

Ordinance No. 120486

Council Bill No. 113779

AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing acceptance and expenditure of a private donation for acquisition of said property; appropriating funds from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164); authorizing provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when received; and assigning jurisdiction for said property.

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: _____

Committee Action:

Message
D. Passed 4-0 (TD, PC, NL, RM)

8-20-01 Passed 8-0

(Excused: Steinboeck)

This file is complete and ready for presentation to Full Council. Co

CF No. _____

Date Introduced: <u>AUG 06 2001</u>	<u>DRAGO</u>	
Date 1st Referred: <u>AUG 06 2001</u>	To: (committee) <u>Office, Budget & Economic Development Committee</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>8-20-01</u>	Full Council Vote: <u>8-0</u>	
Date Presented to Mayor: <u>8-21-01</u>	Date Approved: <u>8/21/01</u>	
Date Returned to City Clerk: <u>8/30/01</u>	Date Published: <u>3 pp.</u>	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

Law Department

Law Dept. Review

OMP Review

3
City Clerk Review

ORDINANCE 120486

1
2 AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain
3 real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing
4 acceptance and expenditure of a private donation for acquisition of said property; appropriating
5 funds from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164); authorizing
6 provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when
7 received; and assigning jurisdiction for said property.

8 WHEREAS, the North Neighborhoods' Neighborhood Plan identifies a Civic Center that includes an
9 expanded Library, Community Center, Neighborhood Service Center, expanded park, a plaza that
10 ties these uses together with each other as well as into a future pedestrian corridor to Lake City
11 Way, and a below grade parking garage; and

12 WHEREAS, the Lake City Community Center Board of Directors has generously donated \$150,000
13 toward the acquisition of land needed to build a parking garage and expand Albert Davis Park;
14 and

15 WHEREAS, Ordinance 120036 appropriated funding to the Department of Neighborhoods and
16 authorized the award of a \$150,000 Neighborhood Matching Fund Grant to match a private
17 contribution to fund the acquisition of said property for the expansion of Albert Davis Park and
18 development of a parking garage below a portion of the park; Now, Therefore,

19 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

20 Section 1. The Fleets and Facilities Director is hereby authorized, for and on behalf of the City,
21 to negotiate for and acquire the real property and property interests legally described as and associated
22 with Lot 17, Block 7, Kenwood Division No. 2, according to the plat thereof recorded in Volume 21,
23 page 28, Records of King County, Washington, and commonly known as 12538 27th Avenue NE, Seattle
24 Washington, in accordance with the terms and conditions set forth in the Purchase and Sale Agreement
25 attached hereto as Exhibit 1. Said Director is authorized to execute and deliver any ancillary documents
26 and to pay administrative, closing and relocation costs, if any, associated with acquiring said property.

27 Section 2. The Director of the Department of Neighborhoods is further authorized to expend One
28 Hundred Fifty Thousand Dollars (\$150,000) appropriated by Ordinance 120036 from the Neighborhood
Matching Subfund for the Lake City Civic Core Land Acquisition for the acquisition of real property and
property rights identified in Section 1 above, relocation costs and associated closing costs.



1 Section 3. The Fleets and Facilities Director is further authorized to accept, on behalf of the City,
2 a cash donation of One Hundred Fifty Thousand Dollars (\$150,000) from the Lake City Community
3 Center Board of Directors. The donation shall be deposited into the Cumulative Reserve Subfund,
4 Unrestricted Subaccount (00164), and allocated for the sole purpose of acquiring the real property known
5 as 12538 27th Avenue NE for the purpose of developing a parking garage and expansion of Albert Davis
6 Park. In the event the City is not able, or elects not to acquire the property, and/or does not complete the
7 parking garage, the City shall return to the donor the full amount of its donation with interest.

8 Section 4. The donation of One Hundred Fifty Thousand Dollars (\$150,000) accepted in Section
9 3 above is hereby appropriated from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164)
10 to pay for the acquisition of real property and property rights identified in Section 1 above, relocation
11 costs, and associated closing costs.
12

13 Section 5. The Fleets and Facilities Director is authorized, for and on behalf of the City, to
14 accept the Statutory Warranty Deed for the property described in Section 1, which property, when
15 received, shall be placed under the jurisdiction of the Fleets and Facilities Department.

16 Section 6. Any act consistent with the authority and prior to the effective date of this ordinance,
17 including but not limited to execution of the Purchase and Sale Agreement, is hereby ratified and
18 confirmed.
19

20 Section 7. The foregoing appropriation is made to meet actual necessary expenditures of the City
21 for which no appropriation has been made due to causes which could not reasonably have been foreseen
22 at the time of the making of the 2001 Budget; therefore, in accordance with RCW 35.32A, by reason of
23 the facts above stated, this ordinance shall take effect and be in force thirty (30) days from and after its
24 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
25 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
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1 Passed by the City Council this 20th day of August, 2001, and signed by me in open
2 session in authentication of its passage this 20th day of August, 2001.

3 Margaret Chappell
4 President _____ of the City Council

5 Approved by me this 29th day of AUGUST, 2001.

6 Paul Schulz
7 Mayor

8 Filed by me this 30th day of August, 2001.

9 Judith E. Lippin
10 City Clerk

11 (Seal)

12 Exhibit 1: Purchase & Sale Agreement including the attachments thereto:

- 13 Property Legal Description
- 14 Residence Relocation Agreement
- 15 Business Relocation Agreement
- 16 Lease
- 17 Letter of Intent to Use Power of Eminent Domain
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City of Seattle

Paul Schell, Mayor

Fleets and Facilities Department

John Franklin, Director

MEMORANDUM

Date: July 27, 2001

To: Margaret Pageler, President
Seattle City Council

Via: Joan Walters, Budget Director

From: John Franklin, Director
Fleets & Facilities Department *John Franklin*

Subject: AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing acceptance and expenditure of a private donation for acquisition of said property; appropriating funds from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164); authorizing provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when received; and assigning jurisdiction for said property.

The attached legislation authorizes the Fleets and Facilities Director to acquire the De Austria/ Tugadi property located at 12538 27th Avenue NE, as called for in the Lake City Neighborhood Plan. Additionally, the ordinance accepts and appropriates a private donation to pay for half of the site's acquisition cost; authorizes the drawing down of an appropriation made from the Neighborhood Matching Fund that was provided through Ordinance 120036 for the remainder of the site's acquisition costs; accepts the Statutory Warranty Deed; assigns jurisdiction of the property to the Fleets and Facilities department; and authorizes the payment of relocation benefits and closing costs.

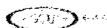
The Fleets and Facilities Department has negotiated this voluntary sale for \$275,000 plus relocation benefits. The Board of Directors of the Lake City Community Center has generously donated \$150,000 to the City to help fund the acquisition, and the Neighborhood Matching Fund has awarded \$150,000 to match the donation as contemplated in the 2001-2006 CII. The Civic Center is also supported by the ProParks levy for park expansion and redevelopment; Libraries for All funding for the expansion of the Lake City branch library; and the Community Centers' levy for a new Neighborhood Service Center to be co-located with the library.



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The acquisition supports the North Neighborhoods' Plan, which was incorporated into the Seattle Comprehensive Plan by Ordinance 11963, and which envisioned a Civic Center as a western anchor to the recommended east/west corridor connecting to Lake City Way. The development of the Lake City Civic Center takes advantage of a unique opportunity to concentrate municipal services in the super block bounded by NE 125th Street, NE 127th Street, 27th Avenue NE, and 28th Avenue NE. A key component of the Civic Center concept is the expansion of Albert Davis Park to help meet the open space and recreational needs of a very rapidly growing urban village.

While the master plan for the Lake City Civic Center has not been completely finalized, the vision for it includes park redevelopment over a parking garage to serve the new Neighborhood Service Center; an expanded branch library; and an existing adjacent Community Center, together with a plaza that will link all of the uses. A finalized master plan, along with its proposed funding, will be brought forward for Council consideration in the near future.

The acquisition of this site is a critical element to achieving the Lake City Civic Center vision and we believe that it is important to immediately proceed with the acquisition in order to minimize costs. We appreciate your consideration of this legislation. If you have any questions or would like an individual briefing on this matter, please feel free to call me at 684-0411, or Joan Rosenstock at 684-3541. Thank you.

Attachments: Fiscal Note
Ordinance

cc: Honorable Jan Drago
Jim Diers, Director, DON
Ken Bounds, Superintendent, Parks
Lee Belland, City Budget Office
Marilynne Gardner, City Budget Office
Mary Pearson, FFD, Director, Real Estate Services
Joan Rosenstock, Real Estate Services
Allynn Ruth, DON
Alex Harris, Capital Projects Manager, Seattle Public Library



Fiscal Note

Department: FFD	Contact Person/Phone: Joan Rosenstock -48541	CBO Analyst/Phone: Lee Belland/x33778
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Legislation Title:

AN ORDINANCE relating to the Lake City Civic Center project, authorizing the acquisition of certain real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing acceptance and expenditure of a private donation for acquisition of said property; appropriating funds from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164); authorizing provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when received; and assigning jurisdiction for said property.

Summary of the Legislation:

The proposed legislation authorizes the acquisition of property in Lake City as called for in the North Neighborhoods' Neighborhood Plan, accepts and appropriates a private donation to pay for half of the site's acquisition cost, authorizes the drawing down of an appropriation made from the Neighborhood Matching Fund provided through Ordinance 120036 for remainder of the site's acquisition costs, accepts the Statutory Warranty Deed, assigns jurisdiction of the property to the Fleets and Facilities department, and authorizes the payment of relocation benefits and closing costs.

Background (Include justification for the legislation and funding history, if applicable):

The acquisition of the De Austria/Tugadi property is a key component for the overall vision for the Lake City Civic Center, which was called for through Ordinance 119633, which amended the Seattle Comprehensive Plan to incorporate portions of the North Neighborhoods' Neighborhood Plan (including the Civic Core vision), and with the Lake City project contained within the Council-adopted 2001-2006 CIP for the Fleets and Facilities Department (successor to the Executive Services Department).

The North Neighborhoods' Neighborhood Plan envisioned a Civic Center as a western anchor to the recommended east/west corridor connecting to Lake City Way. This Civic Center takes advantage of a unique opportunity to concentrate municipal services in the super block bounded by NE 125th St., NE 127th St., 27th Ave. NE and 28th Ave. NE. A key component of the Civic Center concept is the expansion of Albert Davis Park to the north to help meet the open space and recreation desires of a very rapidly growing urban village. Although the master plan has not yet been finalized, key elements of the Civic Center portion of the Neighborhood Plan's Civic Core include:

- Expansion and re-design of Albert Davis Park
- Lake City Library Renovation
- Neighborhood Service Center relocation
- Parking Garage
- Plaza
- Community Center
- Fire Station #39 Remodel

The acquisition of the DeAustria/Tugadi property will allow for the creation of an integrated plaza and parking garage with the Library, Park, Neighborhood Center, and Community Center. Although the final cost estimates and funding plan for the design and construction of the plaza and parking garage have not been completed, the proposed legislation has been advanced for Council-adoption to take advantage of an advantageous property acquisition purchase offer. The purchase of the property is funded by the donation of \$150,000 from the Community Center Board of Directors and a \$150,000 Neighborhood Matching Fund grant.



Public Private Partnership Review Status:

Is the project referenced in the legislation subject to P4 review? If yes, identify P4 review to date.
N/A

Is the legislation subject to public hearing requirements? If yes, what public hearings have been held to date?
Not subject to public hearing requirements.
N/A

Fiscal Sustainability Issues (related to grant awards):
N/A

Estimated Expenditure Impacts:

FUND (List # and/or Account)	2001	2002
CRF Unrestricted (00164)	150,000	
Neighborhood Matching Fund	150,000 (as appropriated by Ord. 120036)	
TOTAL	\$300,000	

One-time \$ 300,000 On-going \$ _____

The Fleets and Facilities Department may incur some interim holding costs (garbage clean-up, security, etc.) that will be paid out of existing department budget authority. These are expected to be minimal and may be supplemented by volunteer labor.

Estimated Revenue Impacts:

FUND (List # and/or Account)	2001	2002
CRF Unrestricted 00164	150,000 (community donation)	
TOTAL	\$150,000	

One-time \$ 150,000 On-going \$ _____

The City may receive minimal interim lease revenues generated by the site through 2003 when garage construction is anticipated to begin. These revenues will be deposited into the Cumulative Reserve Subfund, Unrestricted Subaccount (00164) per City policy.

Estimated FTE Impacts:

FUND	2000	2001	2002
TOTAL			

Full Time NA # Part Time NA # TES _____

Do positions sunset in the future? If yes, identify sunset date?
N/A

Other Issues (including long-term implications of the legislation):
N/A



EXHIBIT 1

AGREEMENT FOR SALE OF REAL ESTATE

THIS AGREEMENT is entered into as of the last date of execution hereof by **PAUL V. DE AUSTRIA and HAZEL I. TUGADI** (collectively "Seller"), husband and wife, and **THE CITY OF SEATTLE** ("Purchaser"), a first class city of the State of Washington.

RECITALS:

Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser a parcel of real property consisting of approximately eight thousand four hundred thirty (8,430) square feet of land, located in the City of Seattle, King County, Washington, as described on the attached Exhibit A, together with all improvements, rights, easements and appurtenances located thereon and appertaining thereto (the "Property"), in consideration of the Purchase Price, as hereinafter defined, and the other terms, covenants and agreements contained in this Agreement.

NOW, THEREFORE, in consideration of and in reliance on the parties' mutual promises and undertakings and the mutual benefits to be derived from this Agreement, the parties agree as follows:

1. Sale of Property. Subject to the terms of this Agreement, Purchaser shall purchase from Seller and Seller shall sell and convey to Purchaser the Property, subject to: (a) all taxes, assessments, restrictions, easements, agreements and other matters affecting the Property; (b) all applicable zoning rules, restrictions, regulations, resolutions and ordinances and building restrictions and governmental regulations now or hereafter in effect; and (c) the right of the public in any street or highway forming a boundary of the Property.

2. Purchase Price. The total purchase price for the Property ("Purchase Price") shall be TWO HUNDRED SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$275,000.00), all in cash at Closing, as hereinafter defined. Within fifteen (15) days after the execution of this Agreement by both parties (hereinafter referred to as "the date hereof"), Purchaser shall deliver to the local office of Transnation Title Insurance Company, or such other escrow agent as may be satisfactory to both Purchaser and Seller ("Escrow Agent"), an earnest money deposit ("the Deposit") in an amount equal to Five Percent (5%) of the Purchase Price stated herein, which equals the sum of Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750.00). The Deposit shall be paid in cash or cashier's check or remitted in the form of a wire transfer according to instructions given to Purchaser by the Escrow Agent, and shall be applied to the Purchase Price on the date of Closing (hereinafter defined). The balance of the Purchase Price shall be paid by Purchaser to Seller on the date of Closing as provided in Paragraph 8. In addition, the Seller shall be reimbursed for eligible relocation expenses as stated in Exhibit B-1 and Exhibit B-2.



3. Title: Investigation, Study and Survey; Repair & Indemnification
Obligation.

(a) "Marketable Title" to be Provided by Seller: Seller shall furnish Purchaser with marketable title to the Property. "Marketable title" means title insurable by Transnation Title Insurance Company (the "Title Company") at its standard rates, without exception except as approved or deemed approved by Purchaser in accordance with this paragraph. Upon the execution of this Agreement, Purchaser shall order (at its sole cost and expense in the event this Agreement is terminated, but otherwise at Seller's cost and expense except for the additional premium for extended coverage, which additional premium shall be at Purchaser's expense), a current title commitment for the issuance of an extended coverage 1987 ALTA form of Owner's Policy of Title Insurance covering the property that Purchaser is purchasing under this Agreement (the "Title Commitment") together with a list of encumbrances enumerated thereon. Every item in the Title Commitment to which Purchaser does not object in writing within fifteen (15) days from Purchaser's receipt of the Title Commitment shall be deemed to be a "Permitted Exception." As to every item on the Title Commitment to which Purchaser objects, Seller shall have ten (10) days after receipt of Purchaser's notice of objections (the "Cure Period") within which (i) to remove or render otherwise acceptable to Purchaser each item to which Purchaser has objected, or (ii) to commit to Purchaser in writing signed by Seller and delivered to Purchaser, that without additional consideration, Seller shall do so within 15 days of the Execution of this Agreement or (iii) give notice to Purchaser that Seller declines to correct such objection to title; provided, that all monetary liens and encumbrances shall be paid in full or removed on or before the Closing Date, whether or not objected to by Purchaser. If Seller does not correct such objections within forty-five (45) days after full execution of this Agreement, Purchaser shall either (i) waive such uncured objections and accept title to the Property subject to such uncured objections (each of which shall be deemed a Permitted Exception) without an adjustment to the Purchase Price or (ii) terminate this Agreement by written notice to Seller and Escrow Agent, in which event this Agreement shall terminate, the Deposit and all interest earned thereon shall be refunded to Purchaser, and neither party shall have any further rights, duties or obligations under this Agreement. If Purchaser does not make such election within forty-five (45) days after full execution of this Agreement, Purchaser shall be conclusively deemed to have elected to accept the Property subject to such objections and to have approved title as marketable. If Purchaser approves or is deemed to have approved the title shown in the Title Commitment, Seller's obligation to furnish to Purchaser marketable title to the Property shall be satisfied.

(b) License Granted for Entry onto Property for Inspection, Study and Survey Purposes: Seller grants to Purchaser and its officers, employees, designated consultants and contractors a license to enter the Property for the purpose of completing an inspection, study and survey of the Property at Purchaser's expense to determine the physical condition of the Property and if the Property contains any Hazardous Materials. Purchaser is to give Seller five (5) days' notice of Purchaser's intent to enter the Property for said purposes. The license granted in this Subparagraph 3(b) shall expire on the date of Closing or the date this Agreement is terminated,



whichever is earlier. The survey shall be made by a licensed surveyor or Registered Professional Engineer in accordance with ALTA/ACSM class standards in detail that is sufficient to permit the Title Company to delete the standard printed exception from the Owner's policy of title/insurance pertaining to discrepancies in area or boundary lines, encroachments, overlapping improvements or similar matters, and to show the total square footage and the boundaries of the Property together with the location of any and all easements and rights-of-way, the location of any and all utilities, and topographic elevations at the Property corners. Within ten (10) days after Purchaser's receipt of any such inspection, study or survey, Purchaser shall deliver to Seller and the Escrow Agent a copy of any report regarding the same and, if received by Purchaser, revised Exhibits A and B that correspond to and accurately describe the area to be purchased and identified herein as the Property.

(c) **Purchaser's Property Repair Obligation:** If Purchaser does not purchase the Property, Purchaser covenants and agrees to repair any damage to the Property occasioned by the entry upon the Property or the conduct of any inspection, study or survey pursuant to Subparagraph 3(b) by or for Purchaser. Such repair shall be to the condition in which the Property existed immediately prior to initial entry upon the Property by or for Purchaser pursuant to the license granted herein. This repair obligation shall survive the date of Closing and the termination of this Agreement.

4. Representations and Warranties of Purchaser. Purchaser represents and warrants to and agrees with Seller as follows:

(a) Purchaser is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Washington and has the power to own its property and assets.

(b) As of the Date of Closing, this Agreement has been duly authorized, executed and delivered by Purchaser; constitutes the legal, valid and binding obligation of Purchaser; and is enforceable against Purchaser in accordance with its terms.

(c) The purchase of the Property will not conflict with or result in the breach (which breach will affect its ability to perform under this Agreement) of any agreement or instrument to which Purchaser is a party or by which it is or may be bound; or constitute a default under any of the foregoing; or violate any state or federal governmental law, statute, ordinance or regulation in effect on the date of execution of this Agreement.

5. Conditions Precedent to Performance of Agreement by Purchaser.

(a) Purchaser shall be obligated to complete this transaction only upon the waiver by Purchaser or the satisfaction of each of the following conditions precedent:



(i) Seller is able to convey marketable title to the Property subject only to Permitted Exceptions as required by Paragraph 3 of this Agreement, and the Title Company is able to issue to Purchaser an extended coverage 1987 ALTA form of Owner's Policy of title insurance in an amount equal to the Purchase Price with only the Permitted Exceptions as special exceptions thereto.

(ii) The representations and warranties made by Seller in this Agreement are true on and as of the date of Closing with the same effect as though such representations and warranties had been made on and as of the date of Closing.

(iii) Purchaser, at its sole cost and expense, shall have received evidence satisfactory to Purchaser that the present zoning of the Property is satisfactory for the intended use. Seller shall, at Purchaser's expense, reasonably cooperate with Purchaser in obtaining zoning changes, variances, permits and orders.

(iv) Within fifteen (15) days after the date hereof, Purchaser, at its sole cost and expense, shall have received satisfactory evidence that all necessary utility services (including storm drains, sanitary sewer, electricity and water) are or will be available within five (5) feet of the lot line of the Property, and in sufficient quantity for the intended use of the Property. The provision of such utility services shall be in conformity with applicable zoning requirements and shall have been approved by the appropriate municipal officials and utility companies.

(v) Within forty-five (45) days after the date hereof, Purchaser shall have received satisfactory evidence, gathered at its own expense except as provided in Subparagraph 5(a) hereof, that the physical condition of the Property can accommodate the intended use and that the Property does not contain any Hazardous Materials in excess of applicable federal or state standards.

(vi) Purchaser shall have obtained satisfactory evidence, gathered at its sole cost and expense, that the signage required for its intended use is permitted under the applicable governmental regulations or ordinances.

(vii) Within ten (10) days after Seller's execution of this Agreement, Seller shall have provided to Purchaser a complete copy of each of the following to the extent they are in Seller's possession, custody or control: soils reports; structural reports; surveys; information relating to any proposal or commitment by Seller to alter any existing improvement or structure or to any construct any additional improvement or structure on the Property, or to dedicate any portion of the Property to any governmental entity; every drawing of the Property showing any easement, encumbrance or encroachment by any other person or entity for the benefit of the Seller's adjacent property any other property; and any other Document relating to the Property. For the purposes of this subparagraph, the term "in Seller's possession, custody or control" means in the care, custody or control of Seller or any of Seller's officers, employees, attorneys, consultants or agents.

(viii) Within ten (10) days after Seller's execution of this



Agreement, Seller shall have provided to Purchaser a copy of any Environmental Report in its possession or control relating to the Property or any adjacent property owned by Seller. To the extent permitted by law, Purchaser shall keep strictly confidential any environmental information obtained by Seller relating to the Property or the adjacent property owned by Seller. Purchaser shall disclose such information only to (1) those of its agents or contractors who require the information for business purposes relating to the investigation, analysis or development of the Property, provided that those agents or contractors (a) shall be informed of the confidential nature of the information and (b) shall agree in advance in writing to be bound by the confidentiality requirements set forth herein; and (2) those persons requesting pursuant to RCW Ch. 42.17 information that is not exempt from public disclosure.

(ix) The legislative authority of The City of Seattle shall have authorized, by ordinance, execution of this Agreement and the conveyance contemplated herein, and such ordinance shall have become effective.

(b) For the purposes of this Agreement, the following terms and phrases are defined as specified below:

(i) "Document" means and includes information stored in any form; any written, recorded or graphic matter, however produced or reproduced; and copies and drafts thereof. Without limiting the foregoing, "Document" includes correspondence; telegrams; memoranda; reports; notes; drafts; minutes; contracts; agreements; books; records; vouchers; invoices; diaries; calendar notes; logs; computer print-outs; e-mails; voice mails; memory programs; information stored in any data processing or word processing system, in whatever form; back-up materials of any kind; card files; press clippings; newspapers or newsletters; sworn or unsworn statements of employees; lists; audits; tables of organization; monthly or other periodic statements; journals; notices; affidavits; court papers; appointment books; minutes or records of conferences or telephone calls; brochures; written reports or opinions of investigators or experts; status reports; drawings; charts; photographs; negatives; or tape recordings.

(ii) "Environmental Report" means and includes, but is not limited to, any Document relating to the physical condition of the Property or any adjacent property or the presence on the Property or such adjacent property of any Hazardous Materials, as that term is defined in Subparagraph 5(b)(iii).

(iii) "Hazardous Materials" means and includes any hazardous or toxic substance or container therefor that is or becomes regulated by any governmental authority and includes, without limitation, underground storage tanks and any substance that is:

A. defined as a "Hazardous Substance," "Hazardous Waste," or "Extremely Hazardous Substance" pursuant to any provision of the United States Code, including United States Code sections commonly known as the Federal Water Pollution Control Act, the Federal Resource Conservation and Recovery Act, the



Comprehensive Environmental Response, Compensation and Liability Act or the
Superfund Amendments and Reauthorization Act of 1986;

B. defined as a hazardous substance or material pursuant to any state or local law, ordinance or regulation affecting the Property;

C. petroleum or a petroleum by-product;

D. asbestos or asbestos containing material;

E. A pesticide;

F. A polychlorinated biphenyl;

G. A dry cleaning fluid; or

H. A solvent.

(iv) "In Seller's possession, custody or control" means and includes retained or maintained by, or within the knowledge of, or to which access is available by, Seller or any of its officers, employees, attorneys, agents, consultants or storage providers.

(c) Purchaser covenants that it shall use its best efforts to obtain satisfaction of the conditions precedent prior to the deadline described immediately below. If any contingency of Subparagraph 5(a) has not been either satisfied or waived by Purchaser within forty-five (45) days after the date hereof, then either Purchaser or Seller may terminate this Agreement by written notice to the other party within five (5) days after the period provided for satisfaction of the condition, whereupon neither party shall have any further liability or rights under this Agreement and the Deposit held by the Escrow Agent and all interest earned thereon (less one half (1/2) of the escrow fees) shall be returned to Purchaser. If such termination notice is not given on or before such five (5)-day period, Purchaser shall be conclusively deemed to have elected to have waived the conditions precedent specified in Subparagraph 5(a). Upon the satisfaction or waiver of Purchaser's contingencies, the Deposit shall be non-refundable.

(d) The foregoing notwithstanding, provided that Purchaser is diligently pursuing satisfaction of the conditions set forth in Subparagraphs 5(a)(iii) and 5(a)(ix), or either of the same, Purchaser shall have the option to extend the date for satisfaction of the conditions set forth in Subparagraph 5(a)(iii) or 5(a)(ix), or either of the same and the Closing Date for up to two (2) period(s) of thirty (30) days each by delivering, five (5) or more days before the then-scheduled date of Closing, to Seller and Escrow Agent, written notice of Purchaser's intention to extend the date for satisfaction of the conditions set forth in Subparagraph 5(a)(iii) or 5(a)(ix), or either of the same, and the Closing Date, and delivering to Escrow Agent a certified or cashier's check, payable to Seller, in the sum of Two Thousand and No/100 Dollars (\$2,000.00) for each thirty (30)



day extension (which aggregate amount shall hereinafter be referred to as the "Extension Deposit"). Each increment of the Extension Deposit shall promptly be remitted to Seller by Escrow Agent. If, for any reason, this Agreement is not terminated and the Purchaser does not purchase the Property, without limiting or waiving any other right or remedy which Seller may have under this Agreement, Seller shall be entitled to and may retain the Extension Deposit. If Purchaser purchases the Property, the Extension Deposit shall be credited to the Purchase Price.

6. Conditions Precedent to Performance of Agreement by Seller.

(a) Seller shall be obligated to complete the transaction only upon the waiver by Seller or the satisfaction of each of the following conditions precedent:

(i) Purchaser shall have complied with all of the terms and conditions of this Agreement, including, without limitation, payment to the Escrow Agent of the Purchase Price, in the form and as adjusted as provided in this Agreement.

(ii) The representations and warranties made by Purchaser in this Agreement are true on and as of the date of Closing with the same effect as though such representations and warranties had been made on and as of the date of Closing.

(b) If the conditions of Paragraph 6(a) have not been either satisfied or waived by Seller on or by the Closing Date, then either Purchaser or Seller may terminate this Agreement by written notice to the other party, whereupon neither party shall have any further liability or rights under this Agreement and the Deposit held by the Escrow Agent and all interest earned thereon (less ½ of the escrow fee) shall be returned to Purchaser (except where Purchaser shall have failed to comply with this Agreement, in which case Purchaser agrees that the Escrow Agent shall deliver the Deposit to Seller, and Purchaser shall pay all of the escrow fees.)

7. Representations and Warranties of Seller. Seller represents and warrants to and agrees with Purchaser as follows:

(a) This Agreement has been duly authorized, executed and delivered by Seller, constitutes the legal, valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

(b) The sale of the Property by Seller to Purchaser will not conflict with or result in the breach (which breach will affect Seller's ability to perform under this Agreement) of any of the terms of any agreement or instrument to which Seller is a party or by which it is or may be bound; or constitute a default under any of the foregoing.

(c) Except for such matters as are shown in the Title Commitment to be obtained by Purchaser, Seller is the sole owner of the Property and no other person, corporation or entity has any right, title or interest to the Property.



(d) Seller has obtained all consents, approvals, authorizations, and orders as are required to permit Seller to execute and deliver this Agreement, and to consummate the transaction contemplated hereby.

(e) Seller has not created, or permitted the creation of, any mortgage, lease, rental agreement, license, option, easement, right, encumbrance, covenant, condition, restriction, security interest, or lien of any kind or nature, recorded or unrecorded, including but not limited to any architect's, engineer's, landscape architect's, mechanic's or materialman's lien, affecting or against the Property or any part thereof, that is not shown on the Title Commitment to be obtained by Purchaser and will not be satisfied, discharged or terminated prior to Closing.

(f) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code.

(g) Seller has not, as of the date of Closing, received any notice of any pending litigation, bankruptcy or other proceeding affecting the Premises, in whole or in part, other than the notice(s) disclosed to Purchaser, in writing, by Seller.

(h) Between the date this Agreement is executed by Seller and Purchaser and either the date this Agreement is terminated or the date of Closing, whichever is earlier, Seller will not, without first having obtained the written consent of Purchaser for such action, initiate contact with any individual or entity concerning the sale of the Premises, or furnish non-public information to any entity or individual in connection with any acquisition proposal with respect to the Premises, or permit the Premises to be advertised or held out for sale by any agent or employee of Seller.

8. Establishment of Escrow and Closing.

(a) **Establishment of Escrow.** Within five (5) days after the date hereof, the parties shall open an escrow account with the Escrow Agent in order to consummate the sale and purchase of the Property in accordance with the terms and provisions of this Agreement.

(b) **Escrow Instructions.** The provisions of this Agreement shall constitute the joint instructions of the parties to the Escrow Agent; provided, however, that the parties shall execute such additional instructions as requested by the Escrow Agent not inconsistent with the provisions of this Agreement.

(c) **Date of Closing.** The closing of the sale and purchase of the Property (the "Closing") shall occur after the satisfaction or waiver of all conditions precedent to closing, but no later than ninety (90) days after the signing of this Agreement unless the Purchaser has extended pursuant to Subsection 5.d hereof the date by which all of the conditions precedent to Closing must be satisfied (herein called the "date of Closing" or the "Closing Date").



(d) **Purchaser's Closing Obligations & Instruments.** At Closing, and conditioned upon receipt of all items to be delivered to Purchaser identified in Subparagraph 8(e) hereof, Purchaser shall deliver to Seller through the Escrow Agent, by cash, certified or cashier's check or wire transferred funds, (i) the Purchase Price, less the Deposit and all interest earned thereon (and the aggregate Extension Deposit, if any), adjusted and prorated as provided in this Agreement; (ii) a counterpart executed real estate excise tax affidavit; and (i) such other instruments as are reasonably necessary to consummate this purchase and sale transaction.

(e) **Seller's Closing Obligations & Instruments.** At Closing, and conditioned on receipt of the Purchase Price by the Escrow Agent for the account of Seller, Seller shall deliver to Purchaser through the Escrow Agent (i) a fully executed and acknowledged statutory warranty deed subject only to the Permitted Exceptions; (ii) a fully executed Certificate of Non-Foreign Status; (iii) a counterpart executed real estate excise tax affidavit; and (iv) such other instruments as are reasonably necessary to consummate this purchase and sale transaction.

(f) **Escrow Agent's Obligations.** At Closing, following receipt of sufficient funds from Purchaser, the Escrow Agent shall pay to Seller the Purchase Price, as adjusted and prorated as provided in this Agreement. At or as soon as possible after Closing, the Escrow Agent shall have the Title Company issue to Purchaser an owner's extended coverage ALTA (1987) title insurance policy in the amount of the Purchase Price and insuring fee simple title to the Property subject only to exceptions approved or deemed to have been approved by Purchaser and not limited by any limitations of Purchaser's remedies against Seller contained in this Agreement.

(g) **Proration and Expenses.** Real property taxes, assessments, Surface Water Management charges, Conservation Service Charges, and utility charges constituting liens against the Property, all for the year of Closing, shall be prorated as of the date of Closing. Any documentary transfer tax, real estate excise tax, or other similar tax shall be paid by Seller. Purchaser shall pay the cost of recording the statutory warranty deed. Seller shall pay the premium for the issuance of a basic Title Commitment and the title policy to be issued to Purchaser at Closing, provided, however, that Purchaser shall pay the cost of extended (ALTA) coverage as well as any additional endorsement premiums. All other recording and closing costs (including the escrow fee but excluding attorneys' and brokers' fees, costs and expenses associated therewith) shall be shared equally by the parties. Each party shall pay the brokers' fees and attorneys' fees, costs, and expenses incurred by such party with respect to the negotiation of this Agreement, and the consummation of the transaction contemplated herein.

9. **Deed: Possession.** Upon the Closing of the sale provided for in this Agreement, the Seller shall convey marketable title to the Property to Purchaser by statutory warranty deed, subject to the Permitted Exceptions, which deed shall be delivered to Purchaser through the Escrow Agent. Purchaser shall be entitled to possession of the Property on the calendar day immediately following the date of Closing.



10. Default. In the event of default by Seller, Purchaser shall be entitled to immediate refund of the Deposit and all interest earned thereon, or Purchaser may bring suit for damages but its recovery shall be limited to recovery of the amount of the Deposit and all interest earned thereon, as liquidated damages, which remedies shall be Purchaser's sole and mutually exclusive remedies. In the event of default by Purchaser, in addition to any other remedy Seller may have at law or equity, Seller may direct the Escrow Agent to immediately deliver to Seller the Deposit and all interest earned thereon, as liquidated damages. Either party shall also have the right to specifically enforce this agreement (but without the right to claim damages in such a proceeding.)

Purchaser and Seller hereby acknowledge that the extent of damages to Seller or Purchaser occasioned by a breach of this Agreement by the other would be impossible or extremely impracticable to ascertain and that the Deposit represents fair and reasonable compensation under the circumstances existing at the date of this Agreement for Seller having been prevented from selling the Property to a third party or of Purchaser being prevented from purchasing the Property from Seller.

11. Condition of Property. The Property shall be delivered to Purchaser at Closing in substantially the same physical condition as of the date hereof, excepting ordinary wear and tear. Notwithstanding any other provision of this Agreement or any investigation of the Property, Purchaser acknowledges and agrees that, if it purchases the Property, the Property is being purchased in its "as is" and "where is" condition as of the Closing Date and that neither Seller, nor any of its employees or agents, has made any express warranty or representation regarding the condition of the Property or its suitability for the intended use and none shall be implied by law. Except with respect to any liability resulting from a misrepresentation of Seller hereunder, Purchaser releases Seller from any liability to Purchaser arising out of or relating to the condition of the property, including but not limited to the physical condition of the property; zoning; environmental matters or contamination; effects of local, state and federal regulations on use and enjoyment of the property; soil suitability and compaction; drainage; and fitness or usability of improvements for any purpose. Purchaser represents and acknowledges that this provision was explicitly negotiated and bargained for as a material part of Seller's consideration being paid by Purchaser.

12. Risk of Loss.

Risk of loss or damage to the Property by fire or other casualty, from the date of this Agreement through the date of Closing shall be on the Seller, and thereafter shall be on the Purchaser.

13. Brokers; Indemnification Against Brokers' Claims. Purchaser and Seller represent and warrant to and agree with each other that no person or entity is entitled to be paid a fee or commission in connection with the transfer of the Property by Seller to Purchaser. If any individual or entity shall assert a claim to a finder's fee or commission as a broker or a finder for the transfer of the Property, then the party who is alleged to have retained such individual or entity shall defend, indemnify and hold harmless the



other party from and against any such claim and all costs, expenses, liabilities and damages incurred in connection with such claim or any action or proceeding brought thereon. This indemnification obligation shall survive the Closing and the termination of this Agreement.

14. Indemnification Obligations.

(a) Purchaser shall indemnify and hold Seller harmless from any costs, loss or damage incurred as a result of the entry upon the Property and conduct pursuant to Subparagraph 3(b) of any inspection, study or survey by or for Purchaser prior to the date of Closing or the date this Agreement is terminated, whichever is earlier, except any costs, loss or damage resulting from Seller's negligence.

(b) Purchaser shall indemnify and hold Seller harmless from any costs, expenses or liability resulting from any proceedings to secure zoning changes, variances, permits or orders required for the intended use by Purchaser.

(c) Seller shall indemnify and hold Purchaser harmless from any and all costs, losses, damages, suits, causes of actions, and liabilities whatsoever and howsoever incurred as a result of or in connection with the entry upon the Property for any reason whatsoever by or for Seller or by any of Seller's employees, contractors, or agents after the date of Closing.

15. Assignment: Binding Effect. This Agreement shall not be assigned by Purchaser without the prior written consent of Seller which may be withheld in Seller's sole discretion; provided, however, that no consent shall be required for an assignment by either party to a parent, subsidiary, affiliate or corporate successor by merger, consolidation, reorganization or transfer of all or substantially all of the assets of such party. Subject to the foregoing, this Agreement shall be binding upon each party and its heirs, executors, administrators, assigns and successors.

16. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall either be delivered in person or sent by Federal Express or by registered or certified mail through the U.S. Postal Service with postage prepaid as follows:

(a) If to Seller, to: Paul De Austria and Hazel Tugadi
P. O. Box 27804
Seattle, WA 98125

with copy to: Jack McCullough
Phillips McCullough Wilson Hill & Fikso PS
2025 First Avenue, Suite 1130
Seattle, Washington 98121-2100

(b) If to Purchaser, to: Real Estate Services
Fleets and Facilities Department



The City of Seattle
14th Floor, Alaska Building
618 Second Avenue
Seattle, WA 98104
Attn: Joan Rosenstock

with copy to: Gordon B. Davidson, Assistant City Attorney
Law Department
The City of Seattle
10th Floor, Municipal Building
600 Fourth Avenue
Seattle, WA 98104

or to such other address as shall be specified by either party, for itself, by notice to the other not less than fifteen (15) days prior to the effective date of such address change. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the Federal Express receipt, and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or by Federal Express or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

17. Governing Law. This Agreement shall be governed by the law of the State of Washington.

18. Leasing. At Closing, Seller shall lease the Property from Purchaser on the terms and conditions of that Lease Agreement in the form attached as Exhibit C hereto. Seller and Purchaser shall execute the Lease Agreement at Closing and Seller shall deposit with Escrow the Security Deposit as defined in said Lease Agreement.

19. Time Period Allowed for Seller to Remove Personal Property From Property. At the conclusion of the Lease Agreement, the Seller shall remove from the Property any personal property that Seller desires to keep. Any personal property of the Seller that is not removed from the Property on or by the last day of the lease period (see Exhibit C) shall become the property of the Purchaser without any obligation to pay additional compensation to Seller, which personal property shall be owned, used, sold, or destroyed as Purchaser desires.

20. In Lieu of Condemnation. At Closing, Purchaser shall provide to Seller a Letter of Intent to Use Power of Eminent Domain in the form attached as Exhibit D.

21. Seller Tax Deferred Exchange. Purchaser acknowledges that Seller may elect to transfer the Property as part of a tax-deferred exchange of property pursuant to the provisions of Section 1031 of the Internal Revenue Code of 1986, as amended. Purchaser agrees to cooperate with Seller in consummating any such tax-deferred



exchange but Purchaser shall not be required to participate in any earnest money agreements, exchange agreements or other documents, nor required to take title to any exchange property nor shall Purchaser incur any costs, expenses or liabilities in connection with any such tax-deferred exchange. Seller shall protect, indemnify, defend and hold Purchaser harmless from and against any and all damages, liabilities, state or federal tax assessments, costs, expenses, losses (including attorneys' fees and costs) which might be asserted against Purchaser by any person including any governmental agency as a result of any such exchange or attempted exchange.

22. Time of the Essence: Calculation of Time Periods.

(a) Time is of the essence of this Agreement and of all acts required to be done and performed by either and both of the parties hereto, including but not limited to the proper delivery of all documents and the tender of all amounts of money required by the terms hereof to be delivered or paid, respectively. Any extension of time granted for performance of any obligation under this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement.

(b) Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday. The final day of any such period shall be deemed to end at 5:00 p.m., Pacific time.

23. Survival. Paragraph 11, the representations and warranties of the parties contained in this Agreement, and the parties' respective indemnification obligations shall survive indefinitely the termination of this Agreement, the Closing, shall not be merged into the deed and other documents delivered at Closing, and shall continue in full force and effect through and after the Closing Date. Seller's right to obtain relocation pay from Buyer in accordance with law shall survive the Closing of this transaction.

24. Counterparts. This Agreement may be executed in counterparts but only when counterparts are delivered to the Escrow Agent, with the signatures of each and every one of the parties constituting the Purchaser and Seller, shall it be deemed a binding Agreement. It is understood, agreed and acknowledged that if both Purchaser and Seller have not executed a counterpart of this Agreement and deposited signed copies, accompanied by the Deposit with the Escrow Agent as provided for in Paragraphs 2 and 8, this Agreement shall be of no force and effect.

25. Waiver. Any waiver under this Agreement must be in writing. A waiver of any right or remedy in the event of a default shall not constitute a waiver of such right or remedy in the event of any subsequent default. No writing other than a document signed by the Purchaser's Executive Services Director specifically so stating that it is a waiver shall constitute a waiver by Purchaser of any particular breach or default by Seller, nor shall such a writing waive Seller's failure to fully comply with any other term or condition of this Agreement, irrespective of any knowledge that any officer or employee of Purchaser may have of such breach, default, or noncompliance.



26 Entire Agreement; Modifications; Negotiated Understanding.

(a) This Agreement, including Exhibits A, B-1, B-2, C and D (which by this reference is incorporated herein), represents the entire agreement of the parties with respect to the Property and any and all agreements, oral or written, entered into prior to the date hereof are revoked and superceded by this Agreement.

(b) This Agreement may not be changed, modified or rescinded except in writing signed by both parties; any attempt at oral modification of this Agreement shall be of no effect.

(c) The parties to this Agreement acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

27. Further Instruments and Action. Each party hereto shall, promptly upon the request of the other or Escrow Agent, have executed, acknowledged and delivered to the other, any and all further instruments and shall take all such further action as is reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement or to satisfy Escrow Agent's requirements.

IN WITNESS WHEREOF, Seller and Purchaser have each caused this Agreement to be executed by having its duly authorized representative affix his/her signature hereto as of the day and year first above written, which shall be the date that the last of Seller and Purchaser shall have executed this Agreement.

SELLER:

PURCHASER:

PAUL V. DE AUSTRIA

THE CITY OF SEATTLE

By: _____

By: _____

John Franklin, Director
Fleets and Facilities Department

HAZEL I. TUGADI

By: _____



STATE OF WASHINGTON)

) ss. **(Acknowledgment for The City of Seattle)**

COUNTY OF KING)

On this _____ day of _____, 2001, before me, personally appeared John Franklin, to me known to be the Director, Fleets and Facilities Department of The City of Seattle, who executed the foregoing agreement, and acknowledged the same to be the free and voluntary act and deed of The City of Seattle for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said agreement.

GIVEN under my hand and official seal the day and year written above in this certificate.

(Signature) (Printed or typed name of Notary Public)
Notary Public in and for the State of Washington, residing at _____
My appointment expires _____

STATE OF WASHINGTON)

) ss. **(Acknowledgment by Paul V. De Austria)**

COUNTY OF KING)

On this _____ day of _____, 2001, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Paul V. De Austria, to me known to be the person who executed the foregoing document for Seller, and acknowledged the same to be the free and voluntary act and deed of Seller for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute such document.

WITNESS my hand and official seal hereto affixed the day and year written above in this certificate.

(Signature) (Printed or typed name of Notary Public)
Notary Public in and for the State of Washington, residing at _____
My appointment expires _____



STATE OF WASHINGTON)

) ss. **(Acknowledgment by Hazel I. Tugadi)**

COUNTY OF KING)

On this _____ day of _____, 2001, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Hazel I. Tugadi, to me known to be the person who executed the foregoing document for Seller, and acknowledged the same to be the free and voluntary act and deed of Seller for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute such document.

WITNESS my hand and official seal hereto affixed the day and year written above in this certificate.

(Signature) (Printed or typed name of Notary Public)
Notary Public in and for the State of Washington, residing at _____
My appointment expires _____



EXHIBIT A

Legal Description of the Property

Lot 17, Block 7, Kenwood Division No. 2, according to the plat thereof, recorded in volume 21, page 28, records of King County, Washington.

Situated in the City of Seattle, County of King, State of Washington.



EXHIBIT B-1

RELOCATION AGREEMENT

THIS RELOCATION AGREEMENT ("Agreement") is entered into between THE CITY OF SEATTLE (hereinafter "SEATTLE"), a Washington municipal corporation, and PAUL V. DE AUSTRIA and HAZEL I. TUGADI (hereinafter collectively "OWNERS"), husband and wife.

A. Background

SEATTLE intends to acquire OWNERS' real property located at 12538 – 27th Avenue NE, Seattle, WA (the "Existing Site"). Pursuant to and consistent with applicable state and federal law and Seattle Resolution 23390, SEATTLE intends to provide to OWNERS certain relocation assistance for the moving and re-establishment of OWNERS' residence as specified in this Agreement.

SEATTLE and OWNERS have entered into a mutually accepted Real Estate Purchase & Sale Agreement dated _____ (the "Purchase Agreement").

General information about the property to be acquired by SEATTLE, the OWNERS, and the OWNERS' move, is set forth in Attachment 1, which is appended hereto and incorporated herein by this reference.

OWNERS intend to relocate their residence to _____ (the Replacement Site").

B. Mutual Commitments.

OWNERS hereby commit to SEATTLE that OWNERS shall move themselves and their personal property from OWNERS' Existing Site (as defined in Attachment 1) as provided in the Purchase Agreement and the Lease that is executed as part of Closing, except in the case of an event of force majeure. In accordance with the Uniform Relocation Act, Ch. 8.26 of the Revised Code of Washington, and Seattle Resolution 23390 and in consideration of OWNERS' moving themselves and their personal property from their Existing Site, SEATTLE shall pay moving and replacement housing expenses for OWNERS in accordance with such legislation and this Agreement. For the purposes of this Agreement, force majeure shall only mean fire, flood, and a similar act of nature, unavoidable casualty, war or insurrection, labor dispute not caused by OWNERS, or another cause solely beyond OWNERS' control that cannot be reasonably anticipated; provided that in no event shall changes in market conditions be deemed force majeure.

C. Moving Expenses.

1. General.



OWNERS elect to accept a fixed payment for reasonable and necessary, actual moving and related expenses incurred by OWNERS for the relocation of personal property as described generally in Attachments 2, 3 and 5, which are appended hereto and incorporated herein by this reference. The determination of the amount of such payment is based upon a room count allowance provided by OWNERS identifying a total of 10 rooms in dwelling, attic area, out building, and exterior and agreed to by SEATTLE.

2. Documentation and Limitation.

OWNERS acknowledge that unless OWNERS actually move their personal items in accordance with this Agreement, SEATTLE shall have no obligation to make any payment to OWNER pursuant to law or this Agreement or otherwise for residential and non-business relocation purposes.

(a) By electing to perform a self-move or use a commercial mover and/or rigger ("Mover"), OWNERS assume responsibility for the physical relocation of all personal property on the Existing Site. Either OWNER or OWNERS' designee shall act as the general contractor for the disassembly, packing, cartage, unpacking, re-assembly, placement, and any and all other related work and shall conduct the move pursuant to a workable plan for the relocation.

(b) Either OWNER or the Mover shall be responsible for set-up and coordination of all work performed by subcontractors, implementation of the move, and final setup at the new facility, including any necessary openings in the wall or roof of either OWNERS' existing building or the Replacement Site if required.

(c) Either OWNERS or the Mover shall provide adequate insurance to cover any expense in the event of casualty, loss or damage to personal or real property, the cost of which is agreed to be a reimbursable moving expense. OWNERS shall inquire whether full replacement insurance is available through a rider on any existing insurance OWNERS may have in place, and to obtain such insurance in the most cost-effective manner. In no event shall SEATTLE or any of its officers, employees, consultants or agents be responsible for any loss, casualty, damage, injury to person including death, or any other claim, liability or cause of action arising from the move. OWNERS shall indemnify, defend and hold harmless SEATTLE and its officers, agents, consultants and employees from any such loss, casualty damage, personal injury or death, claim, liability, or cause of action.

(d) Each equipment reinstallation shall be completed so that the equipment is installed to a condition that is functionally equivalent to its present condition. Any betterments shall be OWNERS' responsibility

(e) OWNERS may not request additional reimbursement because SEATTLE and OWNERS have agreed that OWNERS' total relocation for moving and the purchase price differential shall be capped as provided in this Agreement.



D. Replacement Housing Payment.

1. General.

OWNERS elect to receive a replacement housing payment as described generally in Attachments 2, 3 and 5. Payment determination is based upon the selection of a comparable dwelling located at 19701 -- 40th Place NE, Seattle, WA, and approved by SEATTLE.

2. Documentation and Limitation.

Replacement housing expenses are supported by the selection of a comparable dwelling that SEATTLE agrees is "reasonable, and necessary." OWNERS shall purchase a replacement site within twelve months (12) from the closing date specified in or pursuant to the Purchase Agreement. OWNERS shall complete a Decent Safe and Sanitary inspection of the replacement dwelling and understand that the statements, findings, decisions, and conclusions appearing in the report of such inspection are made solely for the purpose of determining the eligibility for replacement housing payments, and are not intended to be, nor do they constitute, warranties or guarantees by SEATTLE or any of its employees or agents that said replacement dwelling is free from defects or meets local, state, or federal housing codes. SEATTLE hereby recommends that OWNERS obtain a structural inspection prior to purchasing a replacement dwelling.

E. Final Payment and Release.

Upon receipt of the requests marked for final payment, or deemed by SEATTLE to be a request for final payment, SEATTLE shall notify OWNERS that the final payment has been made and shall provide OWNERS with a written list of all payments made by SEATTLE and of those claims for payment SEATTLE finds to be outside the scope of this Agreement. If OWNERS do not respond in writing within fifteen (15) days of SEATTLE'S final payment notice with specific written objections as to particular expenses not paid by SEATTLE, OWNERS shall be deemed to have agreed that the final payments represent complete and final payment of all relocation and replacement housing benefits for pursuant to the Uniform Relocation Act, Ch. 8.26 RCW and Seattle Resolution 233390 and shall thereby release SEATTLE from any future claims or liability for payment of moving, relocation, or replacement housing expenses as described in the Uniform Relocation Act, Ch. 8.26 or Seattle Resolution 23390. OWNERS' written objections under this paragraph shall be considered under the appeals process.

G. Payment

SEATTLE shall make a direct relocation payment to OWNERS on the closing date specified in or pursuant to the Purchase Agreement for the Existing Site. Payment is based upon a fixed payment of a dislocation allowance for actual moving and related



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expenses and replacement housing expenses that aggregate \$3,900.00. OWNERS shall sign and return to SEATTLE the following ATTACHMENTS, which are appended hereto and incorporated herein by reference, prior to SEATTLE's making any such payment, in part or in full, to OWNER:

- (i) Attachment 3: Relocation Claim Form
- (ii) Attachment 4: Relocation Certification Form
- (iii) Attachment 5: Payment Request Form

Specific Performance.

This Agreement shall be subject to specific performance by either party in the event of default by the other party, in addition to any other remedy that may be available at law.

I. Merger.

This Agreement represents the complete and final understanding of the parties related to the subject matters referenced herein and sets forth all of the promises, agreements, conditions, representations and agreements between OWNER and SEATTLE.

J. Applicable Law and Venue.

This Agreement shall be governed and construed in accordance with the laws of the State of Washington. Venue for any action shall be in the Superior Court of Washington for King County.

K. Cooperation.

SEATTLE and OWNERS commit to cooperate in good faith to implement the terms of this Agreement recognizing that moving plans and improvements to the Replacement Site may need to be adjusted or accelerated and normal business operations altered to meet OWNERS' commitment to vacate and quit its Existing Site no later than 30 days from and after the closing date specified in or pursuant to the Purchase Agreement.

L. SEATTLE Approvals.

SEATTLE acknowledges that in order for OWNERS to meet SEATTLE's schedule, OWNERS require prompt turnaround in communications. SEATTLE therefore agrees that SEATTLE shall respond as rapidly as possible to any request from OWNERS. SEATTLE's approval of requests by OWNERS as required or permitted hereunder shall not be unreasonably withheld or delayed.

M. Notices.

Notices from either party to the other shall be in writing and may be given by personal or courier delivery, facsimile transmission, or by mail to the following addresses or at such



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other address as either party may hereafter specify in a notice to the other:

To SEATTLE: THE CITY OF SEATTLE

Joan Rosenstock,
14th Floor, Alaska Building
618 Second Avenue
Seattle, WA 98104

To OWNER: Paul V. De Austria and Hazel I. Tugadi
P.O. Box 27804
Seattle, WA 98125

Notices given by personal or courier delivery or by facsimile transmission shall be deemed given when received. Notices given by mail shall be deemed given two (2) days (excluding Sundays and postal holidays) after mailing, postage prepaid.



DeAustria/Tugadi P&SA
version 5

DATED this _____ day of _____, 2001

PAUL V. DE AUSTRIA

HAZEL I. TUGADI

Date: _____

Date: _____

THE CITY OF SEATTLE

By: _____

John Franklin
Director, Fleets and Facilities Department

Date: _____

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Attachment 1

General Information.

The following facts are agreed by *THE CITY OF SEATTLE* and *OWNERS* to be descriptive of *OWNERS* and the existing and the replacement site.

Project: Lake City Civic Core

Displaced Person(s): PAUL V. DE AUSTRIA & HAZEL I. TUGADI

Existing Address: 12538 – 27th Avenue NE, Seattle, WA

Contact Person: Paul V. De Austria

New Address:

Type of Dwelling: One-story single-family house

Description of Existing Site: The subject property contains a single-family house constructed in 1942 with approximately 1550 sq. ft. of living space. In addition, this property contains a separate unoccupied studio unit that is currently being used for storage. The property also contains two separate 2-car garages currently being used by OWNERS' business.

Description of Replacement Site:

Date Move will begin: OWNERS' move is presently scheduled to take 2 weeks, between August 31, 2001 and October 31, 2001

Date Move to be completed: October 31, 2001.



Attachment 2

Relocation Expenses		
Displaced Person(s) Name: PAUL V. DE AUSTRIA & HAZEL I. TUGADI		
Section	Eligible Expenses	Amount
Subpart D 24.302	Payment for Moving & Related Expenses This computation is in accordance to the schedule allowance approved by the Federal Highway Administration for the State of Washington. The total room count is 10 rooms. The break down of this calculation is as follows: (1) Storage in studio, (1) Storage in attic, (1 & 1/2 rooms) - Out door furniture & misc. plus hot-tub, (2 rooms) - 33x15 master bedroom, (1 room) - kitchen, (1 room) - dining area, (1 room) - living room, (1 room) - laundry room with storage, (1/2 room) - Pantry room with storage.	\$1,800.00



Subpart E 24.401 & 24.404	<p>Replacement Housing Payment The replacement housing payment for an eligible 180-day homeowner-occupant:</p> <ul style="list-style-type: none"> • Price Differential – (\$16,000) (1) Mr. De Austria and Ms. Tugadi are not entitled to a price differential under section 24.401 (c) or 24.404. <p>Price differential calculation: Fair Market Value of Number #1 comparable: \$259,000 Fair Market Value of subject property: <u>(\$275,000)</u> Purchase Price Differential: <u>(\$ 16,000)</u></p> <ul style="list-style-type: none"> • Incidental Expenses - \$2,100.00 The estimated closing cost eligible for reimbursement under the Uniform Relocation Act for the purchase of a \$259,000 home is approximately \$2,100.00. Pre-payment expenses for taxes, insurance and interest are not eligible for reimbursement <p style="margin-left: 40px;">Appraisal Fee \$400.00 Title Policy Fee \$760.00</p> <p style="margin-left: 40px;">Recording Fees \$40.00 Structural Insp. \$300.00</p> <p style="margin-left: 40px;">Escrow Fees \$525.00 Flood Certification \$75.00</p>	\$2,100.00
Total benefits		\$2,100.00



RESIDENTIAL RELOCATION CLAIM

File No.: ESD-26	Claimant: Paul V. De Austria and Hazel I Tugadi	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27 th Avenue, NE, Seattle, WA 98125		

Section I - To Be Completed by Claimant

Name: Paul V. De Austria and Hazel I. Tugadi		Did you occupy the agency-acquired dwelling? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No if Yes: <input checked="" type="checkbox"/> Permanent or <input type="checkbox"/> Seasonal	
Address of Acquired Dwelling: 12538 27th Avenue, NE City: Seattle State: WA Zip: 98125 Telephone #: (206) 364-0181		(Note: The acquired property is your Permanent Dwelling if it is your legal primary residence under state/local law.)	
Number of Rooms: 10 (Excluding baths, hallway, closets, etc.)		Were you a(n): <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Sleeping Room Occupant <input type="checkbox"/> Furnished rental (did not own furniture)	
Date you purchased / rented the Agency-Acquired dwelling:		Date you moved from the Agency-Acquired dwelling:	
If all members of the household have NOT moved together, list their names, addresses, relationship, and ages.			
Name	Address	Relationship	Age
NONE			
Address of Replacement Dwelling:		Date you purchased / rented the replacement dwelling:	
Street:	State:	Date you moved into the replacement dwelling:	
City:	Telephone #:	Approved DS&S Inspection Date:	
Zip:			
Relocation Expenses			Payment Amount
(1). Moving Costs	Attach Form No. 190(a)		\$ 1,800.00
(2). Replacement Housing Payment - 180-day Owner Occupant	Attach Form No. 190(b)		\$0.00
(3). Replacement Housing Payment - 90-day Tenant/Owner Occupant	Attach Form No. 190(c)		\$
(4.) Down payment and Incidental Expenses	Attach Form No. 190(d)		\$
NOTE: Please attach itemized receipts and/or invoices			TOTAL: \$1,800.00



RESIDENTIAL RELOCATION CLAIM (continued)

File No.: ESD-26	Claimant: Paul V. De Aquino and Hazel I Tugadi	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27 th Avenue, NE, Seattle, WA 98125		
(1). MOVING COSTS 190(a)		
Type of Payment Claimed: <input checked="" type="checkbox"/> Fixed Payment \$1,800.00 Number of rooms: 10	<input type="checkbox"/> Reimbursement for Actual Expense & Commercial move	<input type="checkbox"/> Supplementary Claim for Reimbursement of Storage Costs
Actual Moving Expenses (See below for allowable/non-allowable)		Amount Claimed
Moving Costs		\$1,800.00
Transportation Costs - Families and Individuals (if any)		\$
Cost of Insurance Covering Move and/or Storage		\$
Storage Costs (complete section below)		\$
Other		\$
Total Amount of Claim		\$ 1,800.00
Amount of Advance Payment(s) Received (If Any)		(\$)
Total Amount Due		\$1,800.00
Storage Costs (Complete only if personal property was moved to or from storage)		
Type of Claim: <input type="checkbox"/> Initial <input type="checkbox"/> Supplementary <input type="checkbox"/> Final	Date Property Moved <u>To Storage:</u>	Storage Costs:
Storage Period: _____ Estimated <input type="checkbox"/> Actual Months <input type="checkbox"/>	Date Property Moved <u>From Storage:</u>	Total Cost Incurred \$ _____ LESS Advance Payments \$ _____ TOTAL AMOUNT \$ _____ (Enter this amount above under "Storage Costs")
Remarks:		

IT IS DUE TO THE QUALITY OF THE DOCUMENT.



Method of Payment (Check One)

- I / We request the fixed payment, based on room count
- I / We have paid the moving costs itemized above and, therefore, request reimbursement.
- I / We have not paid the moving costs itemized above and, therefore, request payment to be made directly to the mover and/or storage company or other contractors, in accordance with arrangements made in advance, and with my/our consent, between the agency and the mover and/or storage company or other contractors.
- I / We hereby request and authorize the moving costs to be incurred, be paid directly to the mover and/or storage company or other contractors, in accordance with arrangements made at this time, and with my/our consent, between the agency and the mover and/or storage company or other contractors.

Signature of Claimants

Signature

Date

Signature

Date

(Enter this amount on line 1 of
page 1)

\$1,800.00

TOTAL



Price of Comparable Dwelling: \$259,000.00	Mortgage Interest Cost (See Note)	\$ Not Applicable
Price Paid for Replacement Dwelling: \$ WAIVED	Amount of Incidental Expenses	\$
	2,100.00	
Price Paid for Acquired Dwelling \$275,000.00	Total Payment	\$
Payment	2,100.00	
	Amounts Previously Paid or Advanced	\$
	00.00	
	Total Due Under this Claim	\$
	2,100.00	

Note: Increased mortgage interest costs can be claimed only if there was a bona fide mortgage (s) on the acquired dwelling for at least 180 days immediately prior to the initiation of negotiations to acquire the property.

Remarks:

(Enter this amount on line 2 of page 1)

TOTAL

\$2,100.00



RELOCATION CERTIFICATION

File No.: ESD-26	Name: Paul V. De Austria and Hazel I. Tugadi	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27th Avenue NE, Seattle, WA 98125		

Notice: Aliens not lawfully present in the United States are ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined by law. I/we understand the certification requirements and make the certifications below in compliance therewith.

INDIVIDUAL:

I certify that I am:

- _____ a citizen or national of the United States.
- _____ an alien who is lawfully present in the United States.

Date: _____ Signature: _____

Date: _____ Signature: _____

FAMILY:

As the head of household, I certify that I am, and the members of my family identified below, are:

- _____ a citizen or national of the United States.
- _____ an alien who is lawfully present in the United States.

Date: _____ Signature: _____

Family Members:

_____	_____
_____	_____
_____	_____



RELOCATION PAYMENT REQUEST

File No.: ESD-26	Name: Paul V. De Austria and Hazel I. Tugadi	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27th Avenue NE, Seattle, WA 98125		
Make Check Payable to: Paul V. De Austria and Hazel I. Tugadi		AMOUNT
BUSINESS / FARM / NON-PROFIT - Documentation Attached		
PAYMENT IN LIEU OF ALL OTHER MOVING EXPENSES		
ACTUAL MOVING EXPENSES		
ACTUAL DIRECT LOSS / SUBSTITUTION		
DISCONNECTING AND REINSTALLING		
INSURANCE		
BUSINESS CARDS, STATIONARY, RELETTERING SIGNS		
SEARCHING FOR REPLACEMENT LOCATION		
STORAGE		
LICENSES, PERMITS, CERTIFICATION		
PROFESSIONAL SERVICES (Appraisal, Legal, Other)		
RE-ESTABLISHMENT EXPENSES		
OTHER (Describe)		
OTHER (Describe)		
OTHER (Describe)		
REPLACEMENT HOUSING PAYMENTS—Documentation Attached		
		AMOUNT
REPLACEMENT HOUSING—180-DAY OWNER		\$0.00
INCIDENTAL EXPENSES		\$ 2,100.00
RENTAL ASSISTANCE—90-DAY TENANTS AND DISPLACED OWNERS		
DOWNPAYMENT ASSISTANCE—90-DAY TENANTS AND DISPLACED OWNERS		
FOR LAST RESORT HOUSING—OWNER		\$0.00
LAST RESORT HOUSING—TENANT		
OTHER (Describe)		
MOVING AND RELATED EXPENSE PAYMENTS—Documentation Attached		
		AMOUNT
RESIDENTIAL		
SCHEDULE / DISLOCATION ALLOWANCE		\$ 1,800.00
ACTUAL EXPENSES		
OTHER (Describe)		
ADMINISTRATIVE EXPENSE		
DSS INSPECTIONS		
OTHER (Describe)		
Type of Claim:		TOTAL: \$3,900.00
Initial	<input type="checkbox"/> Supplementary	Final



REMARKS**PLEASE ISSUE CHECK AT CLOSING OF SUBJECT PROPERTY**

I (We) CERTIFY under penalty of perjury and provisions of the U.S.C. Title 18 and any other applicable law, that this claim and information submitted herewith have been examined by me (us) and are true, correct, and complete and that any receipts submitted herewith accurately reflect costs actually incurred.

Displacee

Date

Displacee

Date

Prepared by :

Relocation Counselor

Date

Approved by:

The City of Seattle

Date



EXHIBIT B-2

RELOCATION AGREEMENT

THIS RELOCATION AGREEMENT ("Agreement") is entered into between THE CITY OF SEATTLE (hereinafter "SEATTLE"), a Washington municipal corporation, and NORTHWEST WATERPROOFING CO., INC. (hereinafter "OWNER"), a Washington corporation.

A. Background

SEATTLE intends to acquire OWNER's real property located at 12538 27th Avenue NE, Seattle, Washington. Pursuant to and consistent with applicable state and federal law and Seattle Resolution 23390, SEATTLE intends to provide to OWNER certain relocation assistance for the moving and re-establishment of OWNER's business as specified in this Agreement.

SEATTLE and OWNER have entered into a mutually accepted Real Estate Purchase & Sale Agreement dated _____ (the "Purchase Agreement").

General information about the property to be acquired by SEATTLE, the OWNER, and the OWNER's move, is set forth in Attachment 4, which is appended hereto and incorporated herein by this reference.

OWNER intends to relocate its business to _____, WA (the Replacement Site")

B. Mutual Commitments.

OWNER hereby commits to SEATTLE that OWNER shall move its personal property from OWNER's Existing Site (as defined in Attachment 1, which is appended hereto and incorporated herein by this reference) as provided in the Purchase Agreement and the Lease that is to be executed as part of Closing, except in the case of an event of force majeure. In accordance with the Uniform Relocation Act, Ch. 8.26 of the Revised Code of Washington and Seattle Resolution 23390 and in consideration of OWNER's commitment to move from its Existing Site, SEATTLE shall make a fixed payment to OWNER in lieu of reimbursement for OWNER's moving and re-establishment expenses in accordance with such legislation and this Agreement. For the purposes of this Agreement, a force majeure event shall only mean fire, flood, and a similar act of nature, unavoidable casualty, war or insurrection, labor dispute not caused by OWNER, or another cause solely beyond OWNER's control that cannot be reasonably anticipated; provided that in no event shall a change in market conditions be deemed a force majeure event.

C. Moving Expenses.



OWNER elects to accept a fixed payment in lieu of reimbursement for reasonable actual moving and related expenses incurred by *OWNER*, as specified in Attachment 5, which is appended hereto and incorporated herein by this reference.

D. Re-Establishment Expenses.

OWNER elects to accept a fixed payment in lieu of reimbursement for reasonable, actual, re-establishment expenses

E. Documentation and Limitations.

(1) Unless *OWNER* actually moves its personal property and operations in accordance with this Agreement, *SEATTLE* shall have no obligation to make any payment to *OWNER* pursuant to law or this Agreement or otherwise for business relocation and re-establishment purposes.

(2) By electing to perform a self-move or use a commercial mover and/or rigger ("Mover"), *OWNER* assumes responsibility for the physical relocation of all personal property on the Existing Site. Either *OWNER* or *OWNER*'s designee shall act as the general contractor for the disassembly, packing, cartage, unpacking, re-assembly, placement, and any and all other related work and shall conduct the move pursuant to a workable plan for the relocation.

(3) Either *OWNER* or the Mover shall be responsible for set-up and coordination of all work performed by subcontractors, implementation of the move, and final setup at the new facility, including any necessary openings in the wall or roof of either *OWNER*'s existing building or the Replacement Site, if required.

(4) Either *OWNER* or the Mover shall provide adequate insurance to cover any expense in the event of casualty, loss or damage to personal or real property, the cost of which is agreed to be a reimbursable moving expense. *OWNER* shall inquire whether full replacement insurance is available through a rider on any existing insurance *OWNER* may have in place, and to obtain such insurance in the most cost-effective manner. In no event shall *SEATTLE* be responsible for any loss, casualty damage, injury to any person, including death, or any other claim, liability, or cause of action arising from the move. *OWNER* agrees to and shall indemnify, defend and hold harmless *SEATTLE*, its officers, agents, consultants and employees from any such loss, casualty damage, personal injury or death, claim, liability, or cause of action.

(5) Each equipment reinstallation shall be completed so that the equipment is installed to a condition that is functionally equivalent to its present condition. Any betterments shall be *OWNER*'S responsibility.

(6) *OWNER* may not request additional reimbursement or payment for *OWNER*'s business relocation and re-establishment beyond that specified in this Agreement. In no event shall the fixed payment to be made by Seattle hereunder exceed \$20,000.00 in the aggregate, regardless of the amount of expenses actually



incurred or expended by *OWNER* in connection with the relocation and re-establishment of its business.

(7) The determination of the amount of the payment to be made by *SEATTLE* under this Agreement is based upon documentation provided by *OWNER* showing the average annual net earnings during the last two (2) tax years and agreed to by *SEATTLE*.

F. Final Payment and Release.

Upon receipt of the requests marked for final payment, or deemed by *SEATTLE* to be a request for final payment, *SEATTLE* shall notify *OWNER* that the final payment has been made and shall provide *OWNER* with a written list of all payments made by *SEATTLE* and of those claims for payment *SEATTLE* finds to be outside the scope of this Agreement. If *OWNER* does not respond in writing within fifteen (15) days after *SEATTLE*'s final payment notice with specific written objections as to particular expenses not paid by *SEATTLE*, *OWNER* shall be deemed to have agreed that the final payment represents complete and final payment of all relocation and re-establishment benefits for the move of its business pursuant to the Uniform Relocation Act, Ch. 8.26 RCW and Seattle Resolution 23390, and shall thereby release *SEATTLE* from any future claims or liability for payment of moving, relocation, or re-establishment expenses as described in the Uniform Relocation Act, Ch. 8.26 RCW and Seattle Resolution 23390. *OWNER*'S written objections under this paragraph shall be considered under the appeals process.

G. Payment

SEATTLE shall make a direct, fixed payment to *OWNER* in lieu of reimbursement for actual moving and related expenses and actual reasonable re-establishment expenses, which payment shall total \$20,000.00. *OWNER* shall sign and return to *SEATTLE* Attachments 3, 4 and 5, which are appended hereto and incorporated herein by reference, prior to *SEATTLE*'s making any such payment, in part or in full, to *OWNER*:

- (i) Attachment 3: Relocation Claim Form
- (ii) Attachment 4: Relocation Certification Form
- (iii) Attachment 5: Payment Request Form

In order to avoid or reduce hardship to *OWNER*, *SEATTLE* shall make a partial payment of \$10,000 on the closing date of the Purchase Agreement for the subject property if Attachments 3, 4, and 5 have been signed by *OWNER* and returned to *SEATTLE*. The remaining \$10,000 relocation benefit shall be paid after the complete removal of ALL personal property and *OWNER*'s operations from the Existing Site. *SEATTLE* shall not unreasonably withhold any relocation payment.

H. Specific Performance.

This Agreement shall be subject to specific performance by either party in the event of default by the other party, in addition to any other remedy that may be available at law.



I. Merger.

This Agreement represents the complete and final understanding of the parties related to the subject matters referenced herein and sets forth all of the promises, agreements, conditions, representations and agreements between *OWNER* and *SEATTLE*.

J. Applicable Law and Venue.

This Agreement shall be governed and construed in accordance with the laws of the State of Washington. Venue for any action shall be in the Superior Court of Washington for King County.

K. Cooperation.

SEATTLE and *OWNER* commit to cooperate in good faith to implement the terms of this Agreement recognizing that moving plans and improvements to the Replacement Site may need to be adjusted or accelerated and normal business operations altered to meet *OWNER'S* commitment to vacate and quit its Existing Site no later than 30 days from and after the closing date specified in or pursuant to the Purchase Agreement.

L. SEATTLE Approvals.

SEATTLE acknowledges that in order for *OWNER* to meet *SEATTLE'S* schedule, *OWNER* requires prompt turnaround in communications. *SEATTLE* shall respond as rapidly as possible to any request from *OWNER*. *SEATTLE'S* approval of requests by *OWNER* as required or permitted hereunder shall not be unreasonably withheld or delayed.

M. Notices.

Notices from either party to the other shall be in writing and may be given by personal or courier delivery, facsimile transmission, or by mail to the following addresses or at such other address as either party may hereafter specify in a notice to the other:

To *SEATTLE*: THE CITY OF SEATTLE
Joan Rosenstock,
14th Floor, Alaska Building
618 Second Avenue
Seattle, WA 98104

To *OWNER*: NORTHWEST WATERPROOFING CO. INC.
12544 - 27th Avenue NE
Seattle, WA 98125

Notices given by personal or courier delivery or by facsimile transmission shall be deemed given when received. Notices given by mail shall be deemed given two (2) days (excluding Sundays and postal holidays) after mailing, postage prepaid.



DATED this _____ day of _____, 2001.

NORTHWEST WATERPROOFING CO. THE CITY OF SEATTLE
INC., a Washington Corporation

By _____
President

By _____
John Franklin
Director, Fleets and Facilities

Date _____

Date _____



ATTACHMENT 1

General Information.

The following facts are agreed by SEATTLE and OWNER to be descriptive of OWNER's business to be relocated, the OWNER's Existing Site, and the site to which the business will be re-established ("Replacement Site").

Project: Lake City Civic Core

Displaced Person or Business: Northwest Waterproofing Co. Inc..

Existing Site: 12538 and 12544 27th Avenue, NE, Seattle, WA

Contact Person: Paul V. De Austria

New Address:

Type of Operation: Commercial water proofing & restoration

Number of Employees (including owner): Part Time: __ Full Time: 2 __

Description of Existing Site: OWNER rents office space from adjoining lot owner, which space may be described as a residential home of approximately 650 sq. ft. converted into office space. OWNER also occupies 2 detached two-car garages located on the subject property. These garages are used for storage of business equipment.

Description of Replacement Site:

Distance between Existing Site and Replacement Site:

Date Move will begin: OWNER's move is presently scheduled to take 2 weeks, between August 31, 2001, and October 31, 2001.

Date Move to be completed: October 31, 2001



ATTACHMENT 2

Relocation Expenses		
Business Name: Northwest Waterproofing Co. Inc..		
Section	Eligible Expenses	Amount
24.303	<i>Moving & Related Expenses (Payable under §24.306)</i> OWNER is eligible and has chosen a fixed payment in lieu of the payment for actual, reasonable, moving and related expenses as provided By §24.303.	\$0.00
24.304	<i>Reasonable Re-establishment Expenses (Payable under §24.306)</i> OWNER is eligible and has chosen a fixed payment in lieu of the payment for actual, reasonable, re-establishment expenses as provided by §24.304	\$0.00



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

24.306	<p>Fixed payment for moving expenses – non residential</p> <p>OWNER is eligible and has chosen a fixed payment in lieu of the payment for actual moving and related expenses and actual reasonable re-establishment expenses. Such fixed payment shall equal the average annual net earnings of the OWNER as computed in accordance in §24.306(4), except that such payment shall not be less than \$1000 nor more than \$20,000.</p> <ul style="list-style-type: none">• 24.306(1) Determination of Business Eligibility<ul style="list-style-type: none">(a) Seattle has determined that <i>OWNER</i> owns and/or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move.(b) Seattle has determined that OWNER cannot be relocated without a substantial loss of its existing patronage.(c) Seattle has determined that OWNER is not part of a commercial enterprise having more than three other entities that are not being acquired by Seattle, and that are under the same ownership and engaged in the same or similar business activities.(d) Seattle has determined that OWNER is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.	\$20,000.00
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**ATTACHMENT 2
(continued)**

Relocation Benefits

Business Name: Northwest Waterproofing Co. Inc..

24.306	<i>Continued</i>	<p>(e) Seattle has determined that OWNER is not operated at the displacement site solely for the purpose of renting the site to others.</p> <p>(f) Seattle has determined that OWNER contributed materially to the income of the OWNER during the 2 taxable years prior to the taxable year in which displacement occurs.</p> <ul style="list-style-type: none"> • 24.306(2) Determination of Number of Business Seattle has determined that OWNER constitutes a single Business that is entitled to only one fixed business in lieu of moving Payment. • 24.306(3) Eligibility of Farm Operations Seattle has determined that OWNER is not classified as a Farm Operation. • 24.306(4) Payment Determination The average annual net earnings of OWNER are one-half of its net Earning before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was Displaced. Net earnings include any compensation obtained from OWNER by its owner, the owner's spouse, and dependents. <p style="margin-left: 40px;"> 1999 Net Earnings: \$35,000 + 1998 Net Earnings <u>\$35,000 +</u> Average Net Earnings: \$35,000 (Maximum Benefit = \$20,000) </p>	
Total benefits			\$20,000.00



ORDINANCE _____

1
2 AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain
3 real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing
4 acceptance and expenditure of a private donation for acquisition of said property; appropriating
5 funds from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164); authorizing
6 provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when
7 received; and assigning jurisdiction for said property.

8 WHEREAS, the North Neighborhoods' Neighborhood Plan identifies a Civic Center that includes an
9 expanded Library, Community Center, Neighborhood Service Center, expanded park, a plaza that
10 ties these uses together with each other as well as into a future pedestrian corridor to Lake City
11 Way, and a below grade parking garage; and

12 WHEREAS, the Lake City Community Center Board of Directors has generously donated \$150,000
13 toward the acquisition of land needed to build a parking garage and expand Albert Davis Park;
14 and

15 WHEREAS, Ordinance 120036 appropriated funding to the Department of Neighborhoods and
16 authorized the award of a \$150,000 Neighborhood Matching Fund Grant to match a private
17 contribution to fund the acquisition of said property for the expansion of Albert Davis Park and
18 development of a parking garage below a portion of the park; Now, Therefore,

19 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

20 Section 1. The Fleets and Facilities Director is hereby authorized, for and on behalf of the City, to
21 negotiate for and acquire the real property and property interests legally described as and associated with
22 Lot 17, Block 7, Kenwood Division No. 2, according to the plat thereof recorded in Volume 21, page 28,
23 Records of King County, Washington, and commonly known as 12538 27th Avenue NE, Seattle
24 Washington, in accordance with the terms and conditions set forth in the Purchase and Sale Agreement
25 attached hereto as Exhibit 1. Said Director is authorized to execute and deliver any ancillary documents
26 and to pay administrative, closing and relocation costs, if any, associated with acquiring said property.

27 Section 2. The Director of the Department of Neighborhoods is further authorized to expend One
28 Hundred Fifty Thousand Dollars (\$150,000) appropriated by Ordinance 120036 from the Neighborhood
Matching Subfund for the Lake City Civic Core Land Acquisition for the acquisition of real property and
property rights identified in Section 1 above, relocation costs and associated closing costs.



1 Section 3. The Fleets and Facilities Director is further authorized to accept, on behalf of the City,
2 a cash donation of One Hundred Fifty Thousand Dollars (\$150,000) from the Lake City Community
3 Center Board of Directors. The donation shall be deposited into the Cumulative Reserve Subfund,
4 Unrestricted Subaccount (00164), and allocated for the sole purpose of acquiring the real property known
5 as 12538 27th Avenue NE for the purpose of developing a parking garage and expansion of Albert Davis
6 Park. In the event the City is not able, or elects not to acquire the property, the City shall return to the
7 donor the full amount of its donation.

8 Section 4. The donation of One Hundred Fifty Thousand Dollars (\$150,000) accepted in Section
9 3 above is hereby appropriated from the Cumulative Reserve Subfund, Unrestricted Subaccount (00164)
10 to pay for the acquisition of real property and property rights identified in Section 1 above, relocation
11 costs, and associated closing costs.

12 Section 5. The Fleets and Facilities Director is authorized, for and on behalf of the City, to accept
13 the Statutory Warranty Deed for the property described in Section 1, which property, when received, shall
14 be placed under the jurisdiction of the Fleets and Facilities Department.

15 Section 6. Any act consistent with the authority and prior to the effective date of this ordinance,
16 including but not limited to execution of the Purchase and Sale Agreement, is hereby ratified and
17 confirmed.

18 Section 7. The foregoing appropriation is made to meet actual necessary expenditures of the City
19 for which no appropriation has been made due to causes which could not reasonably have been foreseen
20 at the time of the making of the 2001 Budget; therefore, in accordance with RCW 35.32A, by reason of
21 the facts above stated, this ordinance shall take effect and be in force thirty (30) days from and after its
22 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
23 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

24 Passed by the City Council this ____ day of _____, 2001, and signed by me in open
25 session in authentication of its passage this ____ day of _____, 2001.



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President _____ of the City Council

Approved by me this ____ day of _____, 2001.

Mayor

Filed by me this ____ day of _____, 2001.

City Clerk

(Seal)

Exhibit 1: Purchase & Sale Agreement including the attachments thereto:
Property Legal Description
Residence Relocation Agreement
Business Relocation Agreement
Lease
Letter of Intent to Use Power of Eminent Domain



IT IS DUE TO THE QUALITY OF THE DOCUMENT.

ATTACHMENT 3

BUSINESS RELOCATION CLAIM

File No.: ESD-26	Claimant: Northwest Waterproofing Co. Inc.	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27 th Avenue NE, Seattle, WA 98125		

BUSINESS INFORMATION

Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Other	<input type="checkbox"/> Sole Proprietor Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Organization
Dates You Occupied Property From <u>1967</u> To <u>2000</u>	Did Business Discontinue Operations? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, when? _____
Do you plan to re-establish business? Yes <input type="checkbox"/> No	Date You Occupied the Replacement Property:
Date of Offer from Agency:	Phone No. and Address of Replacement Property:

Relocation Expenses	Payment Amount
1. Search Expenses:	(a) \$0.00
2. Actual Moving Expenses:	(b) \$0.00
3. Substitute Equipment/Direct Loss Expense:	(c) \$0.00
4. Re-establishment Expenses:	(d) \$0.00
5. Storage Costs:	(e) \$0.00
6. Fixed Payment in Lieu of Actual Expenses:	(f) \$20,000.00
7 TOTAL:	\$20,000.00

CERTIFICATION:

(1) I (We) CERTIFY under penalty of perjury and provisions of perjury and any other applicable law, that this claim and information submitted herewith have been examined by me (us) and are true, correct, and complete and that any receipts submitted herewith accurately reflect costs actually incurred.

(2) Aliens not lawfully present in the United States are ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined by law.

(3) I/We have previously executed the Relocation Certification Form

Signature: _____	Signature: _____
Date	Date
Claimant	Claimant

Prepared by: _____ Specialist
 Payment Amount: \$ _____ Date
 The City of Seattle Date



BUSINESS RELOCATION CLAIM

File No.: ESD-26	Name: Northwest Waterproofing Co. Inc.	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27th Avenue NE, Seattle, WA 98125		
(6). FIXED PAYMENT IN LIEU OF ACTUAL EXPENSES For Business Operations		
<p>What were the annual net earnings, including compensation to <i>OWNER</i>, owner, the owner's spouse and dependents, before Federal, State, and local income taxes for the two taxable years immediately prior to the taxable year of displacement? (Proof of net earnings shall be furnished through income tax returns, certified financial statements or other evidence.)</p>		
Tax Year (mo/yr to mo/yr)	_____	_____
Net Earnings	\$ _____	\$ _____
Average Amount Name(s) used on income tax return(s) or other acceptable proof of income: _____		
Employer identification number(s), if tax returns are used as proof of income: _____		
Remarks: 		



**ATTACHMENT 4
RELOCATION CERTIFICATION**

File No.: ESD-26	Name: Northwest Waterproofing Co. Inc.	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27th Avenue NE, Seattle, WA 98125		

Notice: Aliens not lawfully present in the United States are ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined by law. I/we understand the certification requirements and make the certifications below in compliance therewith.

INDIVIDUAL:

I certify that I am:

- _____ a citizen or national of the United States.
- _____ an alien who is lawfully present in the United States.

Date: _____ Signature: _____

FAMILY:

As the head of household, I certify that I am, and the members of my family identified below, are:

- _____ a citizen or national of the United States.
- _____ an alien who is lawfully present in the United States.

Date: _____ Signature: _____

Family Members:

_____	_____
_____	_____
_____	_____

CORPORATION:

As the authorized representative of Northwest Waterproofing Co., Inc., I certify that the corporation is authorized to conduct business in the United States. As the principal owner, I certify that all persons listed below have an ownership interest in Northwest Waterproofing Co. Inc., and are:

- _____ a citizen or national of the United States.
- _____ an alien who is lawfully present in the United States.

Date: _____ Signature: _____

Persons with ownership interest:



RELOCATION PAYMENT REQUEST

File No.: ESD-26	Name: Northwest Waterproofing Co. Inc.	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Site Address: 12538 27th Avenue NE, Seattle, WA 98125		
Make Check Payable to: Northwest Waterproofing Co. Inc.		AMOUNT
BUSINESS / FARM / NON-PROFIT - Documentation Attached		
PAYMENT IN LIEU OF ALL OTHER MOVING EXPENSES		\$20,000.00
ACTUAL MOVING EXPENSES		
ACTUAL DIRECT LOSS / SUBSTITUTION		
DISCONNECTING AND REINSTALLING		
INSURANCE		
BUSINESS CARDS, STATIONARY, RELETTERING SIGNS		
SEARCHING FOR REPLACEMENT LOCATION		
STORAGE		
LICENSES, PERMITS, CERTIFICATION		
PROFESSIONAL SERVICES (Appraisal, Legal, Other)		
RE-ESTABLISHMENT EXPENSES		
OTHER (Describe)		
OTHER (Describe)		
OTHER (Describe)		
REPLACEMENT HOUSING PAYMENTS—Documentation Attached		AMOUNT
REPLACEMENT HOUSING—180-DAY OWNER		
INCREASED INTEREST		
RENTAL ASSISTANCE—90-DAY TENANTS AND DISPLACED OWNERS		
DOWNPAYMENT ASSISTANCE—90-DAY TENANTS AND DISPLACED OWNERS		
FOR LAST RESORT HOUSING—OWNER		
LAST RESORT HOUSING—TENANT		
OTHER (Describe)		
MOVING AND RELATED EXPENSE PAYMENTS—Documentation Attached		AMOUNT
RESIDENTIAL		
SCHEDULE / DISLOCATION ALLOWANCE		
ACTUAL EXPENSES		
OTHER (Describe)		
ADMINISTRATIVE EXPENSE		
DSS INSPECTIONS		
OTHER (Describe)		
Type of Claim:		TOTAL: \$20,000.00
Initial	<input type="checkbox"/> Supplementary	Final



EXHIBIT C
Form of Lease Agreement

THIS LEASE AGREEMENT ("Lease") is made this ___ day of _____, 2001 between THE CITY OF SEATTLE ("Landlord"), and PAUL DE AUSTRIA and HAZEL TUGADI, husband and wife (collectively "Tenant"). Landlord does hereby lease to Tenant and Tenant hereby leases from Landlord that certain real property with a street address of 12538 27th Avenue NE, Seattle, Washington and more particularly described on Exhibit 1 attached hereto ("Premises") on the following terms and conditions:

1. **Term:** The Premises are leased for a term commencing as of the date of Closing of the Landlord's purchase of the Premises and expiring on October 31, 2001 ("Expiration Date") unless terminated earlier pursuant to the provisions hereof.
2. **Rent:** No Rent shall be due from Tenant during the term of this Lease. The consideration for this Lease is Tenant's sale of the Premises to Landlord pursuant to the (Purchase & Sale) Agreement dated _____, 2001.
3. **Security Deposit.** The Tenant has deposited with Transnation Title Insurance Company, under Escrow No. _____, the sum of \$2,500.00, as security deposit. Said security deposits shall be deposited in an interest bearing account, and interest on the deposit shall belong to Tenant. Upon Tenant's faithful performance of all of Tenant's obligations under this Lease and Tenant's surrender of the Premises to Landlord, Landlord, within fourteen (14) days after such surrender, shall cause a refund of the security deposit and all accrued interest thereon to be paid to Tenant. If Tenant breaches any of Tenant's obligations under this Lease, Landlord shall have the right, but not the obligation, to use and apply the security deposit towards the satisfaction of Tenant's obligations under this Lease, which use and application shall be without prejudice to any other Landlord right under law or this Lease including but not limited to seeking recovery from Tenant of additional damages.
4. **Utilities:** Tenant shall pay for all services and utilities supplied to the Premises.
5. **Indemnification and Insurance.**
 - a. **Indemnification:** Except in the case of Landlord negligence, Landlord shall have no liability for any injury or damage occurring on the Premises and Tenant shall indemnify and hold Landlord harmless from any claims or liabilities arising out of any such injury or damage.
 - b. **Minimum Insurance to be Secured and Maintained:** Prior to the



commencement of any Premises use under this Lease, Tenant shall secure and shall thereafter maintain, in full force and effect, at no expense to Landlord, and throughout the entire Term of this Lease, insurance as specified below:

- (1) A policy of **Commercial General Liability Insurance**, written on an insurance industry standard occurrence form (ISO form CG 0001 or equivalent), including all the usual coverages known as of the Commencement Date as:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury including copyright, trademark, and tradename infringement
- Contractual Liability
- Owners and Contractors Protective Liability
- Stop Gap or Employers Contingent Liability
- Independent Contractors Liability
- Explosion, Collapse and Underground Property Damage ("XCU")
- Liquor Liability/Host Liquor Liability
- Fire Damage Legal
- Residential Liability (Renters'/Tenants' coverage)

Such policy(ies) must be endorsed as provided in Subsection 5.c(1) hereof and provide the following minimum limits:

Bodily Injury and Property Damage :

- \$1,000,000 General Aggregate
- \$1,000,000 Products /Completed Operations Aggregate
- \$1,000,000 Personal & Advertising injury
- \$1,000,000 Each Occurrence
- \$ 100,000 Fire Damage

- (2) A policy of **Business Automobile Liability** including coverage for owned, non-owned, leased or hired vehicles that is written on an insurance industry standard form (ISO form CA 0001 or equivalent), is endorsed as provided in Subsection 5.c(1) hereof, and provides the following minimum limits:

Bodily Injury and Property Damage: \$1,000,000 per accident

- (3) A policy for **Workers' Compensation** securing Tenant's liability for industrial injury to its employees in accordance with the provisions



of Title 51 of the Revised Code of Washington; Provided, that if Tenant is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Tenant shall certify that qualification by a letter that is signed by an authorized representative of Tenant and delivered to the Landlord that sets forth the limits of any policy of excess insurance covering its employees; and

- (c) **General Requirements Regarding Tenant's Insurance; Adjustments.**
- (1) The insurance required by Subsections 5.b(1), and -(2) shall be endorsed to include Landlord, its officers, elected officials, employees, agents and volunteers as additional insured; be primary as respects Landlord; provide that any other insurance maintained by Landlord shall be excess and not contributing insurance with Tenant's insurance and also provide that such coverage shall not be reduced or canceled without forty-five (45) days' prior written notice to Landlord at its address as specified in or pursuant to Section 15 hereof.
 - (2) All insurance policies required hereunder shall be subject to approval by the Landlord's Risk Manager as to company, form and coverage. All policies shall be issued by a company rated A-VII or higher in the then-current A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington surplus lines broker, and shall be primary to any other applicable insurance.
 - (3) Any deductible or self-insured retention must be disclosed to, and shall be subject to approval by, the Landlord's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of Tenant.
 - (4) Coverage and/or limits may be altered or increased as necessary to reflect type of or exposure to risk. Landlord shall have the right to periodically review the appropriateness of such coverage and limits in view of inflation and/or changing industry conditions and to require an increase in such coverage or limits upon ninety (90) days' prior written notice.
- (d) **Evidence of Insurance:** The following documents must be delivered to the Landlord at its address as specified in or pursuant to Section 15 hereof, as evidence of the insurance coverage secured and maintained by Tenant:



- (1) On or before the Commencement Date, and thereafter, not later than five (5) Days prior to the expiration or renewal date of each such policy:
 - (i) A copy of the policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;
 - (ii) A copy of the endorsement naming The City of Seattle and its officers, elected officials, employees, agents and volunteers as an Additional Insured (whether on ISO Form CG 2010 or an equivalent), showing the policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;
 - (iii) A copy of an endorsement stating that the coverages provided by such policy to Landlord or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the Landlord at its address as specified in or provided pursuant to Section 15 hereof.
 - (iv) For the Commercial General liability and Business Automobile insurance to be secured and maintained pursuant to Subsection 5.b(1), and -(2) hereof, a copy of the "Separation of Insureds" or "Severability of Interests" clause in such policy or an endorsement thereto indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned to the first named insured, such insurance applies as if each named insured were the only named insured, and separately to each insured against whom any claim is made or suit is brought.
- (2) Pending receipt of the documentation specified in Subsections 5.d(1) hereof, a copy of each such policy's binder.
- (3) Within thirty (30) Days after Tenant's receipt of a written request therefor, a complete copy of the requested policy with all endorsements thereto.



- e) **Assumption of Risk:** The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Tenant.
6. **No Assignment or Subletting:** Tenant shall not sublet the Premises or assign this Lease or any part thereof.
7. **Tenant's Obligations:** Tenant shall:
- (a) Keep the Premises in a clean and sanitary condition;
 - (b) Properly dispose of rubbish, garbage and waste in a clean and sanitary manner at reasonable and regular intervals and to assume all costs of extermination and fumigation for infestation;
 - (c) Properly use and operate all electrical, gas, heating, plumbing, facilities, fixtures and appliances;
 - (d) Not permit a nuisance or common waste to occur on the Premises.
 - (e) Not discharge or otherwise dispose of any Hazardous Substance on or about the Premises.
8. **Maintenance of Premises:** Tenant shall maintain the Premises in good repair and condition. Landlord shall have no obligations or liabilities with respect to the maintenance or condition of the Premises. Tenant acknowledges that it is leasing the Premises from Landlord on an "AS IS, WHERE IS" basis.
9. **Alterations:** Tenant agrees not to make any alteration to the Premises without the prior written consent of Landlord.
10. **Use of Premises:** Tenant shall not use the Premises for any purpose other than Tenant's existing uses of the Premises as of the date of this Lease. Tenant shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation. Except with respect to matters for which Landlord has assumed responsibility (e.g. Landlord's acceptance of the premises as is and Landlord's limited release of tenant, pursuant to the Purchase and Sale Agreement), Tenant shall promptly comply, at its sole cost and expense, with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises including but not limited to all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington and The City of Seattle, including the Seattle Municipal Code ("SMC"), and rules, regulations, orders, and directives of the associated administrative agencies and their officers.



11. **Access:** Landlord shall, within two days notice to Tenant, have the right of access to the Premises for the purpose of conducting inspections, investigations and tests of the Premises and showing the Premises to consultants, workmen, or contractors. Access shall be during normal business hours except in case of an emergency, in which case Landlord may gain access to the Premises at any time, without prior notice.
12. **Surrender of Premises:** Upon the expiration or earlier termination of this Lease, Tenant shall immediately quit and surrender the Premises to Landlord.
13. **Removal of Personal Property From Premises.** Tenant shall have until September 15, 2001, to remove from the Premises any personal property that Tenant desires to keep. Any personal property of Tenant that is not removed from the Premises by September 15, 2001, shall become the personal property of Landlord without any obligation to pay any compensation to Tenant, which personal property shall be owned, used, sold, or destroyed as Landlord desires.
14. **Costs and Attorney's Fees:** If, by reason of any default or breach on the part of either party in the performance of any of the provisions of this agreement, a legal action is instituted, the losing party agrees to pay all reasonable costs and attorney's fees in connection therewith. It is agreed that the venue of any legal action brought under the terms of this lease will be in the county in which Premises is situated. If the Landlord prevails in any such action and is represented by the Seattle City Attorney, Landlord's attorneys' fees shall be computed on the basis of those of a private attorney in downtown Seattle who practices in a firm having at least as many attorneys as are employed in the Seattle City Attorney's Office, and who has experience comparable to the City's attorney.
15. **Notices:** All notices, requests, demands and other communications under this Lease shall be in writing and shall either be delivered in person or sent by Federal Express or by registered or certified mail through the U.S. Postal Service with postage prepaid as follows:
 - (a) If to Tenant, to: Paul De Austria and Hazel Tugadi
P. O. Box 27804
Seattle, WA 98125
 - (b) If to Landlord, to: Real Estate Services
Fleets and Facilities Department
The City of Seattle
14th Floor, Alaska Building
618 Second Avenue



Seattle, WA 98104
Attn: Joan Rosenstock

or to such other address as shall be specified by either party, for itself, by notice to the other not less than fifteen (15) days prior to the effective date of such address change. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the Federal Express receipt, and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or by Federal Express or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

16. **Governing Law.** This Agreement shall be governed by the law of the State of Washington.

EXECUTED AS OF THE DATE FIRST WRITTEN ABOVE.

LANDLORD:

TENANT:

THE CITY OF SEATTLE

Paul De Austria

By: _____

Name: _____

Title: _____

Hazel Tugadi



DeAustria/Tugadi P&SA
version 5

EXHIBIT 1 TO LEASE AGREEMENT
LEGAL DESCRIPTION OF PREMISES

**Lot 17, Block 7, Kenwood Division No. 2, according to the
plat thereof, recorded in volume 21, page 28, records of King
County, Washington.**

Situated in the City of Seattle, County of King, State of Washington.



EXHIBIT D

Form of Letter of Intent to Use Power of Eminent Domain

[City of Seattle Letterhead]

Paul De Austria
Hazel Tugadi
12538 27th Avenue NE
Seattle, Washington 98125

Re: Acquisition of 12538 27th Avenue, Seattle, Washington

Dear Mr. De Austria and Ms. Tugadi:

Please be advised that The City of Seattle, a first class city of the State of Washington (the "City"), has, under RCW 8.12.030, the authority to condemn real property.

It is our understanding, at this time, that in order to avoid condemnation proceedings, you will cooperate in a negotiated sale of the property at 12538 27th Avenue NE, in Seattle, and for that cooperation we express our appreciation. If these negotiations are unsuccessful, it is the intent of the undersigned to present legislation to the City Council to acquire your property at 12538 -- 27th Avenue in Seattle, WA, through exercise of the City's power of eminent domain.

Very truly yours,

THE CITY OF SEATTLE

By: John Franklin, Director,
Fleets and Facilities Department



STATE OF WASHINGTON - KING COUNTY

--SS.

135824
City of Seattle, Clerk's Office

No. TITLE ONLY ORDINANCE

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:120486/87/83/490

was published on

09/10/01

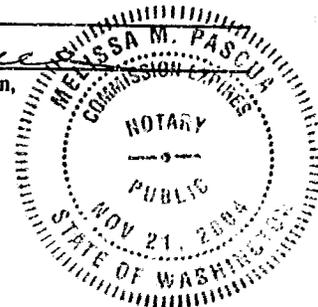
Valer Calder

Subscribed and sworn to before me on

09/10/01

Melissa M. Pascoe
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



State of Washington, King County

W/13/AM/12/2001 17

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinance, passed by the City Council on August 20, 2001, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 624-2344.

ORDINANCE NO. 129426

AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain real property and property rights in Lot 17, Block 7, Kennelwood Division No. 2; authorizing acceptance and expansion of said property; application for acquisition of a private dedication for acquisition of the Commutative Reserve Fund; Unrestricted Sub-account (02184); authorizing provision of relocation benefits; accepting a Statutory Warranty Deed for said property, when received; and assigning jurisdiction for said property.

ORDINANCE NO. 129427

AN ORDINANCE relating to Seattle Public Utilities; accepting two easements from Shoreline Fire Department for fire service and a hydrant located near The E Shoreline Fire District #4 Station, 1016 N. 17th Street, Seattle, Section NW 07, Township 28 North and Range 04E, W.M., King County, Washington.

ORDINANCE NO. 129428

AN ORDINANCE relating to Seattle Public Utilities; accepting a utilities easement from Dale M. Madson and Donna V. Madson, near the Duvall shop of the Tukwila Power Service, Section Southwest 24, Township 28 North and Range 6 East, W.M., King County, Washington.

ORDINANCE NO. 129429

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of real property located at 10703 36th Avenue NE, Seattle, in King County, Washington; and authorizing acceptance of a statutory warranty deed in connection therewith.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, September 10, 2001. 2/10(129426-29ACT)

State of Washington, King County

W/13136/25041 17

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinance, passed by the City Council on August 20, 2001, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 120486

AN ORDINANCE relating to the Lake City Civic Center project; authorizing the acquisition of certain real property and property rights in Lot 17, Block 7, Kenwood Division No. 2; authorizing acceptance and expenditure of a private donation for acquisition of said property; appropriating funds from the Cumulative Reserve Subfund, Unrestricted Sub-account (00164); authorizing provision of relocation benefits; accepting a Statutory Warranty Deed for said property when received; and assigning jurisdiction for said property.

ORDINANCE NO. 120487

AN ORDINANCE relating to Seattle Public Utilities; accepting two easements from Shoreline Fire Department for fire service and a hydrant located near The Shoreline Fire District #4 Station, 1016 N. 175th Street, Seattle, Section NW 07, Township 26 North and Range 04E, S.W.M., King County, Washington.

ORDINANCE NO. 120488

AN ORDINANCE relating to Seattle Public Utilities; accepting a utilities easement from Dale M. Madden and Donna V. Madden, near the Duvall shop of the Tolt Power Service, Section Southwest 24, Township 26 North and Range 6 East, W.M., King County, Washington.

ORDINANCE NO. 120490

AN ORDINANCE relating to Seattle Public Utilities; authorizing the acquisition of real property located at 10703 36th Avenue NE, Seattle, in King County, Washington, and authorizing acceptance of a statutory warranty deed in connection therewith.

Publication ordered by **JUDITH PIPPIN**, City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, September 10, 2001. /10(135524C1)