

ORDINANCE 117993

1 AN ORDINANCE relating to community and economic development and job creation in the
2 Central Area; authorizing a Grant Agreement with the United States Department of
3 Housing and Urban Development ("HUD") for an Economic Development Initiative
4 grant ("EDI"); authorizing an amendment to Ordinance 117877, and authorizing
5 related agreements.

6 WHEREAS, the Central Area Action Plan, adopted by the Seattle City Council through
7 Resolution No. 28815 on January 3, 1994, recognized the Promenade 23 Shopping
8 Center as a critical neighborhood revitalization project; and

9 WHEREAS, expansion of the Promenade 23 Shopping Center will assist community and
10 economic development in the Central Area of Seattle by adding new retail shopping
11 facilities and employment opportunities that will be created by the new facilities,
12 thereby furthering the City's Consolidated Plan's Economic Development Goals to
13 "[s]trengthen the economic base and the business climate," [s]upport employment
14 opportunities," and "[s]upport community-based economic development" in the
15 Central Area; and

16 WHEREAS, Resolution 29141, adopted by the City Council on June 12, 1995, authorized the
17 Mayor to submit an application to HUD for an Economic Development Initiative
18 grant (EDI) to accompany a Section 108 loan guaranty and the Mayor did submit such
19 application; and

20 WHEREAS, the City has received a Grant Agreement from the U.S. Department of Housing
21 and Urban Development under which HUD will provide an Economic Development
22 Initiative grant in an amount not to exceed Three Hundred Fifty Thousand Dollars
23 (\$ 350,000); and

24 WHEREAS, the City, HUD, the developers of the Promenade 23 Shopping Center and other
25 parties are ready to enter into the necessary agreements to implement the Economic
26 Development Initiative grant: NOW, THEREFORE,

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

28 Section 1. The Mayor or his designee is authorized, on behalf of the City of
Seattle, to accept, deliver, perform and administer an Economic Development Initiative Grant
Agreement from HUD, in the form attached as Exhibit A with such additions, modifications
and amendments as HUD may require or the Mayor may deem necessary or advisable to
carry out the purposes of this Ordinance, for an Economic Development Initiative (EDI)
grant in the amount of up to Three Hundred and Fifty Thousand Dollars (\$ 350,000).

Section 2. Section 2 of Ordinance 117877 is hereby amended as follows:
The Mayor or his designee is authorized, on behalf of the City of Seattle, to issue non-
recourse promissory notes ("Notes") in the aggregate principal amount of not to exceed Two
Million Four Hundred Thousand Dollars (\$2,400,000) in the form attached as Exhibit C, with
such modifications, additions or amendments as HUD may require or the Mayor may deem
necessary or advisable to carry out the purposes of this Ordinance. ~~The interest rates for the~~
~~Notes shall be no more than fifteen percent (15%) per annum, and the~~ The Notes shall have
the maturities substantially as stated on the attached Exhibit D. As required by Ch. 212.

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1 Washington Session Laws of 1995, Section 2 (amending RCW 35.21.735(6)), the Notes shall
2 contain a recital to the effect that they are not obligations of the City, and that neither the
3 faith and credit nor the taxing power of the state or any municipal corporation or subdivision
4 of the state or any agency of any of the foregoing is pledged to the payment of principal,
5 interest or premium if any, thereon. The Mayor or his designee is further authorized, on
6 behalf of the City, to cause the proceeds of the Notes to be disbursed by the financial
7 institution acting as Custodian pursuant to Section 4 of this Ordinance to Promenade 23
8 Associates, L.P., pursuant to the Loan Agreement authorized in Section 3 of this Ordinance,
9 to partially finance expansion of the Promenade 23 Shopping Center and partially refinance
existing debt for the Center.

10 Section 3. Section 3 of Ordinance 117877 is hereby amended as follows:
11 The Mayor or his designee is authorized, on behalf of the City of Seattle, to execute, deliver,
12 administer and cause to be performed a Loan Agreement with Promenade 23 Associates, i.
13 the form attached as Exhibit E, with such additions, modifications, and amendments as HUD
14 may require or the Mayor may deem necessary or advisable to carry out the purposes of this
15 Ordinance, together with such ancillary and related documents as the Mayor may deem
16 necessary or advisable to carry out the purpose of this Ordinance. Pursuant to the Loan
17 Agreement, the Custodian shall disburse proceeds of the non-recourse Notes guaranteed by
18 HUD in the aggregate amount of no more than Two Million Four Hundred Thousand Dollars
19 (\$2,400,000) to Promenade 23 Associates, L.P., to finance the expansion of the Promenade
20 23 Shopping Center and refinance existing debt for the Center, contingent upon receipt of the
21 Contract for Loan Guarantee Assistance authorized by Section 1 of this Ordinance. The loan
22 shall be secured by security that is satisfactory to HUD and the Director of the Office of
23 Economic Development ("OED Director") and shall include a first or second lien position
24 deed of trust on the Property on which the new facilities at Promenade 23 Shopping Center
will be located, and an assignment of the lease with the principal commercial tenant of the
new facilities.

25 Section 4. The Mayor or his designee is authorized, on behalf of the City, to
26 negotiate and execute one or more agreements with a financial institution to act as trustee
27 and/or custodian (the "Custodian") to receive and disburse the proceeds of the City's EDI
28 grant, in conjunction with the activities of the Custodian authorized under Ordinance No.
117877.

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The agreement or agreements with the Custodian shall be in the form and include such terms and conditions as the Mayor may deem necessary or advisable to carry out the purposes of this Ordinance.

Section 5. The OED Director is authorized to execute, deliver, record and accept, as appropriate, such modifications or amendments to existing agreements with Promenade 23 Associates, as modified by Ordinance 115904, as the OED Director shall deem necessary or appropriate to implement the purposes of this Ordinance or the purposes of the Central Area Action Plan, or to protect the City's interests.

Section 6. Any act pursuant to the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 29 day of January, 1996, and signed by me in open session in authentication of its passage this 29 day of January, 1996.

Jan Diego
President of the City Council

Approved by me this 1 day of February, 1996.

Norman B. Rice
Norman B. Rice
Mayor

Filed by me this 1 day of February, 1996.

Margaret Carter
Clerk

(Seal)

Exhibits:
A. Economic Development Initiative Grant Agreement

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EXHIBIT A
Economic Development Initiative Grant Agreement

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Grant No. E-95-ED-53-0077

EDI GRANT AGREEMENT
U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This Agreement is made and entered into by and between THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, acting by and through the Assistant Secretary for Community Planning and Development, ("HUD"), and the City of Seattle, Washington (the "Recipient").

1. Background; Purpose. This Agreement is authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended by section 232(a) of the Multifamily Housing Property Disposition Reform Act of 1994, codified at 42 U.S.C. 5308(q) (collectively, "the Act"). Pursuant to the Act, on February 24, 1995, at 60 FR 10430, HUD published a Notice of Funding Availability and Program Guidelines for the Economic Development Initiative (the "NOFA"), which set forth the terms and conditions under which units of general local government could apply for and receive grants under section 108(q) of the Act ("EDI Grants") and related section 108 loan guarantees from HUD for Economic Development Projects ("EDI Projects"), as defined in the NOFA. Pursuant to the NOFA, the Recipient has applied for, and HUD has approved, an EDI Grant for the Recipient. The purpose of this Agreement is to set forth the terms and conditions under which HUD will provide EDI Grant funds to the Recipient in connection with the Approved EDI Projects described in the Recipient's Approved Application, as further defined herein. The terms and conditions of the related Section 108 Guarantee (as defined in par. 3 hereof) are, or will be, set forth in the Recipient's separate section 108 loan guarantee application, Funding Approval, and Contract for Loan Guarantee Assistance.

2. Approved Grant Amount, Projects, and Uses of Funds.

a. By execution of this Agreement on behalf of the Secretary in the space provided below, HUD agrees, subject to the terms of this Agreement, to provide EDI Grant funds in the amount of \$350,000.00 ("EDI Grant").

b. This grant is approved for the following Approved EDI Projects described in the Approved Application: Promenade 23 Shopping Center ("Approved Project").

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c. The grant funds shall be used in connection with the Approved Projects for the following specifically Approved Uses ("Approved Uses"):

- (i) Payment of interest due on Section 108 guaranteed debt obligations as authorized under 24 CFR §570.703(c); and
- (ii) Economic development activities eligible under 24 CFR §570.203(b), as authorized under 24 CFR §570.703(i)(1).

3. Relationship to Section 108 Loan Guarantee Application. This approved EDI Grant is based upon section 108 loan guarantees, or additional guarantees, for the Approved Projects in an amount not less than \$2,400,000.00 (the "Section 108 Guarantee").

The full application(s), or full amendatory application(s), for the Section 108 Guarantee in the above amount, have been approved by HUD (HUD-7082 commitment(s) executed) on or after February 24, 1995, or are being approved concurrently with execution on behalf of HUD of this Grant Agreement.

4. Regulations; Approved Application. This Agreement will be governed and controlled by the following in effect as of the date of notification to the Recipient of award of this grant: the Act, the NOFA, and HUD regulations codified at 24 CFR Part 570 or incorporated therein (provisions for use of CDBG funds, to the extent applicable) (hereafter collectively referred to as the "Regulations"). The Recipient's application submissions, including the certifications and assurances and any documentation required to meet any grant award conditions, and including any amendments made in accordance with this Agreement, are hereby incorporated in this Agreement as finally approved by HUD (herein referred to as the "Approved Application"). Unless the context otherwise requires, a reference to "this Agreement" herein shall be deemed to include the Act, the Regulations, and the Approved Application.

5. Performance Agreement of Recipient. By execution of this Agreement on its behalf in the space provided below, the Recipient agrees to carry out the Approved Project(s) on a timely basis and otherwise in compliance with this Agreement (including the Act, the NOFA, the Regulations, and the Approved Application, except as otherwise specifically provided in this Agreement). The Recipient agrees to assure, and to accept responsibility for, such compliance by any other entities to which it makes grant funds available for, or which it otherwise allows to participate in, the Approved Project(s) covered by this Agreement.

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6. Release, Deposit, and Timing of Expenditure of Grant Funds and Program Income.

a. The Recipient agrees to comply with environmental review procedures under 24 CFR § 570.200(a)(4) and 24 CFR Part 58 in order to obtain releases of grant funds under this Agreement.

b. Notwithstanding any other provision of the Regulations or this Agreement, the Recipient may not withdraw grant funds from the U.S. Treasury on account of the EDI Grant under this Agreement until after execution on behalf of HUD of the Guarantee and Contract for Loan Guarantee Assistance for the applicable Approved Project described in paragraph 2 of this Agreement.

c. This EDI Grant must be entirely withdrawn and expended for Approved Uses for the applicable Approved Project(s) on or before December 31, 2004.

d. All program income from this EDI Grant is deemed to be program income of the Approved Project(s), which are jointly financed by the Section 108 Guarantee. The Recipient agrees that all such program income constitutes security for the repayment of the Section 108 Guarantee, and shall be initially deposited in, the Loan Repayment Account established by the Recipient, or its designated public agency, under paragraph 6 of the Contract(s) for Loan Guarantee Assistance for the Section 108 Guarantee, and shall be disbursed for the purposes and within the time period specified in said paragraph 6 of such Contract. Upon full and complete repayment of the Section 108 Guarantee, all such program income shall be used in accordance with 24 CFR 570.504.

7. Pre-Agreement Costs. Notwithstanding any other provision of the Regulations, the EDI Grant funds provided hereunder may be used to pay for costs incurred on or after the date of HUD execution of the Funding Approval committing funds for the applicable Approved Project under the Section 108 Guarantee, provided such costs otherwise comply with this Agreement. However, use of the EDI Grant funds to actually pay for such costs is subject to paragraph 6 of this Agreement.

8. Amendment; Record-Keeping. a. This Agreement or the Approved Application may be amended only with the prior written approval of HUD. To request approval of an amendment, the Recipient shall attach the proposed revisions to the applicable pages of this Agreement or the Approved Application to a cover letter addressed as required below (see par. 11) for notices to HUD and signed by the Recipient's official representative for this grant. For any amendment other than an increase in the amount of the approved EDI Grant (par. 2.a.), HUD may approve or disapprove the proposed amendment by letter from the Director of the CPD Division (or higher level official) in the applicable HUD office. In considering proposed amendments to this Agreement or

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the Approved Application, HUD shall review, among other things, whether the amendment would have affected the ranking of the application in the year it was approved sufficiently to have resulted in the application not ranking high enough for funding, and whether the amendment is otherwise consistent with the Act, the Regulations, and the NOFA. Any increase in the amount of the approved EDI Grant represents a new grant obligation by HUD and must be documented by a formal amendment to this Agreement, or a new EDI Grant Agreement, executed on behalf of the parties by officials with the authority to execute the original Agreement.

b. The Recipient shall at all times maintain an up-to-date copy of its Approved Application, including all amendments approved in writing by HUD, and all drawdowns, deposits, and expenditures of grant funds and program income under this Agreement, in its files and available for audit or inspection by duly authorized representatives of HUD or the Comptroller General of the United States.

9. Default; Remedies. A default under this Agreement shall consist of any use of grant funds other than as authorized by this Agreement, any other noncompliance with this Agreement deemed material by HUD, or any misrepresentation or omission in the application submissions which, if known to HUD, would have resulted in this grant not being provided. If HUD determines that the Recipient is in default, HUD will give the Recipient written notice of this determination and the corrective or remedial actions proposed by HUD to cure the default or mitigate its effects, to the extent possible, and to prevent a continuation or recurrence of the default (the "initial notice of default"). Further description of the processes of audit, performance monitoring, and the corrective and remedial actions available to HUD which apply to grants under the Act, including this EDI Grant, is provided in 24 CFR 570, particularly Subpart O. No delay or omission by HUD in exercising any right or remedy under this Agreement shall impair HUD's ability to exercise such right or remedy or constitute a waiver of, or acquiescence in, any Recipient default.

10. Close-out. Except as may be otherwise specifically provided, closeout of this grant shall be subject to 24 CFR 570.509, or such close-out instructions as may hereafter be issued by HUD specifically for EDI Grants.

11. Notices. HUD notifications to the Recipient under this Agreement may be addressed to the Recipient's address as stated in the Approved Application, unless the Recipient otherwise notifies HUD in writing. Recipient notifications to HUD shall be to the Director of Community Planning and Development in the HUD Office having responsibility for CDBG programs of the Recipient, unless the Recipient is otherwise notified in writing by HUD. The Recipient's rights under this Agreement may not be assigned

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without the prior written approval of HUD. This Agreement constitutes the entire Agreement between the Recipient and HUD, and it may not be amended except in writing and executed by authorized officials of both HUD and the Recipient, as provided in paragraph 8.

12. Binding Agreement. This Agreement is binding with respect to HUD in accordance with its terms upon execution by HUD in the space provided below, subject to execution on behalf of the Recipient.

This Agreement is hereby executed on behalf of the parties as follows:

**SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
BY:**

(Signature of Authorized Official),

(Title)

(Date)

RECIPIENT,

THE CITY OF SEATTLE, WASHINGTON
(Legal Name of Recipient)

BY:

(Signature of Authorized Official)

(Title)

(Date)

[Employer Identification Number (EIN)
of Recipient]

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City of Seattle

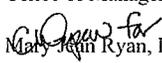
Executive Department—Office of Economic Development

Mary Jean Ryan, Director
Norman B. Rice, Mayor

January 11, 1996

To: Honorable Jan Drago, Council President

VIA: Tom Tierney, Director
Office of Management and Budget

From: 
Mary Jean Ryan, Director

SUBJECT: Proposed Legislation

Enclosed is proposed legislation for consideration by the Seattle City Council. The ordinance provides for the acceptance of a federal grant that will further support the expansion of the Promenade 23 Shopping Center in Seattle's Central Area. This is the last step in City actions required to assist this project.

In 1995, the Mayor was authorized to apply to the U.S. Department of Housing and Urban Development for a \$ 2.4 million Section 108 loan guaranty and a \$ 350,000 Economic Development Initiative grant to support the expansion and refinancing of the Promenade 23 Shopping Center. Previously the City Council authorized the Section 108 loan guarantee documents, however further action is required to approve the grant funds. The ordinance authorizes the Mayor to finalize agreements with the U.S. Department of Housing and Urban Development and Promenade 23 Associates, the developers of the project.

The project is under construction and prompt action is required to keep the project moving forward. If you or your staff have any questions about the legislation, please contact Chuck Depew, at OED, at 684-0208. He has been the coordinator for this development effort.

Thank you for your support of our community development efforts.

RECEIVED OMP

JAN 11 1996



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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor



96-003

January 11, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

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

*OK as to form
Kathleen Boney 1.12.96*

REQUESTING DEPARTMENT: Office of Economic Development

SUBJECT: AN ORDINANCE relating to community and economic development and job creation in the Central Area; authorizing a Grant Agreement with the United States Department of Housing and Urban Development ("HUD") for an Economic Development Initiative grant ("EDI"); authorizing an amendment to Ordinance 117877, and authorizing related agreements.

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

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Eric Friedli at 684-8369.

Sincerely,

Norman B. Rice
Mayor

by

Eric Friedli for
Tom Tierney, Director

legis/friedli01

Enclosure

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STATE OF WASHINGTON - KING COUNTY

64392 City of Seattle, City Clerk

-ss.

No. ORDINANCE TI

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on January 29, 1996, and published here by title only, will be mailed, at no cost, upon request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 117983

AN ORDINANCE relating to community and economic development and job creation in the Central Area; authorizing a Grant Agreement with the United States Department of Housing and Urban Development (HUD) for an Economic Development Initiative grant (EDI); authorizing an amendment to Ordinance 117577; and authorizing related agreements.

ORDINANCE NO. 117984

AN ORDINANCE relating to the Police Department; authorizing the execution of a grant agreement with the Washington State Traffic Safety Commission through the Washington Association of Sheriffs and Police Chiefs for financial assistance to purchase two laptop computers to enable officers to expedite paperwork and return to the field and to enhance reports that aid in successful prosecution, increasing expenditure allowances in the 1996 Budget of the Police Department; and making an appropriation therefor, all by a three-fourths vote of the City Council.

ORDINANCE NO. 117985

AN ORDINANCE relating to the Seattle Department of Parks and Recreation, authorizing acceptance of a grant from the Washington State Department of Natural Resources (DNR) Aquatic Lands Enhancement Account (ALEA) for financial assistance to support The Seattle Aquarium Master Plan, increasing the expenditure allowance in the Department's 1996 budget, authorizing an agreement with the Seattle Aquarium Society (SEAS), and making a reimbursable appropriation from the Park Fund therefor, all by three-fourths vote of the City Council.

ORDINANCE NO. 117986

AN ORDINANCE relating to the Seattle Center; authorizing the conveyance or conveyance of certain real property and the relinquishment of the City's interest in certain other property that was all conditionally given to The City of Seattle.

Publication ordered by JUDITH PIP, PIN, City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, February 12, 1996. 2/12/64392

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CTOT: 117993-117996

was published on

02/12/96

The amount of the fee charged for the foregoing publication is the sum of \$, which amount has been paid in full.

Subscribed and sworn to before me on

02/12/96

Notary Public for the State of Washington, residing in Seattle

Affidavit of Publication

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