales price of this property at \$277,000 (based on two appraisals of re-use value), and authorizing the Department to proceed with selection of a developer. As required by the Department of Housing and Urban Development regulations, the parcels were advertised for sale in a competitive bidding process. Advertisements were published in the Journal of Commerce of Seattle in December, 1977, and five bids received at the Pike Project Office by the deadline of January 17, 1978.

These five proposals were reviewed and evaluated by a Committee composed of the following individuals:

John Howell,	Mayor's Staff
Camille McLean,	Chairman, Market Historical Commission
Harriet Sherburne,	Director, Pike Place Project
Fred Weiss,	Coldwell, Banker
David Guren,	Executive Director, Merchants Association
George Rolfe,	Executive Director, Preservation and Development Authority
Richard Shavey,	Architect
Philip Walkden,	Representative, Merchants Association

The result of their analysis was an unanimous recommendation that the proposal of the Elliott Bay Associates be accepted. A copy of their report and a summary of the Elliott Bay proposal is attached.

Tom Brunton of the Pike Project, 4731, is available to provide any additional information you may require regarding this request for legislation.

Sincerely,



Darel Grothaus,  
Director  
Attachments

Your  
Seattle  
Community Development



Darel Grothaus, Director  
Charles Royer, Mayor

May 8, 1978

Honorable Charles Royer  
Mayor, City of Seattle  
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