

Ordinance No. 120836

Council Bill No. 114203

AN ORDINANCE relating to the Community Development Block Grant Float Loan Program; authorizing a short-term loan of up to THREE MILLION ONE HUNDRED THOUSAND AND NO 100 DOLLARS (\$3,100,000) in Block Grant funds to YouthCare, a Washington nonprofit corporation, to finance site acquisition of 975 John Street in the South Lake Union neighborhood for the Orion Center; authorizing amendments to the 2001-2004 Consolidated Plan and 2002 Action Plan to reflect such loan; appropriating funds for the loan and for possible new advances after early repayments, and ratifying and confirming prior acts.

CF No. _____

Date Introduced:	JUN 10 2002	
Date 1st Referred:	JUN 10 2002	To: (committee) Finance, Budget, Business Labor Committee
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	6-24-02	Full Council Vote: 8-0
Date Presented to Mayor:	6-25-02	Date Approved: 6-28-02
Date Returned to City Clerk:	6-28-02	Date Published: 5 PM 7-8-02 T.O. <input checked="" type="checkbox"/> F.T. _____
Date Vetoes by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

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

Committee Action:

Pass as amended 2-0, JD, NL

6-24-02 Passed 8-0 (Excluded: St)

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

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

Council Bill/Ordinance sponsored by:

Councilmember

Pass as amended 2-0, TD, NI

6-24-02 Passed 80 (Excluded: Steinbreach)

Committee:

(initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

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ORDINANCE 120836

AN ORDINANCE relating to the Community Development Block Grant Float Loan Program; authorizing a short-term loan of up to THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000) in Block Grant funds to YouthCare, a Washington nonprofit corporation, to finance site acquisition of 975 John Street in the South Lake Union neighborhood for the Orion Center; authorizing amendments to the 2001-2004 Consolidated Plan and 2002 Action Plan to reflect such loan; appropriating funds for the loan and for possible new advances after early repayments, and ratifying and confirming prior acts.

WHEREAS, the City Council, by Ordinance 116402, adopted policies for short-term loans of Community Development Block Grant ("CDBG") funds, known as "CD Float Loans"; and

WHEREAS, the Director of the Office of Economic Development and the City's Community Development Block Grant Float Loan Committee have approved a short term loan (the "Loan") to YouthCare to finance site acquisition costs of 975 John Street in the South Lake Union neighborhood for the Orion Center (the "Project"), which Project will provide outreach services to Seattle area homeless youth, at least 51% of whom will be low- and moderate-income persons; and

WHEREAS, the Project will benefit low- and moderate-income persons, which will satisfy the CD Float Loan policies and eligibility requirements, and the City's Loan Committee has approved the proposed Loan in accordance with those policies and eligibility requirements; and

WHEREAS, the making of the proposed Loan will not impair the implementation of other projects or programs of the City using CDBG funds;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of the Office of Economic Development ("OED Director") is authorized, for and on behalf of The City of Seattle, to lend up to THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000) of CDBG funds (which may include available CDBG program income), subject to availability of sufficient CDBG funds, to YouthCare, a Washington nonprofit corporation, to finance the acquisition costs of real property

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kt:
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1 for the Orion Center project to be located at 975 John Street in the South Lake Union
2 neighborhood, subject to the terms and conditions stated in this ordinance. The amount of up to
3 THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000) is
4 hereby appropriated from the Housing and Community Development Revenue Sharing Fund for
5 such purpose.

6 Section 2. The principal amount the Loan shall be payable upon the earlier of: (i)
7 thirty (30) months from the date of Loan closing, (ii) sixty (60) days prior to the expiration of the
8 letter of credit securing the Loan, or (iii) demand by the City. The Loan shall bear interest at a
9 rate of two percent (2%) per annum. Interest shall be payable when principal becomes due or
10 upon earlier demand by the City. The OED Director may require a loan fee from YouthCare,
11 payable to the City, not to exceed one percent (1%) of the maximum Loan amount, which fee
12 shall be deposited in the Housing and Community Development Revenue Sharing Fund. The
13 OED Director is authorized to cause all or a portion of such fee to be (a) paid to the National
14 Development Council ("NDC") in accordance with an existing contract under which NDC
15 develops and facilitates eligible CD Float Loan projects; (b) applied to legal and other costs
16 related to the administration of the transaction authorized by this ordinance; and/or (c) applied to
17 payment of expenses incurred in the administration of any federally funded economic
18 development loan projects or programs administered by the OED Director. The amount of up to
19 THIRTY-ONE THOUSAND AND NO/100 DOLLARS (\$31,000) is hereby appropriated for
20 such purposes from the Housing and Community Development Revenue Sharing Fund, subject to
21 receipt of such funds in payment of the Loan fee.

22 Section 3. The Loan shall be secured by an irrevocable letter of credit that shall have
23 a total amount available for drawing, at all times, at least equal to the outstanding principal
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1 amount and accrued interest, plus all additional interest that will accrue on the principal until its
2 scheduled maturity. The letter of credit shall be issued by a commercial bank satisfactory to the
3 OED Director and shall be in form and content satisfactory to the OED Director.

4 Section 4. Disbursement of the Loan shall be conditioned upon satisfactory
5 environmental review in accordance with HUD requirements, and upon other conditions required
6 by law or deemed appropriate by the OED Director.

7 Section 5. The OED Director is hereby authorized to execute, deliver, accept,
8 administer, modify and enforce, as appropriate, for and on behalf of the City, a Loan Agreement
9 and Promissory Note, evidencing the Loan authorized hereby, based upon the forms attached
10 hereto as Exhibits A and B with such insertions, additions and revisions as he shall deem
11 appropriate to implement the intent of this ordinance.

12 Section 6. In order that the OED Director may exercise the authority granted in
13 Ordinance 119932 to make new advances on the Loan after any early payment(s) that may be
14 required so that the City may meet temporary cash requirements for CDBG activities pending the
15 City's receipt of its annual CDBG entitlement from HUD, there is hereby appropriated from the
16 Housing and Community Development Revenue Sharing Fund an additional amount of up to
17 THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000),
18 conditioned upon the availability of sufficient CDBG funds (including program income), solely
19 for new advances on the Loan in a total amount not exceeding the total amount of such early
20 payment(s), and subject to the limits in Ordinance 119932. The principal balance outstanding on
21 the Loan at any time shall not exceed THREE MILLION ONE HUNDRED THOUSAND AND
22 NO/100 DOLLARS (\$3,100,000).

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1 Sec The OED Director is hereby authorized to take such other actions and
2 execute and deliver such other documents as shall be reasonably necessary or appropriate to carry
3 out the intent of this ordinance.

4 Section 8. Payments of interest on the Loan and principal repayments shall be
5 deposited in the Housing and Community Development Revenue Sharing Fund, and may be
6 expended pursuant to any past or future appropriations of CDBG funds, whether in the annual
7 budget or otherwise, unless such other appropriations are limited by their express terms to CDBG
8 program income from other programs.

9 Section 9. The Director of the Human Services Department ("HSD Director") is
10 authorized to amend the City of Seattle's Consolidated Plan, including the 2002 Action Plan
11 component thereof, to include the necessary information about the Loan authorized in this
12 ordinance. The HSD Director is authorized to make such additions and modifications to the
13 description of the Project as may be necessary to obtain HUD approval or to reflect minor
14 changes in the Project. Such Director is further authorized to take such other actions as are
15 appropriate to implement the intent of this ordinance under HUD regulations, and to provide
16 necessary assurances to HUD.

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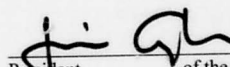
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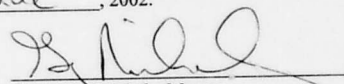
1 Section 10. Any act pursuant to the authority and prior to the effective date of this
2 ordinance is hereby ratified and confirmed.

3 Section 11. This ordinance shall take effect and be in force thirty (30) days from and
4 after its approval by the Mayor; but if not approved and returned by the Mayor within ten (10)
5 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

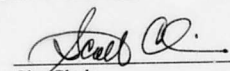
6 Passed by the City Council the 24th day of June, 2002, and signed by me in
7 open session in authentication of its passage this 24th day of June, 2002.

8
9 
President _____ of the City Council

10
11 Approved by me this 28 day of June, 2002.

12 
13 Gregory J. Nickels, Mayor

14 Filed by me this 28 day of June, 2002.

15 
16 City Clerk

17 (Seal)

18
19 Exhibits:

- 20 A. Float Loan Agreement
21 Attachment A: Property Description
22 Attachment B: Project Description and Schedule
23 B. Float Loan Promissory Note
24

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City of Seattle
Department of Finance

Dwight Dively, Director
Gregory J. Nickels, Mayor

FILED
CITY OF SEATTLE
02 JUN 20 PM 12:43
CITY CLERK



MEMORANDUM

Date: June 25, 2002
To: Andrew Lofton or Michael Mann
From: Lisa Peyer, Assistant to the Director
Subject: Mayoral Action Needed: Legislation Passed By Council

The attached legislation has been passed by the City Council and is being presented for your consideration/signature.

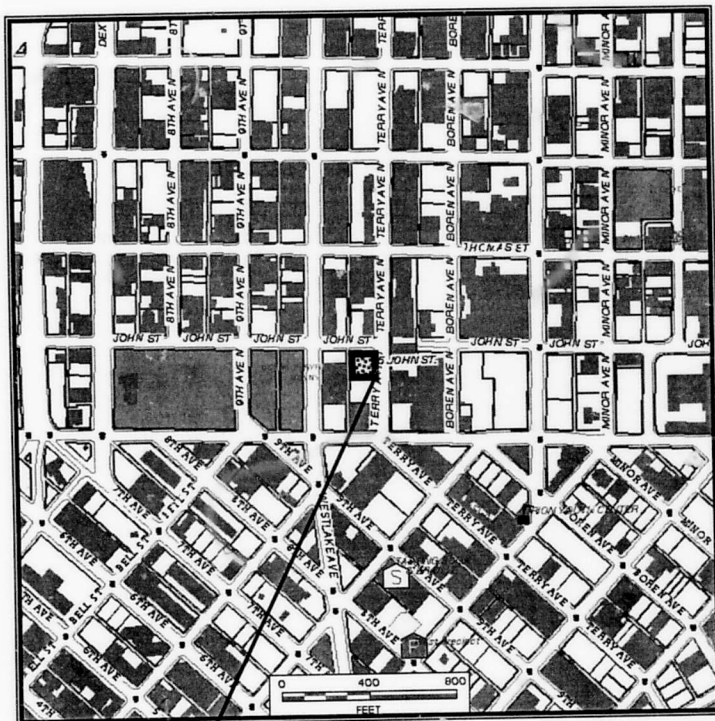
The Department of Finance recommends the following:


- ☒ This legislation was passed by Council without amendments. Finance recommends that it be presented to the Mayor for signature. No additional review is necessary.
- ☐ This legislation was amended/originated by Council. Finance has reviewed the legislation and recommends that it be presented for the Mayor's signature.
- ☐ Finance is concerned that this legislation, which was amended/originated by Council, could have significant implications. We recommend that you discuss it with Tamot Crede prior to having the Mayor sign.

If you have any questions, please call Dwight at 4-5200, or me at 4-0503.

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MAP OF PROPERTY
975 John Street, Seattle, Washington



975 John St. 

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EXHIBIT A
Float Loan Agreement

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EXHIBIT A TO ORDINANCE
COMMUNITY DEVELOPMENT BLOCK GRANT FLOAT LOAN AGREEMENT
YOUTHCARE CDBG FLOAT LOAN

THIS AGREEMENT, dated _____, 2002, is entered into by YOUTHCARE, a Washington nonprofit corporation ("Borrower"), and THE CITY OF SEATTLE, a Washington municipal corporation ("City").

RECITALS

This Agreement is entered into upon the basis of the following facts and circumstances:

A. Borrower plans to acquire real property located at 975 _____ Street in the South Lake Union neighborhood and described in Attachment A and made a part hereof (collectively, the "Property").

B. Borrower plans to use the Property for the benefit of low- and moderate income persons and, more particularly, to relocate and expand the Orion Center, a multi-service center that provides outreach services to Seattle area homeless youth. The Orion Center is generally described in Attachment B attached hereto and made a part hereof. The acquisition of the Property and its renovation and conversion to serve as the Orion Center are hereinafter collectively called the "Project".

C. The Office of Economic Development ("OED") is responsible within the City for making, subject to City Council approval, short-term loans of Community Development Block Grant ("CDBG") funds made available to the City by the United States Department of Housing and Urban Development ("HUD"), known as "CD Float" loans, pursuant to the Housing and Community Development Act of 1974, as amended, and the federal regulations promulgated thereunder (hereinafter collectively called the "Act").

D. Borrower has requested a CD Float loan from the City (the "Loan") as short-term financing to finance the costs to acquire the Property.

E. The Loan meets a national objective under the CDBG program by providing benefit to low and moderate income persons through limited clientele activities, as provided in 24 C.F.R. §570.208(a)(2). The activity funded hereunder is eligible under the CDBG program as provided in 24 C.F.R. §570.201(a) as an acquisition activity.

F. The Loan shall be evidenced by this Agreement and by a promissory note to be executed by Borrower ("Note"), and secured by an unconditional irrevocable letter

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of credit from a financial institution acceptable to City (the "Bank"), payable upon demand. The Note, this Agreement, and any other documents or instruments executed by Borrower in favor of City pursuant to this Agreement or in connection with the Loan are collectively referred to as the "Loan Documents".

NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT, ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, conditions, representations and warranties contained herein, the parties agree as follows:

ARTICLE I - THE LOAN

1.1 The Loan. In reliance upon Borrower's representations and warranties, and subject to the terms and conditions of this Agreement and the other Loan Documents, the City agrees to lend Borrower a sum of money not to exceed **THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000)** solely for the purposes set forth in this Agreement. Loan disbursements shall be made only to the extent of available funds received by City from HUD under the CDBG program (and any available program income derived from such funds), not yet required for any other CDBG-funded program or project of the City, and the City shall have no obligation to make disbursements from any other source or to disburse any Loan proceeds if funds from the CDBG program are unavailable. Borrower shall have the right to receive Loan funds from the City only pursuant to the terms and conditions of this Agreement and in accordance with the Act.

1.2 Interim Financing Only. The Loan is made solely to provide interim financing to finance Borrower's costs to acquire the Property for the Project, as set forth in Attachment B, and any other eligible costs of the Project approved by the OED Director.

1.3 Loan Documentation, Interest and Security. The Loan shall be evidenced by this Agreement and by the Note. Payment of interest and principal shall be made in the amounts and at such times as is set forth in the Note. Any principal or interest outstanding after the date when payment is due shall bear interest at the default rate stated in the Note. The Loan at all times shall be secured by an irrevocable, unconditional letter of credit (the "Letter of Credit") from a bank acceptable to City in its sole discretion, which Letter of Credit shall allow partial drawings and shall be in form and content acceptable to City in its sole discretion, with an available balance at least equal to the sum of the full balance outstanding on the Loan (including principal and accrued interest) plus all interest that will accrue on the principal prior to the due date thereof, plus thirty (30) days' interest on the entire outstanding balance, and with an expiration date at least sixty (60) days after the Maturity Date (as defined in the Note).



1.4 Method of Payment. Unless otherwise requested by the City, all principal payments and payment of accrued interest shall be made by draw on the Letter of Credit. When any principal payment is due under the Note, whether or not Borrower shall be in default, the City shall have the absolute right, without notice or demand, immediately to draw on the Letter of Credit for the amount of principal and interest then due. If the full principal balance does not become due prior to the Maturity Date stated in the Note, then the City shall endeavor to give Borrower and Bank at least seven (7) calendar days' advance notice of its intent to draw on the Letter of Credit at the Maturity Date stated in the Note, but the failure to give such notice shall not in any way affect the City's right to draw on the Letter of Credit or result in any liability of the City. In addition, in its sole discretion, the City shall have the right, without notice or demand, to draw on the Letter of Credit all or any portion of any principal amount payable or prepaid hereunder, notwithstanding receipt of all or part of such amount from Borrower. In such case, the City shall promptly thereafter return the payment made by Borrower to the extent necessary to avoid duplication in payments.

1.5 Loan Fee. Borrower agrees to pay to City a loan fee of one percent (1%) of the maximum principal amount of the Loan, which shall be due in full on the date of first disbursement of Loan proceeds under this Agreement. Borrower authorizes the City to deduct such fee from the Loan proceeds.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

In order to induce City to make the Loan, Borrower represents and warrants as set forth below in this Article II. Each request for a draw on the Loan by Borrower shall constitute a representation and warranty that the facts set forth below are true and correct as of the execution hereof and as of the date of such request. These representations and warranties shall survive the execution, delivery and performance of the Loan Documents and the repayment of the Loan.

2.1 Authority. Borrower is an entity of the type stated on the first page of this Agreement, duly organized and validly existing under the laws of the State indicated, and has full power and authority to enter into this Agreement, to borrow money as contemplated herein and to execute and carry out the provisions of the Loan Documents. Borrower has not made any change in its articles of incorporation, bylaws, board of directors, or corporate purposes and activities since the date of the information submitted to the City, except as expressly disclosed in writing to OED. The execution, delivery and performance of this Agreement and the Loan Documents have been duly authorized by all necessary action, and no other action of Borrower is required for the execution, delivery and performance of this Agreement or the Loan Documents. This Agreement and the Note constitute valid and binding obligations of Borrower, each enforceable in accordance with their respective terms. The execution, delivery and performance of the



Loan Documents and the transactions contemplated thereby have been duly authorized by all necessary action by Borrower.

2.2 Investigation of Property; No Reliance on City. Borrower has conducted its own thorough investigation of the Property, including without limitation investigations with respect to prior uses and hazardous materials. Borrower is not relying in any way upon any statements or representations made by or on behalf of the City with respect to any of the Property, and Borrower agrees that the City has no obligation to investigate or disclose to Borrower any information that may be in the possession of the City with respect to any of the Property.

2.3 No Litigation. There is no action, suit or proceeding pending, or to the knowledge of Borrower threatened, against or affecting Borrower or relating to the Project or the Property in any court of law or in equity, or before or by any governmental authority contesting the legality of the Project or of any of the terms and conditions of the Loan Documents, or that might adversely affect the ability of Borrower to perform its obligations under any of the Loan Documents.

2.4 Title. Borrower has, or will have upon disbursement of Loan funds for completion of acquisition, clear title to the Property, subject to no material liens or encumbrances except as may be granted to secure the Letter of Credit or as may otherwise be approved by the City in its discretion.

2.5 Covenants, Zoning and Codes. Borrower has complied to date and will continue to comply with all applicable environmental and land use statutes, regulations, ordinances and covenants applicable to Borrower's development and intended use of the Property.

2.6 Project and Application. The description of the Project set forth in Attachment B hereto is an accurate description of the Project. All information contained in Borrower's application for the Loan and all additional information submitted to the City by or on behalf of Borrower in connection with such application is true, complete and correct in all material respects. Borrower represents and warrants that Borrower reasonably expects that each year (beginning upon completion of the Project and continuing for a period of five (5) years), at least eight hundred (800) youths per year, on an unduplicated basis, will be served at the Project.

2.7 Compliance with Documents. Borrower is and will remain in full compliance with all of the terms and conditions of the Loan Documents and any and all other agreements, instruments and other documents affecting the Property or the Project, and no event of default has or shall have occurred and be continuing, which, with the lapse of time or the giving of notice, or both, would constitute such an event of default under any of the foregoing.



ARTICLE III -- CONDITIONS PRECEDENT TO LOAN DISBURSEMENT; TIMING AND METHOD OF DISBURSEMENTS

3.1 Conditions Precedent. No funds shall be considered obligated for any purpose under this Loan Agreement until all conditions to the disbursement of such funds the Borrower shall have satisfied, or waived by the City, in the City's discretion. The City's obligation to perform its duties under this Agreement and to disburse the Loan proceeds shall be subject to the full and complete satisfaction of the following conditions precedent:

(a) Documents. Prior to the first disbursement, the City shall have received fully executed originals of each of the following documents which shall have been duly authorized, executed and delivered by the parties thereto, and shall be in form and content satisfactory to City: this Agreement; the Note; the Letter of Credit; and any and all other documents as City may deem necessary or appropriate with respect to the Loan.

(b) Evidence of Authority; Opinions. Prior to the first disbursement, the City shall have received evidence satisfactory to it that Borrower and the persons signing on behalf of Borrower have the capacity and authority to execute and deliver Loan Documents on behalf of Borrower. If so requested by the City, Borrower shall provide an opinion of legal counsel, in form and content acceptable to the City, addressing the valid existence and status of Borrower, the due authorization, execution, delivery, binding effect and enforceability of the Loan Documents, and the fact that the execution, delivery and performance of the Loan Documents do not violate, cause a default under, or conflict with, any applicable laws or regulations, or any judgments, orders, decrees, agreements or instruments known to such counsel affecting Borrower or the Property. Borrower shall provide or cause the Bank to provide satisfactory evidence of the authority of the individuals executing the Letter of Credit and, if so requested by the City, an opinion of counsel for the Bank as to the valid existence and status of Bank and the due authorization, execution, delivery, binding effect and enforceability of the Letter of Credit.

(c) Conditions to Each Disbursement. The City's obligation to make each disbursement shall be subject to satisfaction of the following conditions:

(1) Receipt by City of any documents and assurances as it may reasonably request or that are required by HUD or any federal, state or county regulatory agency;

(2) City shall have received and have in its possession sufficient Community Development Block Grant funds (which may include CDBG program income), from grant years through and including 2002, and not otherwise required to meet commitments of City, to fund the Loan;

(3) Borrower shall be in full compliance and shall not be in default hereunder or under any other Loan Documents, provided, however, that City may, in its discretion, elect to disburse the Loan proceeds notwithstanding the existence of a default, and the



disbursement shall be deemed to have been made pursuant to this Agreement and shall be secured by the Letter of Credit;

(4) Borrower shall have provided satisfactory documentation that it has paid or incurred costs eligible for Loan funds, and shall have supplied all documentation required by the City to support such costs (including, in the case of payments to contractors, vendors, consultants or service providers, copies of contracts complying with this agreement and invoices acceptable to the City; and in the case of property acquisition, purchase agreements, closing statements and appraisals acceptable to the City);

(5) There shall be no legal or administrative action pending or threatened seeking to enjoin or prevent the Project or operation of the Property as contemplated in the Loan Documents, or contesting the legality of any of the arrangements contemplated by the Loan Documents or any other financing for the Project, and no order, judgment, finding, or ruling of any court or administrative agency shall be in effect that would prohibit, restrain, create reasonable uncertainty as to the legality of, or otherwise adversely affect, the completion of the Project, the funding of the Project as contemplated hereby, or the operation of the Property as contemplated in the Loan Documents.

All conditions to disbursement herein are for the sole protection and benefit of the City, and may be waived in the discretion of the City. No waiver of any condition for purposes of one disbursement shall affect the City's right to withhold further disbursements based on failure to satisfy such condition, nor affect the City's right to pursue remedies at any time for any default.

3.2 Timing and Method of Disbursements. Subject to the terms of this Agreement and the availability of funds, City shall normally disburse funds within seven (7) days after all conditions to disbursement are satisfied hereunder. The City may, at its option, make Loan disbursements directly to vendors or others entitled to payment from Borrower, as indicated by Borrower's request for disbursement, or by checks payable jointly to Borrower and such persons. For acquisition of the Property, the City may, at its option, disburse funds to an escrow agent acceptable to the City that is closing the purchase and sale of the Property, for release upon the recording of the deed to Borrower, the receipt of a closing statement approved by the City, delivery of the Letter of Credit, and such other documentation as the City may require. Unless otherwise agreed in writing by OED, no further Loan disbursements shall be available after September 1, 2002.

ARTICLE IV -- GENERAL LOAN COVENANTS

Borrower covenants and agrees as follows:

4.1 General. From and after the date hereof and so long as any amount remains unpaid on the Note, Borrower covenants and agrees that it will promptly pay principal and interest pursuant to the Note as and when the same becomes due and



payable. Borrower further covenants and agrees that Borrower shall comply with each and every other obligation of Borrower under the Loan Documents and any other agreements or instruments related to the financing and development of the Project.

4.2 Completion of Project; Plan of Development. There shall be no material change to Borrower's plans for development of the Property as described in Attachment B to this Agreement without the prior written approval of OED, in its discretion. Subject to the terms and conditions of this Agreement and applicable laws and regulations, Borrower shall carry out the Project in accordance with Attachment B, including without limitation the schedule set forth therein.

4.3 Call Provision. In addition to, and not in any way to be deemed any limitation upon, City's right to demand repayment of the Loan at any time, City may call the Loan immediately due and payable without notice and may draw on the Letter of Credit, at City's option, if at any time during the term of the Loan without City's prior written approval:

- (a) Borrower sells, transfers or assigns (except for security purposes) all or substantially all of Borrower's interest in the Property, whether voluntarily or involuntarily, or by the operation of law;
- (b) there is not a Letter of Credit securing the Loan that complies strictly with all requirements of this Agreement; or
- (c) there occurs any breach or default under the terms of the Note, this Agreement or any other Loan Document that is not remedied in full within any applicable cure period.

In addition, upon the occurrence of any of the foregoing, City may declare an Event of Default hereunder and exercise its rights and remedies under Article VI.

4.4 Inspections. The City and its representatives shall have the right at all reasonable times during regular business hours (and at any time in the event of an emergency) to enter upon and inspect the Property to determine that the same is in conformity with this Agreement and all laws, ordinances, rules and regulations applicable to Borrower's use of the Loan funds. City shall have the further right, from time to time, to inspect Borrower's books and records relating to Borrower's use of the Loan funds, provided that the City gives Borrower not less than forty-eight (48) hours notice except in any case of investigation of allegations of fraud or misuse of funds. Without limiting the foregoing, Borrower shall permit City to examine and copy all books, records and other papers relating to Borrower's use of the Loan funds to insure Borrower's compliance with this Agreement, the Act and applicable provisions of federal, state, and local laws, ordinances, rules and regulations.



4.5 Compliance with Laws; Notify City of Litigation or Complaints. The Project shall in all respects conform to and comply with all covenants, conditions, restrictions and reservations affecting the Property and with all applicable zoning, environmental protection, use and building codes, laws, regulations and ordinances. Borrower shall comply with all applicable laws and regulations in the development and use of the Property. Borrower shall promptly notify City in writing of all litigation or possible litigation, and of all complaints or charges made by any governmental authority, that affect Borrower, the Project, or the Property.

4.6 Indemnify City. To the full extent permitted by applicable law, Borrower shall indemnify and hold City, its elected and appointed officials and employees, harmless from all liability for any actual or alleged damage or injury of whatsoever nature arising out of or in any way connected with the Project or the Loan, or arising out of Borrower's breach of the provisions of this Agreement, including the cost of defense thereof using counsel approved by City. Borrower's obligation under this section shall apply notwithstanding any acts, omissions or negligence of the City or its officials, employees or agents, except that if RCW 4.24.115 (or successor provision) shall apply to any claim for any such damage or injury, then to the extent required by such statute, (1) this indemnity shall not apply in case of any liability for damages arising out of bodily injury to persons or damage to property caused or resulting from the sole negligence of the City, its agents or employees, and (2) in case of liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Borrower or its agents or employees, this indemnity shall apply only to the extent of Borrower's negligence. City may commence, appear in or defend any action or proceeding purporting to affect the rights, duties or liabilities of the parties hereto, and subject to the limitation in the preceding sentence Borrower shall pay all of the City's costs and expenses incurred thereby, including reasonable attorneys' fees, on demand. This section shall survive execution, delivery and performance of this Agreement, the Note and the Loan Documents and repayment of the Loan.

Borrower waives, solely with respect to the City, its immunity under RCW Title 51, Industrial Insurance. Borrower and City acknowledge that this waiver has been specifically negotiated and that City would not enter into this Agreement absent this waiver.

4.7 Further Actions. Borrower will at any time and from time to time upon request of City take or cause to be taken any action, execute, acknowledge, deliver or record any further documents, opinions, or other instruments as City shall request in order to give effect to the intent of this Agreement, or as the City is required to do or obtain by HUD or other federal, state or county regulatory agency.

4.8 Reporting. Borrower shall deliver financial reports to OED on a semi-annual basis, in form acceptable to OED, no later than January 31st (covering the preceding six-month period of July through the end of December) and July 31st (covering



the preceding six-month period of January through the end of June) of each year. Borrower shall provide, within thirty (30) days after any request from OED, such additional reports or documents as OED shall reasonably require to document compliance with HUD regulations or with City ordinances and policies, including without limitation the cumulative total of all youths served on an unduplicated basis for the period then ended. Within thirty (30) days after the fifth (5th) anniversary of initial occupancy of the Property, Borrower shall submit a final report including the information stated above for the partial calendar year ended on such fifth anniversary and the cumulative totals of all youths served on an unduplicated basis. All reports submitted shall be complete and accurate in all material respects and shall be supported by sufficient documentation, which shall be provided to OED promptly upon request.

4.9 Use of Property; Conditions on Development; Permitting.

A. The Property shall be held for the sole purpose of the Project and the operation of the Orion Center as described on Attachment B, and shall not be used for any other purpose, nor sold, transferred, or leased without the express written consent of the City, nor in any manner committed to use other than for the purposes described on Attachment B. Borrower shall encumber Property only for the purpose of financing the development of such Property as contemplated in Attachment B.

B. To the extent required by applicable laws or regulations, any development, demolition, or other physical change in the Property shall be subject to review and approval under the National Environmental Policy Act and related laws, and to any conditions or mitigation imposed by the City or other authorities thereunder, in addition to all applicable requirements under the State Environmental Policy Act, City Land Use and Building Codes, and other regulations generally applicable to development of real property.

C. By November 1, 2002, Borrower shall obtain all permits necessary to commence rehabilitation and conversion of the Property to the uses described on Attachment B.

4.10 Documentation of Costs and Other Financial and Record-keeping Requirements.

(a) All costs for which Borrower uses Loan funds shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible, and the City shall have the right to audit the records of the Borrower as they relate to this Agreement, upon reasonable notice. The Borrower also shall:

1. Maintain an effective system of internal control over and accountability for all funds and property supplied and make sure the same are used solely for authorized purposes.



2. Keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which money was expended, as reflected in the Borrower's accounting records. The line item notations must be substantiated by a receipt, invoice marked "Paid," or payroll record.
3. Maintain payroll and financial records for a period of six (6) years after receipt of the final disbursement under this Agreement.
4. Permit inspection and audit of the Borrower's records, and records of any bank account of Borrower, with respect to all matters related to this Agreement, by representatives of the City, the United States, the State Auditor, and any independent auditor at any time during normal business hours and as often as necessary.
5. Inform the City about any funds allocated to the Borrower that the Borrower anticipates will not be expended during the Agreement period and permit reassignment of the same by the City to other agencies.

(b) Borrower shall establish and maintain all financial records and fiscal control systems in a manner to meet the approval of the City Auditor, the State Auditor and the United States. Records and reports submitted shall be satisfactory to meet the approval of the City Finance Director.

ARTICLE V -- REGULATORY PROVISIONS

5.1 Federal Regulations. Borrower acknowledges that the Loan is to be made with federal funds received by City under the Community Development Block Grant ("CDBG") program under applicable regulations of the Department of Housing and Urban Development ("HUD"). Accordingly, Borrower agrees, represents and warrants that Borrower has complied with and shall comply with all applicable federal requirements related to the use of CDBG funds, as applicable, including without limitation applicable provisions of 24 CFR Part 5, subpart A, any applicable provisions of the federal act appropriating such funds, and those set forth below:

(a) Economic Opportunities for Low- and Very Low-Income Persons. Borrower shall comply, and cause all contractors and subcontractors to comply, with all applicable provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, the purpose of which is to ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons, particularly those who are recipients of government assistance for housing. Borrower shall comply, and shall require all



contractors and subcontractors to comply, with all applicable provisions of regulations issued pursuant thereto by the Secretary of HUD and set forth in 24 C.F.R. Part 135, and with all applicable rules and orders of HUD issued thereunder. Without limiting the foregoing, unless another method of demonstrating compliance has been approved in writing by City or by HUD, Borrower shall comply, and shall cause all contractors and subcontractors to comply, with the applicable numerical goals in 24 C.F.R. Section 135.30. Borrower certifies and agrees that Borrower is under no contractual or other disability that would prevent Borrower from complying with these requirements.

Borrower shall cause the "Section 3 clause" set forth in 24 C.F.R. Section 135.38 to be included in all contracts and subcontracts for the Project. Borrower shall, at the direction of the City, take appropriate action pursuant to any such contract upon finding that the contractor is in violation of regulations issued by the Secretary of HUD in 24 C.F.R. Part 135. Borrower shall not let any contract unless the contractor has first provided Borrower with a preliminary statement of ability to comply with the requirements of these regulations.

(b) Equal Opportunity. Borrower shall ensure compliance with Executive Order 11246, entitled "Equal Opportunity" (3 CFR, 1958-1963 Comp., p. 339), as amended by Executive Orders 11375, 11478, 12086 and 12107, and the regulations issued pursuant thereto, 41 C.F.R. Part 60, which provide that no person shall be discriminated against because of race, color, religion, sex or national origin in all phases of employment during the performance of federal contracts and subcontracts, and Borrower shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training or apprenticeship. The "equal opportunity clause" set forth in 41 C.F.R. Section 60-1.4(a) is hereby incorporated by reference as though fully set forth, with Borrower as "Contractor" thereunder. The equal opportunity clause set forth in 41 C.F.R. Section 60-1.4(b) shall be set forth or incorporated by reference in each "federally assisted construction contract" (as defined in 41 CFR Section 60-1.3, including subcontracts) for the Project, except as expressly exempted under 41 C.F.R. Part 60.

(c) Nondiscrimination. No person shall on the grounds of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds. Borrower shall comply fully with all of the requirements and prohibitions of 24 C.F.R. Section 570.602 and 24 C.F.R. Part 6, implementing the nondiscrimination requirements of Section 109 of the Housing and Community Development Act of 1974, with the requirements of the Fair Housing Act (42 U.S.C. Sections 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and with implementing regulations at 24 CFR Part 107. Borrower shall comply fully with all requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., which provides that no person in the United States shall on the ground of race, color or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving



Federal financial assistance; and with Department of Housing and Urban Development ("HUD") regulations implementing such requirements, 24 C.F.R. Part 1.

Borrower shall comply fully with all of the requirements and prohibitions of the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07) and implementing regulations at 24 C.F.R. Part 146; the Americans with Disabilities Act and regulations thereunder; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and implementing regulations at 24 C.F.R. Part 8. **Borrower shall include, in any instrument effecting or recording any transfer of its interest in the Property, the covenant required by 24 C.F.R. Section 8.50 with regard to compliance with regulations under Section 504 of the Rehabilitation Act of 1973.**

No otherwise qualified handicapped individual in the United States shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(d) Minority and Women's Business Enterprises. Borrower shall comply with, and shall cooperate fully in programs and procedures adopted by the City to comply with, the requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise) and 12138 (concerning Women's Business Enterprise). When procuring property or services wholly or in part with Loan funds, Borrower shall take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible, in accordance with 24 C.F.R. Section 85.36(e)(2), and shall maintain records of those steps. These efforts shall not include any discrimination or preferential treatment contrary to applicable law.

(e) Benefit to Low- and Moderate-Income People. Borrower's development of the Project on the Property shall benefit low- and moderate-income persons (as defined by HUD for CDBG purposes) to the maximum extent feasible. Borrower agrees that over a period of five years beginning upon completion of the Project and initial occupancy of the Property, at least fifty-one percent (51%) of the clients served at the Property shall be "low- and moderate-income persons," as defined in 24 CFR Section 570.3 ("LMIPs"). Borrower covenants that during this period the programs operated at the Property shall serve solely homeless youth, so that the Borrower shall satisfy the conditions to a presumption of benefit to LMIPs under HUD regulations, 24 CFR Section 570.208.

(f) Conflict of Interest; Consultants. Borrower shall ensure compliance with the provisions of 24 C.F.R. Section 570.611, which provide generally that no officer, agent, employee, consultant or elected or appointed official of The City of Seattle or of any subrecipient or designated public agency receiving CDBG funds who exercises or has exercised any functions or responsibilities with respect to activities assisted by CDBG funds or who is in a position to participate in a decisionmaking process or gain inside information with respect to these activities, shall obtain any financial interest or benefit from or have and financial interest in, for himself or herself or those with whom he or she has business or

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immediate family ties, any activity funded under this Agreement or any contract or subcontract or agreement with respect thereto or the proceeds thereof; nor shall (s)he, for one year after completion of his or her tenure with the City or such subrecipient or designated public agency, obtain or have any such financial interest or benefit. Borrower represents and warrants that to the best of its knowledge no such person has any financial interest in or benefit from any such existing contract or subcontract or the proceeds thereof, and Borrower shall incorporate in all such contracts or subcontracts a provision prohibiting any such interest or benefit.

No Loan funds may be used to pay or to provide reimbursement for payment of the salary of a consultant at more than the daily equivalent of the rate paid for level IV of the federal Executive Schedule, unless specifically authorized by law.

(g) Debarred Contractors. No portion of the Loan shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund, any contractor during any period of debarment, suspension, voluntary exclusion or placement in ineligibility status of such contractor or subrecipient under the provisions of 24 C.F.R. Part 24. Borrower shall obtain, and shall require contractors and subcontractors to obtain, the certification required by appendix B of 24 CFR part 24 from each prospective contractor or subcontractor on the Project. Borrower represents and warrants that Borrower is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal assistance programs under such regulations or Executive Order 12549, "Debarment and Suspension."

(h) Lead-Based Paint. Borrower shall comply at its sole expense with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846) and 24 C.F.R. Part 35 and Section 570.608, with regard to lead-based paint, and with any and all applicable laws, regulations or standards hereafter enacted or issued with regard to lead-based paint.

(i) Davis-Bacon and Related Acts. The Borrower shall comply and shall ensure that all contractors and subcontractors comply with the Davis-Bacon Act, 40 U.S.C. Section 276a et seq. and regulations thereunder, to the full extent applicable under CDBG regulations. In addition, the Borrower shall comply with all applicable provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 327 et seq.; Copeland Act (Anti-Kickback Act), 18 U.S.C. Section 874; the Fair Labor Standards Act, and regulations under such Acts, including 29 C.F.R. Parts 3 and 5, and with HUD Handbook 1344.1. The requirements include, but are not limited to: language within each contract for construction (including rehabilitation) work; payment of prevailing wages and fringe benefits; the submittal of various documents as evidence of compliance; withholding of funds; equal employment opportunity; and work hours.

(j) Architectural Barriers. Borrower shall ensure that the Property, upon completion of construction, shall comply with the applicable requirements of the Architectural Barriers Act of 1968 (see 42 U.S.C. Sections 4151-57), and shall comply with



the Uniform Federal Accessibility Standards (Appendix A to 24 CFR part 40 for residential structures, and Appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

(k) Relocation and Property Acquisition.

A. Borrower represents, warrants and agrees that Borrower has taken and shall take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) in connection with the Project. Borrower represents, warrants and agrees that prior to making an offer for any parcel described on Attachment A: (1) Borrower clearly advised the owner that it lacks the power of eminent domain and therefore is unable to acquire the property in the event negotiations fail to reach an amicable agreement, and (2) Borrower informed the owner of what Borrower believed or believes to be the fair market value of the property. If any such parcel has been in residential use, wholly or in part, then Borrower agrees to comply with the City's Residential Antidisplacement and Relocation Assistance Plan, as the same may be adopted and amended from time to time.

B. Borrower shall provide to City a complete and accurate list of all occupants of each parcel acquired for the Project as of the date that Borrower obtained site control, and a complete and accurate list of all persons occupying such parcel at any time after site control and through the date of full occupancy after construction or rehabilitation.

C. Borrower represents, warrants and agrees that, with respect to all property acquired and to be acquired for the Project: Borrower has provided in a timely manner, and shall provide in a timely manner, all notices, advisory services, payments, and other assistance required so as to comply with each of the following: 24 C.F.R. Part 42 and Section 570.606; the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. Sections 4601-4655, and regulations thereunder, 49 C.F.R. Part 24; HUD's current acquisition and relocation assistance handbook; and any other applicable federal laws or regulations. Borrower shall maintain complete and accurate records demonstrating such compliance.

D. Borrower agrees that any determination by City of the amount of relocation assistance due to any person shall be final and binding upon Borrower, unless a different determination is made by HUD, in which case the HUD determination shall be final and binding on Borrower. Borrower agrees that the City may, at its option, provide relocation assistance directly to any person in connection with the Project and that any payment by the City for such person, at the City's sole option, may be charged against any funds remaining to be disbursed hereunder without any requirement for a draw request by, or consent of, Borrower. If, as a result of any such direct disbursement by the City, the total amount of City funds expended shall exceed the total amount of disbursements for which Borrower is eligible hereunder, then Borrower shall repay such excess to the City on demand.



E. Borrower shall carry out the terms of any relocation plan submitted to and approved by City, but the terms of any such plan shall not limit Borrower's obligations under this Agreement or applicable laws or regulations, and no such approval by City shall be construed as a waiver or modification of any requirement of this Agreement or applicable laws or regulations.

(l) Lobbying. Borrower hereby certifies and agrees as follows, in accordance with 31 U.S.C. § 1352, to the best of its knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of this Section be included in the award documents for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is made a prerequisite for making or entering into this transaction by section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(m) Environmental and Related Laws. Borrower shall ensure that the Project and the use of the Property shall comply with all applicable environmental standards, including without limitation those promulgated under, or that may be prescribed pursuant to, any of the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190), as amended, and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air

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Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205). Borrower shall ensure that the Project and the use of the Property shall comply with all applicable provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); Executive Order 11593; the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.) and all regulations under such acts. No activities on the Property shall involve the demolition or alteration of any structure listed on, or eligible for listing on, the National Register of Historic Places without full compliance with such Acts and regulations.

(n) Disclosures. Borrower represents, warrants and agrees that it has provided to OFD any and all disclosures required by the HUD Reform Act, 42 U.S.C. Section 3545, and regulations thereunder, 24 CFR Part 4; that it will provide timely updated disclosures to OFD to the extent required by such act and regulations; and that all such disclosures are and shall be complete and accurate.

(o) Records. Borrower shall maintain and make available to the City and HUD all records reasonably required to demonstrate compliance with all of the requirements of this Section, for at least three (3) years after the later of full repayment of the Loan or end of the five-year period stated in 5.1(e) above.

(p) Prior Actions; Indemnity. Borrower represents and warrants that in all actions related to the Project to date Borrower has complied with all requirements referred to in this Section 5.1, and that Borrower has not omitted to take any action that would have been required under the terms of this Section 5.1 had this Agreement been in effect at the time of the Borrower's first actions related to the Project. Borrower shall hold the City harmless from any loss, damage, expense, claim or demand resulting from Borrower's failure to complete the Project, failure to comply with any federal requirement, or failure to maintain adequate records to demonstrate such compliance. This provision shall survive expiration of this Agreement and repayment of the Loan.

5.2 Additional Federal Requirements for CDBG Subrecipient.

Borrower acknowledges that Borrower may be considered a "subrecipient" of CDBG funds under 24 CFR Part 570. Borrower agrees as follows:

A. Program Income. "Program Income" is defined as 24 CFR Section 570.500(a) and includes, without limitation, gross income from the use or rental of property acquired or improved with CDBG funds, less costs incidental to the generation of the income. Borrower shall report all Program Income received in its annual report to the City and shall maintain complete records on all Program Income. Unless specified otherwise in this Agreement, Program Income (as defined in 24 C.F.R. Section 570.500(a)) shall be promptly paid to the City. Payments made on the Loan, by or on behalf of Borrower,



shall be construed to include any Program Income received prior to each such payment, up to the amount of each such payment. All payments of Program Income shall be applied to any balance owing on the Loan. The obligation of Borrower under this subsection A to pay Program Income to the City shall continue until the Loan is repaid in full, and shall then terminate, except that (i) pursuant to 24 CFR Section 570.503(b)(3), at the end of any year, upon the City's request, Borrower shall remit to the City Program Income balances (including investments of Program Income) held by Borrower, after deducting therefrom amounts necessary for Borrower's immediate cash needs; and (ii) to the extent required by 24 CFR Section 570.504, any Program Income on hand when this Agreement expires or received after such expiration, shall be paid to the City. If Borrower receives any Program Income that it is not required to pay to the City under this subsection, the Borrower shall use such Program Income for the development of the Project, or for the costs of the operation of the Property for the purposes described in this Agreement, and all provisions of this Agreement shall apply to the activities for which the Program Income is used.

B. Reversion of Assets. Upon the expiration of this Agreement Borrower shall transfer to City any CDBG funds relating to this Project on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds relating to this Project. Either (i) the Property shall be used solely for the purposes described in Section 5.1(e) and Attachment B to this Agreement, or otherwise to meet one of the national objectives in 24 C.F.R. Section 570.208 in a manner approved by the City, until five years after expiration of this Agreement, or (ii) the Borrower shall promptly pay to the City an amount equal to the current market value of the Property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the Property. Repayments on the Loan not credited against Program Income obligations under subsection A above shall be credited against any obligation under this subsection B. This subsection shall be construed so as to be consistent with 24 CFR Section 570.503(b)(8) and any interpretations thereof by HUD.

C. Cost Accounting and Administrative Requirements: Procurement. Borrower shall comply with those provisions of the following OMB Circulars and Attachments thereto that are applicable pursuant to 24 C.F.R. Section 570.502, as amended:

A-110 - Grants and Agreements with Nonprofit Organizations (implemented at 24 C.F.R. Part 84)

A-122 - Cost Principles for Nonprofit Organizations

A-133 - Audits of States, Local Governments, and Non-Profit Organizations

or applicable successor circulars, and with applicable provisions of 24 C.F.R. Part 85 (HUD's adoption of the "common rule"), as modified, where applicable, by 24 C.F.R. Section 570.502.



D. Procurement. In procuring supplies, equipment, construction and other services with CDBG funds Borrower shall follow procurement policies and procedures that comply with all applicable standards in 24 C.F.R. Part 84, and in 24 C.F.R. Section 85.36. To the extent required by such circulars and regulations, this Section shall survive expiration of this Agreement.

E. Federal Audit Requirements.

If Borrower "expends" \$300,000 or more in a year in Federal awards it shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133. For purposes of this subsection, the amount of Federal awards that the Borrower expends shall be determined in accordance with Circular A-133 and interpretations thereof by the federal Office of Management and Budget. A program-specific audit may be conducted only if Borrower is eligible for such an audit in lieu of a single audit under Circular A-133. The Borrower shall timely and properly prepare all statements and schedules required by Circular A-133. The audit shall be conducted in conformity with Generally Accepted Government Auditing Standards ("GAGAS").

If Borrower "expends" less than \$300,000 in federal funds in any year it is exempt from audit requirements under this Section for that year, but records must be available for review or audit by appropriate officials as provided in Circular A-133 or by State law or City ordinance.

Except as expressly provided in the attached Budget, compliance with this Section shall be at the sole expense of the Borrower. Notwithstanding any allowance in the attached Budget, no audit costs shall be allowable costs if audits required by Circular A-133 have not been made or have been made but not in accordance with Circular A-133. No audit costs shall be allowable for audits not required under Circular A-133, except as expressly provided in Circular A-133. In cases of failure to have a proper audit conducted in accordance with Circular A-133, failure to provide a timely audit report, or failure to take timely corrective action to resolve any findings, Borrower will be subject to appropriate sanction.

Audits shall be done annually. Audits shall be completed within six (6) months of the end of Borrower's fiscal year. A copy of the audit report and all other reporting required by Circular A-133 shall be submitted to the City of Seattle - Office of Economic Development within thirty (30) days after the completion of the audit. In addition to the audit report, Borrower shall provide a copy of the audit management letter and a report of its comments on the findings and recommendations in the report, including a plan for corrective action if necessary. The Borrower shall initiate corrective action to resolve all findings within six (6) months of the receipt of the audit report, and



shall complete the resolution of all findings, consistent with any management decision made by the City pursuant to Circular A-133, as rapidly as possible and in any event no later than twelve (12) months after receipt of the audit report.

The Borrower shall comply with all auditee responsibilities under Circular A-133.

The auditor shall be selected consistent with Circular A-133. Use of small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals is encouraged.

F. Suspension and Termination. Suspension or termination of this Agreement may occur in the event of Borrower's failure to comply with a material term of the Loan Documents and, in accordance with 24 C.F.R. Section 85.44, the Loan may be terminated for convenience.

G. "Expiration". For purposes of this Section, "expiration" of this Agreement shall be the later of the date when the Loan is repaid in full or the date when Borrower has completed the Project and commenced operations at the Property as contemplated by this Agreement. Notwithstanding such expiration, the provisions of this Agreement not then fully performed shall remain in full force and effect, and, in any event, this Agreement shall remain in effect during any period when the Borrower has control of any CDBG funds, including Program Income.

5.3 Certain City Requirements and Policies: Non-discrimination: Equal Opportunity; Affirmative Efforts in Contracting.

(a) Discrimination Prohibited.

During the performance of this Agreement, neither Borrower nor any party contracting with Borrower who would be paid with Loan funds under this Agreement shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, sexual orientation, age or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

The Borrower shall comply and shall require all contractors and subcontractors to comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 of the Revised Code of Washington, Titles VI and VII of the Civil Rights Act of 1964 and Chapters 14.04 of the Seattle Municipal Code.

(b) Fair Employment Practices.



Borrower acknowledges notice of the following excerpted from Seattle Municipal Code Chapter 14.04.020, as amended:

It is declared to be the policy of the City, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal opportunity to all persons, free from restrictions because of race, color, sex, marital status, sexual orientation, gender identity, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical disability.

(c) Nondiscrimination and Affirmative Efforts in Contracting.

Notwithstanding any other provision in this Agreement:

(1) General. City women- and minority-owned business ("WMBE") utilization requirements shall not apply to this Project. The City does not require any minimum level of WMBE subcontractor participation as a condition of awarding any contract and does not require that any preference be given to a bidder or proposer for its WMBE utilization or WMBE status.

(2) Non-Discrimination.

(a) Each party is required to comply with the Fair Contracting Practices Ordinance of the City of Seattle (Ordinance 119601), as amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.

(b) Borrower shall not create, and shall not permit contractors or bidders to create, barriers to open and fair opportunities for WMBEs to participate in contracts for the Project, and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Borrower shall not, and Borrower shall require any contractor to agree that it shall not, in considering offers from and doing business with contractors, subcontractors and suppliers, discriminate on the basis of race, color, creed, religion, ethnicity, sex, age, national origin, marital status, sexual orientation, or the presence of any mental or physical disability in an otherwise qualified disabled person.

(3) Record-Keeping. Borrower shall maintain, for at least twelve (12) months after completion of the Project, all bids or proposals from general



contractors for the Project, and relevant records and information necessary to document level of utilization of WMBEs and other businesses as subcontractors and suppliers on the Project. Borrower shall require that its general contractor maintain and provide to the City on request all written quotes, bids, estimates, or proposals submitted to the contractor by all businesses seeking to participate as subcontractors or suppliers on the Project. The City shall have the right to inspect and copy such records. Borrower and its general contractor shall comply with all record-keeping requirements set forth in any federal rules, regulations or statutes included or referenced in this Agreement or the contract documents.

(4) Affirmative Efforts to Utilize WMBEs. The City encourages the utilization of minority owned businesses ("MBEs") and women-owned businesses ("WBEs") (collectively, "WMBEs"), in contracts funded by the City. The City encourages, and Borrower shall encourage with respect to the Project, the following practices to open competitive opportunities for WMBEs:

- Attending a pre-bid or pre-solicitation conference, if scheduled by the City or Borrower, to provide project information and to inform WMBEs of contracting and subcontracting opportunities.
- Placing all qualified WMBEs attempting to do business in the City on solicitation lists, and providing written notice of subcontracting opportunities to WMBEs capable of performing the work, including without limitation all businesses on any list provided by the City, in sufficient time to allow such businesses to respond to the written solicitations.
- Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including WMBEs.
- Establishing delivery schedules, where the requirements of this contract permit, that encourage participation by WMBEs.
- Providing WMBEs that express interest with adequate and timely information about plans, specifications, and requirements of the contract.
- Utilizing the services of available minority community organizations, minority contractor groups, local minority assistance offices, the City, and other organizations that provide assistance in the recruitment and placement of WMBEs.

(5) Sanctions for Violation. Any violation of any mandatory provision of this subsection (c) (paragraphs (2) and (3)) shall be a material breach of contract for which the Borrower may be subject to damages and sanctions provided for by contract and by applicable law.

5.4 Political Activity.



No portion of the Loan shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or to influence the approval or defeat of any ballot issue or legislation.

ARTICLE VI -- DEFAULT AND REMEDIES

6.1 Event of Default. Occurrence of any of the following events shall constitute an Event of Default hereunder:

(a) Any failure by Borrower to pay when due any principal, interest or other amounts owing to City under any of the Loan Documents;

(b) If at any time the balance outstanding under the Note and this Agreement is not fully secured by a Letter of Credit strictly satisfying all of the requirements of this Agreement.

(c) Any breach by Borrower of any of the other non-monetary covenants and conditions of this Agreement which breach is not cured to City's satisfaction within ten (10) working days from the occurrence thereof, provided, that in the event of a nonmonetary breach or default by Borrower which is outside of the control of Borrower and which cannot be cured within said ten (10) working days, Borrower shall have commenced to cure its breach or default within said ten (10) working days and thereafter diligently proceeds to cure its breach or default.

(d) Any representation, warranty or disclosure made to City by Borrower related to this Loan or the Project proves to be materially false or misleading as of the date when made, whether or not such representation, warranty or disclosure appears in this Agreement.

(e) A petition in bankruptcy or for reorganization or for an arrangement under any bankruptcy or insolvency law or for a receiver or trustee for any of Borrower's property is filed by Borrower, or is filed against Borrower and is not dismissed within forty-five (45) days, or if Borrower makes an assignment for the benefit of creditors or becomes insolvent or unable to pay its debts as they mature or any attachment or execution is levied against a substantial portion of the property of Borrower and is not discharged within forty-five (45) days.

(f) There occurs any event which in City's reasonable judgment adversely affects (i) the ability of Borrower to perform any of its obligations hereunder or under any of the Loan Documents; (ii) the business or financial condition of Borrower; or (iii) compliance with the Act.

6.2 Remedies.



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(a) Upon the occurrence of an Event of Default, City may, in addition to any other remedies which City may have hereunder or under the Loan Documents or by law, at its option and without prior demand or notice take any or all of the following actions:

- (1) Immediately terminate any further advance of Loan funds hereunder.
- (2) Declare the Note immediately due and payable.
- (3) Draw against the Letter of Credit up to the full amount owing on the Note, and apply the proceeds to the balance owing thereunder, whether or not then due and payable.

(b) All remedies of City provided for herein are in addition to its rights and remedies under the Note. All of the City's rights and remedies in the Loan Documents are cumulative and shall be in addition to all other rights and remedies provided by law, and in addition to all rights and remedies of the City under any other agreements. The exercise of any right or remedy by City hereunder shall not in any way constitute a cure or waiver of default hereunder or under any other Loan Document or invalidate any act done pursuant to any notice of default, or prejudice City in the exercise of any of its rights hereunder or under any other documents. To the full extent permitted by applicable law, the Borrower hereby irrevocably waives the protection of any provision for an automatic stay under the United States Bankruptcy Code.

ARTICLE VII -- MISCELLANEOUS

7.1 No Waiver. No waiver of any default or breach by Borrower hereunder shall be implied from any failure by City to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers of any covenants, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by City to, or approval of, any act by Borrower requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act.

7.2 Successors and Assigns; Assignment. This Agreement is made and entered into for the sole protection and benefit of the City, Borrower, and their respective successors and assigns, and no other person or persons shall have any right of action hereunder, except to the extent that specific provisions grant rights to the State or federal governments. The terms hereof shall inure to the benefit of the successors and assigns of the parties hereto; provided, however, that the Borrower's interest hereunder cannot be assigned or otherwise transferred without the prior written consent of City, in its sole discretion.



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7.3 Notices. Any notice, demand or request required hereunder shall be given in writing at the addresses set forth below by personal delivery, facsimile transmission, or first class mail. The addresses or telephone numbers may be changed by notice to the other party given in the same manner as provided above. If notice is given by mail, it shall be deemed received on the earlier of: (i) if by certified mail, the date of receipt as shown on the return receipt, or (ii) three (3) days after deposit in the U.S. mail. If notice is given by facsimile it shall be effective on the day when the transmission is completed if by 5:00 P.M. Seattle time on any day other than a Saturday, Sunday or City of Seattle holiday, and otherwise on the next day that is not a Saturday, Sunday or City of Seattle holiday.

If to Borrower: YouthCare
2500 NE 54th Street, Suite 100
Seattle, Washington 98105
Attn: Victoria Wagner, Chief Executive Officer
facsimile: 206-694-4509

If to City: Office of Economic Development
City of Seattle
700 Fifth Avenue, Suite 1730
Seattle, Washington 98104
Attn: Director
facsimile: 206-684-0379

7.4 Time. Time is of the essence of all provisions of the Loan Documents.

7.5 Entire Agreement; Amendments; No Commitment to Future Support.
This Agreement and the documents incorporated herein by reference embody the entire Agreement between the City and the Borrower with respect to the Loan that is the subject matter hereof, but this Agreement does not supersede or modify, except as may be expressly stated herein, any obligations of Borrower related to any other agreement or obligation of the Borrower with respect to other funding for the Project or for other activities. No verbal agreements or conversation with any officer, agent or employee of the City before or after the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement or any other Loan Documents. No amendment, modification, or termination of any provisions of this Agreement or of any of the Loan Documents shall in any event be effective unless the same shall be in writing and signed by the City and Borrower. The City makes no commitment of future support and assumes no obligations for future support of the Borrower or the Project.

7.6 Headings. The article and section headings in no way define, limit, extend or interpret the scope of this Agreement or of any particular article or section.



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7.7 Number and Gender. When the context in which the words are used in this Agreement indicate that such is the intent, words in the singular number shall include the plural and vice-versa. References to any gender shall also include the other gender or neutral gender, as appropriate.

7.8 Validity. In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect the validity of the remainder of this Agreement.

7.9 Governing Law; Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, and The City of Seattle, except to the extent federal law applies. This Agreement is the product of negotiation and shall not be construed strictly against the party responsible for drafting this Agreement. Borrower agrees that because the City is not a commercial lender and is providing the Loan, subject to federal regulations, as a temporary use of funds allocated to other CDBG-eligible activities, the City shall not be subject to any standard of commercial reasonableness as to the administration of the Loan, any consents or approvals hereunder, or the enforcement of the Loan Documents.

7.10 Survival. All agreements, representations and warranties made herein and in the Note shall survive the execution and delivery of this Agreement and of the Loan Documents and the making of the Loan hereunder and continue in full force and effect until the obligations of Borrower hereunder and the indebtedness evidenced by the Note have been fully and finally paid and satisfied, regardless of whether the Note is surrendered or marked as canceled or paid in full. In addition, the obligations of Borrower with respect to the development and completion of the Project, the use of the Property for the purposes required hereunder for the period specified in Section 5.1(e), reports to the City, recordkeeping, and federal requirements, shall survive the repayment of the Loan and remain in full force and effect, and other provisions shall survive repayment of the Loan to the extent provided in the Loan Documents.

7.11 Venue and Forum. In the event that any legal action should be filed by either party against the other, the venue and forum for such action shall be the Superior Court of the State of Washington for the County of King.

7.12 Attorney's Fees. In the event either party shall bring an action to enforce the terms and conditions of this Agreement, or if there shall be any legal proceedings involving this Agreement (including without limitation any bankruptcy proceedings), the prevailing party shall be entitled to recover all of its costs and expenses, including, but not limited to, reasonable attorney's fees as determined by the court. "Reasonable attorney's fees" shall include the reasonable value of the services of in-house counsel.

7.13 Effect of Consents and Approvals; Borrower's Obligations Absolute. Any approval granted by the City for purposes of this Agreement shall not constitute, nor waive the requirement for, any other approval that may be required under any other agreement, law, ordinance, or regulation, nor may any such approval be relied upon by



Version 2

any person for any purpose other than compliance with this Agreement. Borrower acknowledges that its plans for the Project are subject to various processes, reviews, and permits, and that the feasibility and cost of the Project may be substantially affected by actions of various City departments, including without limitation determinations on land use and environmental matters (and the timing thereof). Borrower understands and agrees that neither this Agreement nor any authorization or approval of the Loan by the Mayor or City Council constitutes any assurance as to the consistency of the Project with any regulatory requirements or as to the timing or substance of any actions, approvals, or permits desired or required by Borrower for the Project, or any conditions that may be imposed thereon. Borrower irrevocably agrees that its payment obligations under the Loan Documents are absolute and unconditional, and that no action or omission of the City with respect to any of the matters described in this Section, even if untimely or contrary to law, shall in any way give rise to any defense to, or grounds for equitable relief from the strict enforcement of, such obligations. Borrower further irrevocably agrees that no claim, defense, or counterclaim of any nature shall be grounds for any injunction or order restraining the City from drawing upon the Letter of Credit or restraining the Bank from honoring any draw on the Letter of Credit, and that if Borrower shall have any claim or counterclaim concerning any drawing on the Letter of Credit it shall be an adequate remedy for the Borrower to pursue an action at law against the City.

7.14 Duplicate Originals. This Agreement may be executed in duplicate, and if so executed, each of the parties hereto shall receive an original, and each original shall constitute one and the same agreement.

IN WITNESS WHEREOF, the City and the Borrower have executed this Agreement as of the date first written above by and through their duly authorized representatives.

THE CITY OF SEATTLE, a
Washington municipal corporation

By: _____
Print Name: _____
Director, Office of Economic Development

YOUTHCARE,
a Washington nonprofit corporation

By: _____
Print Name: _____
Title: _____

LIST OF ATTACHMENTS

- A. Property Description
- B. Project Description and Schedule



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Version 2

ATTACHMENT A TO LOAN AGREEMENT
Property Description

The Property is located at 975 John Street, Seattle, Washington and is legally described as follows:

Lots 1 and 2, Block 98 of Denny's D.T. 5th Addition, according to the plat thereof recorded in Volume 1 of Plats, Page 202, in King County, Washington.

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ATTACHMENT B TO LOAN AGREEMENT
Project Description and Schedule

Project Description

YouthCare, a 501(c)(3) not-for-profit, operates the Orion Center, a multi-service outreach center for Seattle area homeless youth. The Orion Center is currently located at 1020 Virginia Street in the Denny Triangle neighborhood. YouthCare seeks to acquire a 41,400 square foot building located at 975 John Street in the South Lake Union neighborhood, for the relocation and expansion of the Orion Center. YouthCare shall renovate and improve such building so as to provide space for the following programs, each of which shall serve homeless youth: daytime drop in center, school program, counseling, employment and computer training, meals program, showers and recreational area.

Low Income Housing Institute (LIHI) will serve as the developer to undertake this project.

Uses of Proceeds

Land and Building Acquisition	\$2,900,000
Interest and Fees	
CDBG Float Loan Fee	\$29,000
Letter of Credit Fee	\$171,000
TOTAL	\$3,100,000

Schedule

YouthCare shall complete the Project by May 15, 2003. YouthCare shall achieve the following key project milestones by the dates listed below:

<input type="checkbox"/> Site acquisition complete	September 1, 2002
<input type="checkbox"/> Finalization of plans and specifications	October 1, 2002
<input type="checkbox"/> Contractor bids	October 1, 2002
<input type="checkbox"/> All necessary permits issued	November 1, 2002
<input type="checkbox"/> Construction begins	November 15, 2002
<input type="checkbox"/> Construction completed	May 15, 2003



EXHIBIT B
Float Loan Promissory Note

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EXHIBIT B TO ORDINANCE

PROMISSORY NOTE

**YOUTHCARE – ORION CENTER PROJECT
CDBG FLOAT LOAN**

\$3,100,000.00

_____, 2002
Seattle, Washington

1. **FOR VALUE RECEIVED**, the undersigned, YOUTHCARE, a Washington nonprofit corporation ("Borrower"), promises to pay to the order of The City of Seattle, a Washington municipal corporation ("City"), at its Office of Economic Development, 700 Fifth Avenue, Suite 1730, Seattle, Washington 98104, or such other place as the holder of this Note may from time to time designate, the amount of all advances ("Advances") made by City pursuant to the terms of the Community Development Block Grant Float Loan Agreement between the Borrower and City dated _____, 2002, as the same may be amended (the "Loan Agreement"), plus interest as provided below. The unpaid principal balance of this Note at any time shall be equal to the aggregate amount of all Advances then made less the aggregate amount of all payments received by the holder of this Note and applied to principal hereunder. The unpaid principal balance of the loan evidenced hereby (the "Loan") shall not at any time exceed the sum of THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000). Capitalized terms not defined herein shall have the meanings set forth in the Loan Agreement unless the context otherwise clearly requires. Disbursement of the Loan evidenced by this Note is to be made subject to the terms and conditions of the Loan Agreement.
2. **Interest.** Borrower agrees to pay interest from the date funds are advanced at a rate of two percent (2%) per annum, computed on the outstanding principal balance as it exists from time to time. Borrower is not required to make monthly payments of interest but shall be required to pay all interest accrued on the date when all outstanding principal becomes due, or earlier pursuant to Section 5 below.
3. **Maturity; Demand Feature.** The principal balance of this Note, together with all accrued and unpaid interest, shall be due and payable in full on the earliest of (i) ten (10) calendar days after demand by the holder hereof under Section 5 below, or (ii) the date ("Maturity Date") thirty (30) months after the date of this Note, or (iii) sixty (60) days prior to the expiration date of the Letter of Credit (as defined below). Borrower acknowledges that demands for payment may be made by the holder of this Note at any time for any reason.



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4. Letter of Credit. This Note shall be secured by an unconditional, irrevocable letter of credit (the "Letter of Credit"), payable upon demand, issued by a banking institution mutually agreeable to Borrower and the holder of this Note, all as more fully set forth in the Loan Agreement.
5. Demands for Full or Partial Payment. The holder of this Note has the absolute right to make demand for full or partial repayment of principal and accrued interest at any time for any reason regardless of Borrower's full compliance with all terms of the Loan Documents. The holder shall make such demand in writing, by hand delivery, mailing or facsimile transmission in the manner set forth in the Loan Agreement. Payments pursuant to a demand under this Section shall be due and payable on or before ten (10) calendar days from the date the demand is effective under the notice provisions of the Loan Agreement. If the holder of this Note so specifies in the demand or other written communication, payment shall be made by a draw against the Letter of Credit, and the holder shall have the right to submit such draw at any time on or after on the tenth calendar day after such demand is effective. The requirements for demand and the notice period under this Section shall not apply in case of acceleration pursuant to any other provision of this Note or the Loan Agreement.
6. Application of Payments. Payments under this Note shall be applied first to any costs or fees owing hereunder or under the Loan Agreement, next to accrued interest, and finally to the reduction of principal.
7. Prepayment. Provided that Borrower shall first give the holder of this Note thirty (30) calendar days' prior notice, the indebtedness evidenced hereby may be prepaid in whole or in part from time to time without premium or penalty. If so elected by the holder of this Note, any such prepayment shall be made by draw against the Letter of Credit.
8. Default and Acceleration. Should default be made in any payment when due or in the performance or observance of any of the covenants and agreements of this Note, or if there shall be an Event of Default under the Loan Agreement, the whole sum of principal and interest shall become immediately due and payable at the option of the holder without notice, and the holder shall have the right immediately to draw on the Letter of Credit. Failure to exercise the option to accelerate shall not constitute a waiver of the right to exercise it in the event of a continuing or subsequent default.
9. Interest on Past Due Amounts. Whether or not the entire balance is accelerated, all amounts of principal and interest past due shall bear interest at the rate of twelve percent (12%) per annum from and after the due date.



10. Sale of Property. Upon the sale, transfer or assignment, whether voluntary, involuntary or by operation of law, of all or substantially all of Borrower's interest in the Property (as such term is defined in the Loan Agreement), at its sole option the holder hereof may, by written notice to Borrower, declare all sums then outstanding hereunder to be immediately due and payable.
11. Unconditional Obligations. The obligations of the Borrower under this Note are absolute, unconditional and irrevocable. All payments required hereunder shall be made without any setoff, counterclaim, deduction or withholding whatsoever.
12. Waivers. Except for the demands described in Section 5 above, Borrower hereby waives diligence, demand, presentment for payment, and notice of whatever kind or nature. Without discharging or in any way affecting the liability of Borrower or any other person who may become liable on this Note, Borrower hereby consents to any and all extensions of this Note as the holder hereof may in its sole discretion grant from time to time, to the release of all or any part of the security for the payment hereof and to the release of any party liable for repayment of the obligations hereunder.
13. Manner of Payment. All payments due on this Note shall be payable in lawful money of the United States of America at the time of payment. Unless otherwise provided in the Loan Agreement or requested by the holder of this Note, all payments of interest and principal hereunder to the holder shall be made by drawing on the Letter of Credit. If the issuer of the Letter of Credit fails to honor any draw by the holder of this Note in full or in part, or if the amount remaining on the Letter of Credit is insufficient to pay the amount due on the Note, or in the event that the holder of this Note is required by any law or court order to refund or otherwise relinquish any portion of any amount received from any draw on the Letter of Credit, then Borrower shall pay the full balance due immediately on demand. Any such payment shall be in immediately available funds, and shall be made to the holder at the address first hereinabove indicated, or such other address as the holder may hereafter designate.
14. Governing Law. This Note shall be governed by the laws of the State of Washington, except to the extent that Federal laws or regulations may preempt the laws of the State of Washington.
15. Costs and Attorney's Fees. In the event that this Note is placed in the hands of an attorney at law for collection after maturity or upon default, or in the event that proceedings at law or in equity are instituted in connection herewith, Borrower shall pay all costs of collecting or attempting to collect this Note and all costs incurred by the holder in any such proceedings, including, without limitation, reasonable attorney's fees (including costs and fees incurred in any bankruptcy, appellate, or arbitration proceeding); and all such amounts shall be secured by the Letter of Credit. "Reasonable attorney's fees" shall include the reasonable value of services of in-house counsel.



16. No Usury. This Note and the Loan Agreement are subject to the limitation that in no event shall interest or any other amount paid or agreed to be paid for the use, forbearance or detention of money to be advanced hereunder or pursuant to the Loan Agreement exceed the highest lawful rate permissible under applicable usury laws, if any. If fulfillment of any provision hereof or of the Loan Agreement shall be deemed by a court of competent and final jurisdiction to violate any applicable usury restrictions, then ipso facto, the obligation to be fulfilled shall be reduced to such highest lawful rate, and any amount received in excess of such limit shall be applied to reduce the unpaid principal balance hereof and not to the payment of interest.

17. Time. Time is of the essence of this Note and of each and every provision hereof.

18. Purpose. Borrower represents and warrants that this Note is made, and the proceeds hereof are to be used, solely for business and commercial purposes, and not for personal, consumer, household or family purposes.

NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT, ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, Borrower has executed this Promissory Note as of the date first above written.

BORROWER:

YOUTHCARE, a Washington nonprofit corporation

By: _____
Name: _____
Title: _____



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FISCAL NOTE

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Office of Economic Development	Ken Takahashi 684-8378	Janet Credo 684-8687

Legislation Title:

AN ORDINANCE relating to the Community Development Block Grant Float Loan Program; authorizing a short-term loan of up to THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000) in Block Grant funds to YouthCare, a Washington nonprofit corporation, to finance site acquisition of 975 John Street in the South Lake Union neighborhood for the Orion Center; authorizing amendments to the 2001-2004 Consolidated Plan and 2002 Action Plan to reflect such loan; appropriating funds for the loan and for possible new advances after early repayments, and ratifying and confirming prior acts.

Summary of the Legislation:

This legislation authorizes the OED Director to make a \$3,100,000 CDBG float loan to YouthCare to finance site acquisition costs related to its Orion Center project.

This legislation also authorizes amendments to the City's Consolidated Plan and Action Plan to reflect the proposed loan.

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

YouthCare is a 501(c)(3) non-profit organization whose mission is to serve Seattle area youth who are experiencing the consequences of homelessness, conflict and disenfranchisement.

YouthCare has been providing services to homeless youth since 1974. In 1983, Youthcare opened the Orion Center, located at 1020 Virginia Street in the Denny Triangle neighborhood, as a multi-service outreach center. Since that time, YouthCare's operations grown to the extent that its current facility does not adequately serve its needs.

The goal of this project is to find a new location for the Orion Center so that YouthCare will have adequate space and amenities for current and enhanced services.

The proposed float loan will allow YouthCare to acquire a 41,400 square foot building located at 975 John Street in the South Lake Union neighborhood, for the relocation and expansion of the Orion Center.

Public Private Partnership Review Status:

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

No.

Is the legislation subject to public hearing requirements? If yes, what public hearings have been held to date?

Yes. The public hearing will be held before Council committee consideration of this legislation.

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Fiscal Sustainability Issues (related to grant awards):

N/A.

Estimated Expenditure Impacts:

FUND (List # and/or Account)	2002	2003	2004
CDBG (Float Loan)	\$3,100,000*		
TOTAL	\$3,100,000*		

One-time \$3,100,000

On-going \$ _____

**Note: The expenditure authority authorized by this legislation includes an additional amount of up to \$3,100,000 for re-advances when the City requests partial repayment of the loan in advance of the normal payment schedule to meet temporary cash needs for other CDBG activities pending the City's receipt of its annual CDBG entitlement from the federal government. Any such re-advances are limited to the principal amount repaid such that the principal balance outstanding on the proposed loan will never exceed \$3,100,000.*

Estimated Revenue Impacts:

FUND (List # and/or Account)	2002	2003	2004
CDBG (Transaction Fee Returned to City)	\$31,000		
TOTAL	\$31,000		

One-time \$31,000

On-going \$ _____

Estimated FTE Impacts:

FUND	2002	2003	2004
N/A	\$0.00		
TOTAL	\$0.00		

Full Time _____ # Part Time _____ # 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

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 22, 2002

Honorable Peter Steinbrueck
President,
Seattle City Council
Municipal Building, 11th Floor

Dear Council President Steinbrueck:

I am transmitting the following legislation for Council consideration.

This legislation authorizes OED to make a \$3,100,000 CDBG float loan to YouthCare to finance site acquisition costs related to its Orion Center development. This legislation also authorizes amendments to the City's Consolidated Plan and Action Plan to reflect the proposed loan.

YouthCare is a 501(c)(3) non-profit organization whose mission is to serve Seattle area youth who are experiencing the consequences of homelessness, conflict and disenfranchisement.

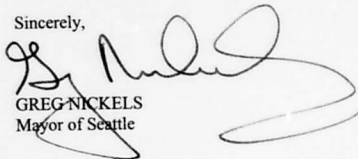
YouthCare has been providing services to homeless youth since 1974. In 1983, Youthcare opened the Orion Center, located at 1020 Virginia Street in the Denny Triangle neighborhood, as a multi-service outreach center. Since that time, YouthCare's operations grown to the extent that its current facility does not adequately serve its needs.

The goal of this project is to find a new location for the Orion Center so that YouthCare will have adequate space and amenities for current and enhanced services.

The proposed float loan will allow YouthCare to acquire a 41,400 square foot building located at 975 John Street in the South Lake Union neighborhood, for the relocation and expansion of the Orion Center.

Thank you for your consideration of this legislation. Should you have questions please contact Ken Takahashi, in the Office of Economic Development, at 684-8378.

Sincerely,



GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us

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EXHIBIT A TO ORDINANCE

COMMUNITY DEVELOPMENT BLOCK GRANT FLOAT LOAN AGREEMENT

YOUTHCARE CDBG FLOAT LOAN

THIS AGREEMENT, dated _____, 2002, is entered into by YOUTHCARE, a Washington nonprofit corporation ("Borrower"), and THE CITY OF SEATTLE, a Washington municipal corporation ("City").

RECITALS

This Agreement is entered into upon the basis of the following facts and circumstances:

A. Borrower plans to acquire real property located at 975 John Street in the South Lake Union neighborhood and described in Attachment A and made a part hereof (collectively, the "Property").

B. Borrower plans to use the Property for the benefit of low- and moderate income persons and, more particularly, to relocate and expand the Orion Center, a multi-service center that provides outreach services to Seattle area homeless youth. The Orion Center is generally described in Attachment B attached hereto and made a part hereof. The acquisition of the Property and its renovation and conversion to serve as the Orion Center are hereinafter collectively called the "Project".

C. The Office of Economic Development ("OED") is responsible within the City for making, subject to City Council approval, short-term loans of Community Development Block Grant ("CDBG") funds made available to the City by the United States Department of Housing and Urban Development ("HUD"), known as "CD Float" loans, pursuant to the Housing and Community Development Act of 1974, as amended, and the federal regulations promulgated thereunder (hereinafter collectively called the "Act").

D. Borrower has requested a CD Float loan from the City (the "Loan") as short-term financing to finance the costs to acquire the Property.

E. The Loan meets a national objective under the CDBG program by providing benefit to low and moderate income persons through limited clientele activities, as provided in 24 C.F.R. §570.208(a)(2). The activity funded hereunder is eligible under the CDBG program as provided in 24 C.F.R. §570.201(a) as an acquisition activity.

F. The Loan shall be evidenced by this Agreement and by a promissory note to be executed by Borrower ("Note"), and secured by an unconditional irrevocable letter



of credit from a financial institution acceptable to City (the "Bank"), payable upon demand. The Note, this Agreement, and any other documents or instruments executed by Borrower in favor of City pursuant to this Agreement or in connection with the Loan are collectively referred to as the "Loan Documents".

NOTICE: ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT, ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, conditions, representations and warranties contained herein, the parties agree as follows:

ARTICLE I - THE LOAN

1.1 The Loan. In reliance upon Borrower's representations and warranties, and subject to the terms and conditions of this Agreement and the other Loan Documents, the City agrees to lend Borrower a sum of money not to exceed **THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000)** solely for the purposes set forth in this Agreement. Loan disbursements shall be made only to the extent of available funds received by City from HUD under the CDBG program (and any available program income derived from such funds), not yet required for any other CDBG-funded program or project of the City, and the City shall have no obligation to make disbursements from any other source or to disburse any Loan proceeds if funds from the CDBG program are unavailable. Borrower shall have the right to receive Loan funds from the City only pursuant to the terms and conditions of this Agreement and in accordance with the Act.

1.2 Interim Financing Only. The Loan is made solely to provide interim financing to finance Borrower's costs to acquire the Property for the Project, as set forth in Attachment B, and any other eligible costs of the Project approved by the OED Director.

1.3 Loan Documentation, Interest and Security. The Loan shall be evidenced by this Agreement and by the Note. Payment of interest and principal shall be made in the amounts and at such times as is set forth in the Note. Any principal or interest outstanding after the date when payment is due shall bear interest at the default rate stated in the Note. The Loan at all times shall be secured by an irrevocable, unconditional letter of credit (the "Letter of Credit") from a bank acceptable to City in its sole discretion, which Letter of Credit shall allow partial drawings and shall be in form and content acceptable to City in its sole discretion, with an available balance at least equal to the sum of the full balance outstanding on the Loan (including principal and accrued interest) plus all interest that will accrue on the principal prior to the due date thereof, plus thirty (30) days' interest on the entire outstanding balance, and with an expiration date at least sixty (60) days after the Maturity Date (as defined in the Note).



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1.4 Method of Payment. Unless otherwise requested by the City, all principal payments and payment of accrued interest shall be made by draw on the Letter of Credit. When any principal payment is due under the Note, whether or not Borrower shall be in default, the City shall have the absolute right, without notice or demand, immediately to draw on the Letter of Credit for the amount of principal and interest then due. If the full principal balance does not become due prior to the Maturity Date stated in the Note, then the City shall endeavor to give Borrower and Bank at least seven (7) calendar days' advance notice of its intent to draw on the Letter of Credit at the Maturity Date stated in the Note, but the failure to give such notice shall not in any way affect the City's right to draw on the Letter of Credit or result in any liability of the City. In addition, in its sole discretion, the City shall have the right, without notice or demand, to draw on the Letter of Credit all or any portion of any principal amount payable or prepaid hereunder, notwithstanding receipt of all or part of such amount from Borrower. In such case, the City shall promptly thereafter return the payment made by Borrower to the extent necessary to avoid duplication in payments.

1.5 Loan Fee. Borrower agrees to pay to City a loan fee of one percent (1%) of the maximum principal amount of the Loan, which shall be due in full on the date of first disbursement of Loan proceeds under this Agreement. Borrower authorizes the City to deduct such fee from the Loan proceeds.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

In order to induce City to make the Loan, Borrower represents and warrants as set forth below in this Article II. Each request for a draw on the Loan by Borrower shall constitute a representation and warranty that the facts set forth below are true and correct as of the execution hereof and as of the date of such request. These representations and warranties shall survive the execution, delivery and performance of the Loan Documents and the repayment of the Loan.

2.1 Authority. Borrower is an entity of the type stated on the first page of this Agreement, duly organized and validly existing under the laws of the State indicated, and has full power and authority to enter into this Agreement, to borrow money as contemplated herein and to execute and carry out the provisions of the Loan Documents. Borrower has not made any change in its articles of incorporation, bylaws, board of directors, or corporate purposes and activities since the date of the information submitted to the City, except as expressly disclosed in writing to OED. The execution, delivery and performance of this Agreement and the Loan Documents have been duly authorized by all necessary action, and no other action of Borrower is required for the execution, delivery and performance of this Agreement or the Loan Documents. This Agreement and the Note constitute valid and binding obligations of Borrower, each enforceable in accordance with their respective terms. The execution, delivery and performance of the



Loan Documents and the transactions contemplated thereby have been duly authorized by all necessary action by Borrower.

2.2 Investigation of Property; No Reliance on City. Borrower has conducted its own thorough investigation of the Property, including without limitation investigations with respect to prior uses and hazardous materials. Borrower is not relying in any way upon any statements or representations made by or on behalf of the City with respect to any of the Property, and Borrower agrees that the City has no obligation to investigate or disclose to Borrower any information that may be in the possession of the City with respect to any of the Property.

2.3 No Litigation. There is no action, suit or proceeding pending, or to the knowledge of Borrower threatened, against or affecting Borrower or relating to the Project or the Property in any court of law or in equity, or before or by any governmental authority contesting the legality of the Project or of any of the terms and conditions of the Loan Documents, or that might adversely affect the ability of Borrower to perform its obligations under any of the Loan Documents.

2.4 Title. Borrower has, or will have upon disbursement of Loan funds for completion of acquisition, clear title to the Property, subject to no material liens or encumbrances except as may be granted to secure the Letter of Credit or as may otherwise be approved by the City in its discretion.

2.5 Covenants, Zoning and Codes. Borrower has complied to date and will continue to comply with all applicable environmental and land use statutes, regulations, ordinances and covenants applicable to Borrower's development and intended use of the Property.

2.6 Project and Application. The description of the Project set forth in Attachment B hereto is an accurate description of the Project. All information contained in Borrower's application for the Loan and all additional information submitted to the City by or on behalf of Borrower in connection with such application is true, complete and correct in all material respects. Borrower represents and warrants that Borrower reasonably expects that each year (beginning upon completion of the Project and continuing for a period of five (5) years), at least eight hundred (800) youths per year, on an unduplicated basis, will be served at the Project.

2.7 Compliance with Documents. Borrower is and will remain in full compliance with all of the terms and conditions of the Loan Documents and any and all other agreements, instruments and other documents affecting the Property or the Project, and no event of default has or shall have occurred and be continuing, which, with the lapse of time or the giving of notice, or both, would constitute such an event of default under any of the foregoing.



**ARTICLE III -- CONDITIONS PRECEDENT TO LOAN DISBURSEMENT;
TIMING AND METHOD OF DISBURSEMENTS**

3.1 Conditions Precedent. No funds shall be considered obligated for any purpose under this Loan Agreement until all conditions to the disbursement of such funds the Borrower shall have satisfied, or waived by the City, in the City's discretion. The City's obligation to perform its duties under this Agreement and to disburse the Loan proceeds shall be subject to the full and complete satisfaction of the following conditions precedent:

(a) Documents. Prior to the first disbursement, the City shall have received fully executed originals of each of the following documents which shall have been duly authorized, executed and delivered by the parties thereto, and shall be in form and content satisfactory to City: this Agreement; the Note; the Letter of Credit; and any and all other documents as City may deem necessary or appropriate with respect to the Loan.

(b) Evidence of Authority; Opinions. Prior to the first disbursement, the City shall have received evidence satisfactory to it that Borrower and the persons signing on behalf of Borrower have the capacity and authority to execute and deliver Loan Documents on behalf of Borrower. If so requested by the City, Borrower shall provide an opinion of legal counsel, in form and content acceptable to the City, addressing the valid existence and status of Borrower, the due authorization, execution, delivery, binding effect and enforceability of the Loan Documents, and the fact that the execution, delivery and performance of the Loan Documents do not violate, cause a default under, or conflict with, any applicable laws or regulations, or any judgments, orders, decrees, agreements or instruments known to such counsel affecting Borrower or the Property. Borrower shall provide or cause the Bank to provide satisfactory evidence of the authority of the individuals executing the Letter of Credit and, if so requested by the City, an opinion of counsel for the Bank as to the valid existence and status of Bank and the due authorization, execution, delivery, binding effect and enforceability of the Letter of Credit.

(c) Conditions to Each Disbursement. The City's obligation to make each disbursement shall be subject to satisfaction of the following conditions:

(1) Receipt by City of any documents and assurances as it may reasonably request or that are required by HUD or any federal, state or county regulatory agency;

(2) City shall have received and have in its possession sufficient Community Development Block Grant funds (which may include CDBG program income), from grant years through and including 2002, and not otherwise required to meet commitments of City, to fund the Loan;

(3) Borrower shall be in full compliance and shall not be in default hereunder or under any other Loan Documents, provided, however, that City may, in its discretion, elect to disburse the Loan proceeds notwithstanding the existence of a default, and the



disbursement shall be deemed to have been made pursuant to this Agreement and shall be secured by the Letter of Credit;

(4) Borrower shall have provided satisfactory documentation that it has paid or incurred costs eligible for Loan funds, and shall have supplied all documentation required by the City to support such costs (including, in the case of payments to contractors, vendors, consultants or service providers, copies of contracts complying with this agreement and invoices acceptable to the City; and in the case of property acquisition, purchase agreements, closing statements and appraisals acceptable to the City);

(5) There shall be no legal or administrative action pending or threatened seeking to enjoin or prevent the Project or operation of the Property as contemplated in the Loan Documents, or contesting the legality of any of the arrangements contemplated by the Loan Documents or any other financing for the Project, and no order, judgment, finding, or ruling of any court or administrative agency shall be in effect that would prohibit, restrain, create reasonable uncertainty as to the legality of, or otherwise adversely affect, the completion of the Project, the funding of the Project as contemplated hereby, or the operation of the Property as contemplated in the Loan Documents.

All conditions to disbursement herein are for the sole protection and benefit of the City, and may be waived in the discretion of the City. No waiver of any condition for purposes of one disbursement shall affect the City's right to withhold further disbursements based on failure to satisfy such condition, nor affect the City's right to pursue remedies at any time for any default.

3.2 Timing and Method of Disbursements. Subject to the terms of this Agreement and the availability of funds, City shall normally disburse funds within seven (7) days after all conditions to disbursement are satisfied hereunder. The City may, at its option, make Loan disbursements directly to vendors or others entitled to payment from Borrower, as indicated by Borrower's request for disbursement, or by checks payable jointly to Borrower and such persons. For acquisition of the Property, the City may, at its option, disburse funds to an escrow agent acceptable to the City that is closing the purchase and sale of the Property, for release upon the recording of the deed to Borrower, the receipt of a closing statement approved by the City, delivery of the Letter of Credit, and such other documentation as the City may require. Unless otherwise agreed in writing by OED, no further Loan disbursements shall be available after September 1, 2002.

ARTICLE IV -- GENERAL LOAN COVENANTS

Borrower covenants and agrees as follows:

4.1 General. From and after the date hereof and so long as any amount remains unpaid on the Note, Borrower covenants and agrees that it will promptly pay principal and interest pursuant to the Note as and when the same becomes due and



payable. Borrower further covenants and agrees that Borrower shall comply with each and every other obligation of Borrower under the Loan Documents and any other agreements or instruments related to the financing and development of the Project.

4.2 Completion of Project; Plan of Development. There shall be no material change to Borrower's plans for development of the Property as described in Attachment B to this Agreement without the prior written approval of OED, in its discretion. Subject to the terms and conditions of this Agreement and applicable laws and regulations, Borrower shall carry out the Project in accordance with Attachment B, including without limitation the schedule set forth therein.

4.3 Call Provision. In addition to, and not in any way to be deemed any limitation upon, City's right to demand repayment of the Loan at any time, City may call the Loan immediately due and payable without notice and may draw on the Letter of Credit, at City's option, if at any time during the term of the Loan without City's prior written approval:

- (a) Borrower sells, transfers or assigns (except for security purposes) all or substantially all of Borrower's interest in the Property, whether voluntarily or involuntarily, or by the operation of law;
- (b) there is not a Letter of Credit securing the Loan that complies strictly with all requirements of this Agreement; or
- (c) there occurs any breach or default under the terms of the Note, this Agreement or any other Loan Document that is not remedied in full within any applicable cure period.

In addition, upon the occurrence of any of the foregoing, City may declare an Event of Default hereunder and exercise its rights and remedies under Article VI.

4.4 Inspections. The City and its representatives shall have the right at all reasonable times during regular business hours (and at any time in the event of an emergency) to enter upon and inspect the Property to determine that the same is in conformity with this Agreement and all laws, ordinances, rules and regulations applicable to Borrower's use of the Loan funds. City shall have the further right, from time to time, to inspect Borrower's books and records relating to Borrower's use of the Loan funds, provided that the City gives Borrower not less than forty-eight (48) hours notice except in any case of investigation of allegations of fraud or misuse of funds. Without limiting the foregoing, Borrower shall permit City to examine and copy all books, records and other papers relating to Borrower's use of the Loan funds to insure Borrower's compliance with this Agreement, the Act and applicable provisions of federal, state, and local laws, ordinances, rules and regulations.



4.5 Compliance with Laws; Notify City of Litigation or Complaints. The Project shall in all respects conform to and comply with all covenants, conditions, restrictions and reservations affecting the Property and with all applicable zoning, environmental protection, use and building codes, laws, regulations and ordinances. Borrower shall comply with all applicable laws and regulations in the development and use of the Property. Borrower shall promptly notify City in writing of all litigation or possible litigation, and of all complaints or charges made by any governmental authority, that affect Borrower, the Project, or the Property.

4.6 Indemnify City. To the full extent permitted by applicable law, Borrower shall indemnify and hold City, its elected and appointed officials and employees, harmless from all liability for any actual or alleged damage or injury of whatsoever nature arising out of or in any way connected with the Project or the Loan, or arising out of Borrower's breach of the provisions of this Agreement, including the cost of defense thereof using counsel approved by City. Borrower's obligation under this section shall apply notwithstanding any acts, omissions or negligence of the City or its officials, employees or agents, except that if RCW 4.24.115 (or successor provision) shall apply to any claim for any such damage or injury, then to the extent required by such statute, (1) this indemnity shall not apply in case of any liability for damages arising out of bodily injury to persons or damage to property caused or resulting from the sole negligence of the City, its agents or employees, and (2) in case of liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Borrower or its agents or employees, this indemnity shall apply only to the extent of Borrower's negligence. City may commence, appear in or defend any action or proceeding purporting to affect the rights, duties or liabilities of the parties hereto, and subject to the limitation in the preceding sentence Borrower shall pay all of the City's costs and expenses incurred thereby, including reasonable attorneys' fees, on demand. This section shall survive execution, delivery and performance of this Agreement, the Note and the Loan Documents and repayment of the Loan.

Borrower waives, solely with respect to the City, its immunity under RCW Title 51, Industrial Insurance. Borrower and City acknowledge that this waiver has been specifically negotiated and that City would not enter into this Agreement absent this waiver.

4.7 Further Actions. Borrower will at any time and from time to time upon request of City take or cause to be taken any action, execute, acknowledge, deliver or record any further documents, opinions, or other instruments as City shall request in order to give effect to the intent of this Agreement, or as the City is required to do or obtain by HUD or other federal, state or county regulatory agency.

4.8 Reporting. Borrower shall deliver an annual financial report to OED, in form acceptable to OED no later than December 31st of each year, for the year then ended. Borrower shall provide, within thirty (30) days after any request from OED, such



additional reports or documents as OED shall reasonably require to document compliance with HUD regulations or with City ordinances and policies, including without limitation the cumulative total of all youths served on an unduplicated basis for the year then ended. Within thirty (30) days after the fifth (5th) anniversary of initial occupancy of the Property, Borrower shall submit a final report including the information stated above for the partial calendar year ended on such fifth anniversary and the cumulative totals of all youths served on an unduplicated basis. All reports submitted shall be complete and accurate in all material respects and shall be supported by sufficient documentation, which shall be provided to OED promptly upon request.

4.9 Use of Property; Conditions on Development; Permitting.

A. The Property shall be held for the sole purpose of the Project and the operation of the Orion Center as described on Attachment B, and shall not be used for any other purpose, nor sold, transferred, or leased without the express written consent of the City, nor in any manner committed to use other than for the purposes described on Attachment B. Borrower shall encumber Property only for the purpose of financing the development of such Property as contemplated in Attachment B.

B. To the extent required by applicable laws or regulations, any development, demolition, or other physical change in the Property shall be subject to review and approval under the National Environmental Policy Act and related laws, and to any conditions or mitigation imposed by the City or other authorities thereunder, in addition to all applicable requirements under the State Environmental Policy Act, City Land Use and Building Codes, and other regulations generally applicable to development of real property.

C. By November 1, 2002, Borrower shall obtain all permits necessary to commence rehabilitation and conversion of the Property to the uses described on Attachment B.

4.10 Documentation of Costs and Other Financial and Record-keeping Requirements.

(a) All costs for which Borrower uses Loan funds shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible, and the City shall have the right to audit the records of the Borrower as they relate to this Agreement, upon reasonable notice. The Borrower also shall:

1. Maintain an effective system of internal control over and accountability for all funds and property supplied and make sure the same are used solely for authorized purposes.



2. Keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which money was expended, as reflected in the Borrower's accounting records. The line item notations must be substantiated by a receipt, invoice marked "Paid," or payroll record.
3. Maintain payroll and financial records for a period of six (6) years after receipt of the final disbursement under this Agreement.
4. Permit inspection and audit of the Borrower's records, and records of any bank account of Borrower, with respect to all matters related to this Agreement, by representatives of the City, the United States, the State Auditor, and any independent auditor at any time during normal business hours and as often as necessary.
5. Inform the City about any funds allocated to the Borrower that the Borrower anticipates will not be expended during the Agreement period and permit reassignment of the same by the City to other agencies.

(b) Borrower shall establish and maintain all financial records and fiscal control systems in a manner to meet the approval of the City Auditor, the State Auditor and the United States. Records and reports submitted shall be satisfactory to meet the approval of the City Finance Director.

ARTICLE V -- REGULATORY PROVISIONS

5.1 Federal Regulations. Borrower acknowledges that the Loan is to be made with federal funds received by City under the Community Development Block Grant ("CDBG") program under applicable regulations of the Department of Housing and Urban Development ("HUD"). Accordingly, Borrower agrees, represents and warrants that Borrower has complied with and shall comply with all applicable federal requirements related to the use of CDBG funds, as applicable, including without limitation applicable provisions of 24 CFR Part 5, subpart A, any applicable provisions of the federal act appropriating such funds, and those set forth below:

(a) Economic Opportunities for Low- and Very Low-Income Persons. Borrower shall comply, and cause all contractors and subcontractors to comply, with all applicable provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, the purpose of which is to ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons, particularly those who are recipients of government assistance for housing. Borrower shall comply, and shall require all contractors and subcontractors to comply, with all applicable provisions of regulations

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issued pursuant thereto by the Secretary of HUD and set forth in 24 C.F.R. Part 135, and with all applicable rules and orders of HUD issued thereunder. Without limiting the foregoing, unless another method of demonstrating compliance has been approved in writing by City or by HUD, Borrower shall comply, and shall cause all contractors and subcontractors to comply, with the applicable numerical goals in 24 C.F.R. Section 135.30. Borrower certifies and agrees that Borrower is under no contractual or other disability that would prevent Borrower from complying with these requirements.

Borrower shall cause the "Section 3 clause" set forth in 24 C.F.R. Section 135.38 to be included in all contracts and subcontracts for the Project. Borrower shall, at the direction of the City, take appropriate action pursuant to any such contract upon finding that the contractor is in violation of regulations issued by the Secretary of HUD in 24 C.F.R. Part 135. Borrower shall not let any contract unless the contractor has first provided Borrower with a preliminary statement of ability to comply with the requirements of these regulations.

(b) Equal Opportunity. Borrower shall ensure compliance with Executive Order 11246, entitled "Equal Opportunity" (3 CFR, 1958-1963 Comp., p. 339), as amended by Executive Orders 11375, 11478, 12086 and 12107, and the regulations issued pursuant thereto, 41 C.F.R. Part 60, which provide that no person shall be discriminated against because of race, color, religion, sex or national origin in all phases of employment during the performance of federal contracts and subcontracts, and Borrower shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training or apprenticeship. The "equal opportunity clause" set forth in 41 C.F.R. Section 60-1.4(a) is hereby incorporated by reference as though fully set forth, with Borrower as "Contractor" thereunder. The equal opportunity clause set forth in 41 C.F.R. Section 60-1.4(b) shall be set forth or incorporated by reference in each "federally assisted construction contract" (as defined in 41 CFR Section 60-1.3, including subcontracts) for the Project, except as expressly exempted under 41 C.F.R. Part 60.

(c) Nondiscrimination. No person shall on the grounds of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds. Borrower shall comply fully with all of the requirements and prohibitions of 24 C.F.R. Section 570.602 and 24 C.F.R. Part 6, implementing the nondiscrimination requirements of Section 109 of the Housing and Community Development Act of 1974, with the requirements of the Fair Housing Act (42 U.S.C. Sections 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and with implementing regulations at 24 CFR Part 107. Borrower shall comply fully with all requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., which provides that no person in the United States shall on the ground of race, color or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving



Federal financial assistance; and with Department of Housing and Urban Development ("HUD") regulations implementing such requirements, 24 C.F.R. Part 1.

Borrower shall comply fully with all of the requirements and prohibitions of the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07) and implementing regulations at 24 C.F.R. Part 146; the Americans with Disabilities Act and regulations thereunder; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and implementing regulations at 24 C.F.R. Part 8. **Borrower shall include, in any instrument effecting or recording any transfer of its interest in the Property, the covenant required by 24 C.F.R. Section 8.50 with regard to compliance with regulations under Section 504 of the Rehabilitation Act of 1973.**

No otherwise qualified handicapped individual in the United States shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(d) Minority and Women's Business Enterprises. Borrower shall comply with, and shall cooperate fully in programs and procedures adopted by the City to comply with, the requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise) and 12138 (concerning Women's Business Enterprise). When procuring property or services wholly or in part with Loan funds, Borrower shall take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible, in accordance with 24 C.F.R. Section 85.36(e)(2), and shall maintain records of those steps. These efforts shall not include any discrimination or preferential treatment contrary to applicable law.

(e) Benefit to Low- and Moderate-Income People. Borrower's development of the Project on the Property shall benefit low- and moderate-income persons (as defined by HUD for CDBG purposes) to the maximum extent feasible. Borrower agrees that over a period of five years beginning upon completion of the Project and initial occupancy of the Property, at least fifty-one percent (51%) of the clients served at the Property shall be "low- and moderate-income persons," as defined in 24 CFR Section 570.3 ("LMIPs"). Borrower covenants that during this period the programs operated at the Property shall serve solely homeless youth, so that the Borrower shall satisfy the conditions to a presumption of benefit to LMIPs under HUD regulations, 24 CFR Section 570.208.

(f) Conflict of Interest; Consultants. Borrower shall ensure compliance with the provisions of 24 C.F.R. Section 570.611, which provide generally that no officer, agent, employee, consultant or elected or appointed official of The City of Seattle or of any subrecipient or designated public agency receiving CDBG funds who exercises or has exercised any functions or responsibilities with respect to activities assisted by CDBG funds or who is in a position to participate in a decisionmaking process or gain inside information with respect to these activities, shall obtain any financial interest or benefit from or have and financial interest in, for himself or herself or those with whom he or she has business or



immediate family ties, any activity funded under this Agreement or any contract or subcontract or agreement with respect thereto or the proceeds thereof; nor shall (s)he, for one year after completion of his or her tenure with the City or such subrecipient or designated public agency, obtain or have any such financial interest or benefit. Borrower represents and warrants that to the best of its knowledge no such person has any financial interest in or benefit from any such existing contract or subcontract or the proceeds thereof, and Borrower shall incorporate in all such contracts or subcontracts a provision prohibiting any such interest or benefit.

No Loan funds may be used to pay or to provide reimbursement for payment of the salary of a consultant at more than the daily equivalent of the rate paid for level IV of the federal Executive Schedule, unless specifically authorized by law.

(g) Debarred Contractors. No portion of the Loan shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund, any contractor during any period of debarment, suspension, voluntary exclusion or placement in ineligibility status of such contractor or subrecipient under the provisions of 24 C.F.R. Part 24. Borrower shall obtain, and shall require contractors and subcontractors to obtain, the certification required by appendix B of 24 CFR part 24 from each prospective contractor or subcontractor on the Project. Borrower represents and warrants that Borrower is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal assistance programs under such regulations or Executive Order 12549, "Debarment and Suspension."

(h) Lead-Based Paint. Borrower shall comply at its sole expense with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846) and 24 C.F.R. Part 35 and Section 570.608, with regard to lead-based paint, and with any and all applicable laws, regulations or standards hereafter enacted or issued with regard to lead-based paint.

(i) Davis-Bacon and Related Acts. The Borrower shall comply and shall ensure that all contractors and subcontractors comply with the Davis-Bacon Act, 40 U.S.C. Section 276a et seq. and regulations thereunder, to the full extent applicable under CDBG regulations. In addition, the Borrower shall comply with all applicable provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 327 et seq.; Copeland Act (Anti-Kickback Act), 18 U.S.C. Section 874; the Fair Labor Standards Act, and regulations under such Acts, including 29 C.F.R. Parts 3 and 5, and with HUD Handbook 1344.1. The requirements include, but are not limited to: language within each contract for construction (including rehabilitation) work; payment of prevailing wages and fringe benefits; the submittal of various documents as evidence of compliance; withholding of funds; equal employment opportunity; and work hours.

(j) Architectural Barriers. Borrower shall ensure that the Property, upon completion of construction, shall comply with the applicable requirements of the Architectural Barriers Act of 1968 (see 42 U.S.C. Sections 4151-57), and shall comply with

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the Uniform Federal Accessibility Standards (Appendix A to 24 CFR part 101-19.6 for residential structures, and Appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

(k) Relocation and Property Acquisition.

A. Borrower represents, warrants and agrees that Borrower has taken and shall take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) in connection with the Project. Borrower represents, warrants and agrees that prior to making an offer for any parcel described on Attachment A: (1) Borrower clearly advised the owner that it lacks the power of eminent domain and therefore is unable to acquire the property in the event negotiations fail to reach an amicable agreement, and (2) Borrower informed the owner of what Borrower believed or believes to be the fair market value of the property. If any such parcel has been in residential use, wholly or in part, then Borrower agrees to comply with the City's Residential Antidisplacement and Relocation Assistance Plan, as the same may be adopted and amended from time to time.

B. Borrower shall provide to City a complete and accurate list of all occupants of each parcel acquired for the Project as of the date that Borrower obtained site control, and a complete and accurate list of all persons occupying such parcel at any time after site control and through the date of full occupancy after construction or rehabilitation.

C. Borrower represents, warrants and agrees that, with respect to all property acquired and to be acquired for the Project: Borrower has provided in a timely manner, and shall provide in a timely manner, all notices, advisory services, payments, and other assistance required so as to comply with each of the following: 24 C.F.R. Part 42 and Section 570.606; the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. Sections 4601-4655, and regulations thereunder, 49 C.F.R. Part 24; HUD's current acquisition and relocation assistance handbook; and any other applicable federal laws or regulations. Borrower shall maintain complete and accurate records demonstrating such compliance.

D. Borrower agrees that any determination by City of the amount of relocation assistance due to any person shall be final and binding upon Borrower, unless a different determination is made by HUD, in which case the HUD determination shall be final and binding on Borrower. Borrower agrees that the City may, at its option, provide relocation assistance directly to any person in connection with the Project and that any payment by the City for such person, at the City's sole option, may be charged against any funds remaining to be disbursed hereunder without any requirement for a draw request by, or consent of, Borrower. If, as a result of any such direct disbursement by the City, the total amount of City funds expended shall exceed the total amount of disbursements for which Borrower is eligible hereunder, then Borrower shall repay such excess to the City on demand.



E. Borrower shall carry out the terms of any relocation plan submitted to and approved by City, but the terms of any such plan shall not limit Borrower's obligations under this Agreement or applicable laws or regulations, and no such approval by City shall be construed as a waiver or modification of any requirement of this Agreement or applicable laws or regulations.

(l) Lobbying. Borrower hereby certifies and agrees as follows, in accordance with 31 U.S.C. § 1352, to the best of its knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of this Section be included in the award documents for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is made a prerequisite for making or entering into this transaction by section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(m) Environmental and Related Laws. Borrower shall ensure that the Project and the use of the Property shall comply with all applicable environmental standards, including without limitation those promulgated under, or that may be prescribed pursuant to, any of the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190), as amended, and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air

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Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205). Borrower shall ensure that the Project and the use of the Property shall comply with all applicable provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); Executive Order 11593; the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.) and all regulations under such acts. No activities on the Property shall involve the demolition or alteration of any structure listed on, or eligible for listing on, the National Register of Historic Places without full compliance with such Acts and regulations.

(n) Disclosures. Borrower represents, warrants and agrees that it has provided to OED any and all disclosures required by the HUD Reform Act, 42 U.S.C. Section 3545, and regulations thereunder, 24 CFR Part 4; that it will provide timely updated disclosures to OED to the extent required by such act and regulations; and that all such disclosures are and shall be complete and accurate.

(o) Records. Borrower shall maintain and make available to the City and HUD all records reasonably required to demonstrate compliance with all of the requirements of this Section, for at least three (3) years after the later of full repayment of the Loan or end of the five-year period stated in 5.1(e) above.

(p) Prior Actions; Indemnity. Borrower represents and warrants that in all actions related to the Project to date Borrower has complied with all requirements referred to in this Section 5.1, and that Borrower has not omitted to take any action that would have been required under the terms of this Section 5.1 had this Agreement been in effect at the time of the Borrower's first actions related to the Project. Borrower shall hold the City harmless from any loss, damage, expense, claim or demand resulting from Borrower's failure to complete the Project, failure to comply with any federal requirement, or failure to maintain adequate records to demonstrate such compliance. This provision shall survive expiration of this Agreement and repayment of the Loan.

5.2 Additional Federal Requirements for CDBG Subrecipient.

Borrower acknowledges that Borrower may be considered a "subrecipient" of CDBG funds under 24 CFR Part 570. Borrower agrees as follows:

A. Program Income. "Program Income" is defined at 24 CFR Section 570.500(a) and includes, without limitation, gross income from the use or rental of property acquired or improved with CDBG funds, less costs incidental to the generation of the income. Borrower shall report all Program Income received in its annual report to the City and shall maintain complete records on all Program Income. Unless specified otherwise in this Agreement, Program Income (as defined in 24 C.F.R. Section 570.500(a)) shall be promptly paid to the City. Payments made on the Loan, by or on behalf of Borrower,



shall be construed to include any Program Income received prior to each such payment, up to the amount of each such payment. All payments of Program Income shall be applied to any balance owing on the Loan. The obligation of Borrower under this subsection A to pay Program Income to the City shall continue until the Loan is repaid in full, and shall then terminate, except that (i) pursuant to 24 CFR Section 570.503(b)(3), at the end of any year, upon the City's request, Borrower shall remit to the City Program Income balances (including investments of Program Income) held by Borrower, after deducting therefrom amounts necessary for Borrower's immediate cash needs; and (ii) to the extent required by 24 CFR Section 570.504, any Program Income on hand when this Agreement expires or received after such expiration, shall be paid to the City. If Borrower receives any Program Income that it is not required to pay to the City under this subsection, the Borrower shall use such Program Income for the development of the Project, or for the costs of the operation of the Property for the purposes described in this Agreement, and all provisions of this Agreement shall apply to the activities for which the Program Income is used.

B. Reversion of Assets. Upon the expiration of this Agreement Borrower shall transfer to City any CDBG funds relating to this Project on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds relating to this Project. Either (i) the Property shall be used solely for the purposes described in Section 5.1(e) and Attachment B to this Agreement, or otherwise to meet one of the national objectives in 24 C.F.R. Section 570.208 in a manner approved by the City, until five years after expiration of this Agreement, or (ii) the Borrower shall promptly pay to the City an amount equal to the current market value of the Property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the Property. Repayments on the Loan not credited against Program Income obligations under subsection A above shall be credited against any obligation under this subsection B. This subsection shall be construed so as to be consistent with 24 CFR Section 570.503(b)(8) and any interpretations thereof by HUD.

C. Cost Accounting and Administrative Requirements; Procurement. Borrower shall comply with those provisions of the following OMB Circulars and Attachments thereto that are applicable pursuant to 24 C.F.R. Section 570.502, as amended:

A-110 - Grants and Agreements with Nonprofit Organizations (implemented at 24 C.F.R. Part 84)

A-122 - Cost Principles for Nonprofit Organizations

A-133 - Audits of States, Local Governments, and Non-Profit Organizations

or applicable successor circulars, and with applicable provisions of 24 C.F.R. Part 85 (HUD's adoption of the "common rule"), as modified, where applicable, by 24 C.F.R. Section 570.502.



D. Procurement. In procuring supplies, equipment, construction and other services with CDBG funds Borrower shall follow procurement policies and procedures that comply with all applicable standards in 24 C.F.R. Part 84, and in 24 C.F.R. Section 85.36. To the extent required by such circulars and regulations, this Section shall survive expiration of this Agreement.

E. Federal Audit Requirements.

If Borrower "expends" \$300,000 or more in a year in Federal awards it shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133. For purposes of this subsection, the amount of Federal awards that the Borrower expends shall be determined in accordance with Circular A-133 and interpretations thereof by the federal Office of Management and Budget. A program-specific audit may be conducted only if Borrower is eligible for such an audit in lieu of a single audit under Circular A-133. The Borrower shall timely and properly prepare all statements and schedules required by Circular A-133. The audit shall be conducted in conformity with Generally Accepted Government Auditing Standards ("GAGAS").

If Borrower "expends" less than \$300,000 in federal funds in any year it is exempt from audit requirements under this Section for that year, but records must be available for review or audit by appropriate officials as provided in Circular A-133 or by State law or City ordinance.

Except as expressly provided in the attached Budget, compliance with this Section shall be at the sole expense of the Borrower. Notwithstanding any allowance in the attached Budget, no audit costs shall be allowable costs if audits required by Circular A-133 have not been made or have been made but not in accordance with Circular A-133. No audit costs shall be allowable for audits not required under Circular A-133, except as expressly provided in Circular A-133. In cases of failure to have a proper audit conducted in accordance with Circular A-133, failure to provide a timely audit report, or failure to take timely corrective action to resolve any findings, Borrower will be subject to appropriate sanction.

Audits shall be done annually. Audits shall be completed within six (6) months of the end of Borrower's fiscal year. A copy of the audit report and all other reporting required by Circular A-133 shall be submitted to the City of Seattle - Office of Economic Development within thirty (30) days after the completion of the audit. In addition to the audit report, Borrower shall provide a copy of the audit management letter and a report of its comments on the findings and recommendations in the report, including a plan for corrective action if necessary. The Borrower shall initiate corrective action to resolve all findings within six (6) months of the receipt of the audit report, and



shall complete the resolution of all findings, consistent with any management decision made by the City pursuant to Circular A-133, as rapidly as possible and in any event no later than twelve (12) months after receipt of the audit report.

The Borrower shall comply with all auditee responsibilities under Circular A-133.

The auditor shall be selected consistent with Circular A-133. Use of small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals is encouraged.

F. Suspension and Termination. Suspension or termination of this Agreement may occur in the event of Borrower's failure to comply with a material term of the Loan Documents and, in accordance with 24 C.F.R. Section 85.44, the Loan may be terminated for convenience.

G. "Expiration". For purposes of this Section, "expiration" of this Agreement shall be the later of the date when the Loan is repaid in full or the date when Borrower has completed the Project and commenced operations at the Property as contemplated by this Agreement. Notwithstanding such expiration, the provisions of this Agreement not then fully performed shall remain in full force and effect, and, in any event, this Agreement shall remain in effect during any period when the Borrower has control of any CDBG funds, including Program Income.

5.3 Certain City Requirements and Policies: Non-discrimination; Equal Opportunity; Affirmative Efforts in Contracting.

(a) Discrimination Prohibited.

During the performance of this Agreement, neither Borrower nor any party contracting with Borrower who would be paid with Loan funds under this Agreement shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, sexual orientation, age or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

The Borrower shall comply and shall require all contractors and subcontractors to comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 of the Revised Code of Washington, Titles VI and VII of the Civil Rights Act of 1964 and Chapters 14.04 of the Seattle Municipal Code.

(b) Fair Employment Practices.



Borrower acknowledges notice of the following excerpted from Seattle Municipal Code Chapter 14.04.020, as amended:

It is declared to be the policy of the City, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal opportunity to all persons, free from restrictions because of race, color, sex, marital status, sexual orientation, gender identity, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical disability.

(c) Nondiscrimination and Affirmative Efforts in Contracting.

Notwithstanding any other provision in this Agreement:

(1) General. City women- and minority-owned business ("WMBE") utilization requirements shall not apply to this Project. The City does not require any minimum level of WMBE subcontractor participation as a condition of awarding any contract and does not require that any preference be given to a bidder or proposer for its WMBE utilization or WMBE status.

(2) Non-Discrimination.

(a) Each party is required to comply with the Fair Contracting Practices Ordinance of the City of Seattle (Ordinance 119601), as amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.

(b) Borrower shall not create, and shall not permit contractors or bidders to create, barriers to open and fair opportunities for WMBEs to participate in contracts for the Project, and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Borrower shall not, and Borrower shall require any contractor to agree that it shall not, in considering offers from and doing business with contractors, subcontractors and suppliers, discriminate on the basis of race, color, creed, religion, ethnicity, sex, age, national origin, marital status, sexual orientation, or the presence of any mental or physical disability in an otherwise qualified disabled person.

(3) Record-Keeping. Borrower shall maintain, for at least twelve (12) months after completion of the Project, all bids or proposals from general



contractors for the Project, and relevant records and information necessary to document level of utilization of WMBEs and other businesses as subcontractors and suppliers on the Project. Borrower shall require that its general contractor maintain and provide to the City on request all written quotes, bids, estimates, or proposals submitted to the contractor by all businesses seeking to participate as subcontractors or suppliers on the Project. The City shall have the right to inspect and copy such records. Borrower and its general contractor shall comply with all record-keeping requirements set forth in any federal rules, regulations or statutes included or referenced in this Agreement or the contract documents.

(4) Affirmative Efforts to Utilize WMBEs. The City encourages the utilization of minority owned businesses ("MBEs") and women-owned businesses ("WBEs") (collectively, "WMBEs"), in contracts funded by the City. The City encourages, and Borrower shall encourage with respect to the Project, the following practices to open competitive opportunities for WMBEs:

- Attending a pre-bid or pre-solicitation conference, if scheduled by the City or Borrower, to provide project information and to inform WMBEs of contracting and subcontracting opportunities.
- Placing all qualified WMBEs attempting to do business in the City on solicitation lists, and providing written notice of subcontracting opportunities to WMBEs capable of performing the work, including without limitation all businesses on any list provided by the City, in sufficient time to allow such businesses to respond to the written solicitations.
- Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including WMBEs.
- Establishing delivery schedules, where the requirements of this contract permit, that encourage participation by WMBEs.
- Providing WMBEs that express interest with adequate and timely information about plans, specifications, and requirements of the contract.
- Utilizing the services of available minority community organizations, minority contractor groups, local minority assistance offices, the City, and other organizations that provide assistance in the recruitment and placement of WMBEs.

(5) Sanctions for Violation. Any violation of any mandatory provision of this subsection (c) (paragraphs (2) and (3)) shall be a material breach of contract for which the Borrower may be subject to damages and sanctions provided for by contract and by applicable law.

5.4 Political Activity.



No portion of the Loan shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or to influence the approval or defeat of any ballot issue or legislation

ARTICLE VI -- DEFAULT AND REMEDIES

6.1 Event of Default. Occurrence of any of the following events shall constitute an Event of Default hereunder:

- (a) Any failure by Borrower to pay when due any principal, interest or other amounts owing to City under any of the Loan Documents;
- (b) If at any time the balance outstanding under the Note and this Agreement is not fully secured by a Letter of Credit strictly satisfying all of the requirements of this Agreement.
- (c) Any breach by Borrower of any of the other non-monetary covenants and conditions of this Agreement which breach is not cured to City's satisfaction within ten (10) working days from the occurrence thereof, provided, that in the event of a nonmonetary breach or default, Borrower which is outside of the control of Borrower and which cannot be cured within said ten (10) working days, Borrower shall have commenced to cure its breach or default within said ten (10) working days and thereafter diligently proceeds to cure its breach or default.
- (d) Any representation, warranty or disclosure made to City by Borrower related to this Loan or the Project proves to be materially false or misleading as of the date when made, whether or not such representation, warranty or disclosure appears in this Agreement.
- (e) A petition in bankruptcy or for reorganization or for an arrangement under any bankruptcy or insolvency law or for a receiver or trustee for any of Borrower's property is filed by Borrower, or is filed against Borrower and is not dismissed within forty-five (45) days, or if Borrower makes an assignment for the benefit of creditors or becomes insolvent or unable to pay its debts as they mature or any attachment or execution is levied against a substantial portion of the property of Borrower and is not discharged within forty-five (45) days.
- (f) There occurs any event which in City's reasonable judgment adversely affects (i) the ability of Borrower to perform any of its obligations hereunder or under any of the Loan Documents; (ii) the business or financial condition of Borrower; or (iii) compliance with the Act.

6.2 Remedies.



(a) Upon the occurrence of an Event of Default, City may, in addition to any other remedies which City may have hereunder or under the Loan Documents or by law, at its option and without prior demand or notice take any or all of the following actions:

- (1) Immediately terminate any further advance of Loan funds hereunder.
- (2) Declare the Note immediately due and payable.
- (3) Draw against the Letter of Credit up to the full amount owing on the Note, and apply the proceeds to the balance owing thereunder, whether or not then due and payable.

(b) All remedies of City provided for herein are in addition to its rights and remedies under the Note. All of the City's rights and remedies in the Loan Documents are cumulative and shall be in addition to all other rights and remedies provided by law, and in addition to all rights and remedies of the City under any other agreements. The exercise of any right or remedy by City hereunder shall not in any way constitute a cure or waiver of default hereunder or under any other Loan Document or invalidate any act done pursuant to any notice of default, or prejudice City in the exercise of any of its rights hereunder or under any other documents. To the full extent permitted by applicable law, the Borrower hereby irrevocably waives the protection of any provision for an automatic stay under the United States Bankruptcy Code.

ARTICLE VII -- MISCELLANEOUS

7.1 No Waiver. No waiver of any default or breach by Borrower hereunder shall be implied from any failure by City to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers of any covenants, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by City to, or approval of, any act by Borrower requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act.

7.2 Successors and Assigns; Assignment. This Agreement is made and entered into for the sole protection and benefit of the City, Borrower, and their respective successors and assigns, and no other person or persons shall have any right of action hereunder, except to the extent that specific provisions grant rights to the State or federal governments. The terms hereof shall inure to the benefit of the successors and assigns of the parties hereto; provided, however, that the Borrower's interest hereunder cannot be assigned or otherwise transferred without the prior written consent of City, in its sole discretion.



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7.3 Notices. Any notice, demand or request required hereunder shall be given in writing at the addresses set forth below by personal delivery, facsimile transmission, or first class mail. The addresses or telephone numbers may be changed by notice to the other party given in the same manner as provided above. If notice is given by mail, it shall be deemed received on the earlier of: (i) if by certified mail, the date of receipt as shown on the return receipt, or (ii) three (3) days after deposit in the U.S. mail. If notice is given by facsimile it shall be effective on the day when the transmission is completed if by 5:00 P.M. Seattle time on any day other than a Saturday, Sunday or City of Seattle holiday, and otherwise on the next day that is not a Saturday, Sunday or City of Seattle holiday.

If to Borrower: YouthCare
2500 NE 54th Street, Suite 100
Seattle, Washington 98105
Attn: Victoria Wagner, Chief Executive Officer
facsimile: 206-694-4509

If to City: Office of Economic Development
City of Seattle
700 Fifth Avenue, Suite 1730
Seattle, Washington 98104
Attn: Director
facsimile: 206-684-0379

7.4 Time. Time is of the essence of all provisions of the Loan Documents.

7.5 Entire Agreement; Amendments; No Commitment to Future Support.
This Agreement and the documents incorporated herein by reference embody the entire Agreement between the City and the Borrower with respect to the Loan that is the subject matter hereof, but this Agreement does not supersede or modify, except as may be expressly stated herein, any obligations of Borrower related to any other agreement or obligation of the Borrower with respect to other funding for the Project or for other activities. No verbal agreements or conversation with any officer, agent or employee of the City before or after the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement or any other Loan Documents. No amendment, modification, or termination of any provisions of this Agreement or of any of the Loan Documents shall in any event be effective unless the same shall be in writing and signed by the City and Borrower. The City makes no commitment of future support and assumes no obligations for future support of the Borrower or the Project.

7.6 Headings. The article and section headings in no way define, limit, extend or interpret the scope of this Agreement or of any particular article or section.



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7.7 Number and Gender. When the context in which the words are used in this Agreement indicate that such is the intent, words in the singular number shall include the plural and vice-versa. References to any gender shall also include the other gender or neutral gender, as appropriate.

7.8 Validity. In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect the validity of the remainder of this Agreement.

7.9 Governing Law; Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, and The City of Seattle, except to the extent federal law applies. This Agreement is the product of negotiation and shall not be construed strictly against the party responsible for drafting this Agreement. Borrower agrees that because the City is not a commercial lender and is providing the Loan, subject to federal regulations, as a temporary use of funds allocated to other CDBG-eligible activities, the City shall not be subject to any standard of commercial reasonableness as to the administration of the Loan, any consents or approvals hereunder, or the enforcement of the Loan Documents.

7.10 Survival. All agreements, representations and warranties made herein and in the Note shall survive the execution and delivery of this Agreement and of the Loan Documents and the making of the Loan hereunder and continue in full force and effect until the obligations of Borrower hereunder and the indebtedness evidenced by the Note have been fully and finally paid and satisfied, regardless of whether the Note is surrendered or marked as canceled or paid in full. In addition, the obligations of Borrower with respect to the development and completion of the Project, the use of the Property for the purposes required hereunder for the period specified in Section 5.1(e), reports to the City, recordkeeping, and federal requirements, shall survive the repayment of the Loan and remain in full force and effect, and other provisions shall survive repayment of the Loan to the extent provided in the Loan Documents.

7.11 Venue and Forum. In the event that any legal action should be filed by either party against the other, the venue and forum for such action shall be the Superior Court of the State of Washington for the County of King.

7.12 Attorney's Fees. In the event either party shall bring an action to enforce the terms and conditions of this Agreement, or if there shall be any legal proceedings involving this Agreement (including without limitation any bankruptcy proceedings), the prevailing party shall be entitled to recover all of its costs and expenses, including, but not limited to, reasonable attorney's fees as determined by the court. "Reasonable attorney's fees" shall include the reasonable value of the services of in-house counsel.

7.13 Effect of Consents and Approvals; Borrower's Obligations Absolute. Any approval granted by the City for purposes of this Agreement shall not constitute, nor waive the requirement for, any other approval that may be required under any other agreement, law, ordinance, or regulation, nor may any such approval be relied upon by

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



any person for any purpose other than compliance with this Agreement. Borrower acknowledges that its plans for the Project are subject to various processes, reviews, and permits, and that the feasibility and cost of the Project may be substantially affected by actions of various City departments, including without limitation determinations on land use and environmental matters (and the timing thereof). Borrower understands and agrees that neither this Agreement nor any authorization or approval of the Loan by the Mayor or City Council constitutes any assurance as to the consistency of the Project with any regulatory requirements or as to the timing or substance of any actions, approvals, or permits desired or required by Borrower for the Project, or any conditions that may be imposed thereon. Borrower irrevocably agrees that its payment obligations under the Loan Documents are absolute and unconditional, and that no action or omission of the City with respect to any of the matters described in this Section, even if untimely or contrary to law, shall in any way give rise to any defense to, or grounds for equitable relief from the strict enforcement of, such obligations. Borrower further irrevocably agrees that no claim, defense, or counterclaim of any nature shall be grounds for any injunction or order restraining the City from drawing upon the Letter of Credit or restraining the Bank from honoring any draw on the Letter of Credit, and that if Borrower shall have any claim or counterclaim concerning any drawing on the Letter of Credit it shall be an adequate remedy for the Borrower to pursue an action at law against the City.

7.14 Duplicate Originals. This Agreement may be executed in duplicate, and if so executed, each of the parties hereto shall receive an original, and each original shall constitute one and the same agreement.

IN WITNESS WHEREOF, the City and the Borrower have executed this Agreement as of the date first written above by and through their duly authorized representatives.

THE CITY OF SEATTLE, a
Washington municipal corporation

By: _____
Print Name: _____
Director, Office of Economic Development

YOUTHCARE,
a Washington nonprofit corporation

By: _____
Print Name: _____
Title: _____

LIST OF ATTACHMENTS

- A. Property Description
- B. Project Description and Schedule



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ATTACHMENT A TO LOAN AGREEMENT
Property Description

The Property is located at 975 John Street, Seattle, Washington and is legally described as follows:

Lots 1 and 2, Block 98 of Denny's D.T. 5th Addition, according to the plat thereof recorded in Volume 1 of Plats, Page 202, in King County, Washington.

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ATTACHMENT B TO LOAN AGREEMENT
Project Description and Schedule

Project Description

YouthCare, a 501(c)(3) not-for-profit, operates the Orion Center, a multi-service outreach center for Seattle area homeless youth. The Orion Center is currently located at 1020 Virginia Street in the Denny Triangle neighborhood. YouthCare seeks to acquire a 41,400 square foot building located at 975 John Street in the South Lake Union neighborhood, for the relocation and expansion of the Orion Center. YouthCare shall renovate and improve such building so as to provide space for the following programs, each of which shall serve homeless youth: daytime drop in center, school program, counseling, employment and computer training, meals program, showers and recreational area.

Low Income Housing Institute (LIHI) will serve as the developer to undertake this project.

Uses of Proceeds

Land and Building Acquisition	\$2,900,000
Interest and Fees	
CDBG Float Loan Fee	\$29,000
Letter of Credit Fee	\$171,000
TOTAL	\$3,100,000

Schedule

YouthCare shall complete the Project by May 15, 2003. YouthCare shall achieve the following key project milestones by the dates listed below:

<input type="checkbox"/> Site acquisition complete	September 1, 2002
<input type="checkbox"/> Finalization of plans and specifications	October 1, 2002
<input type="checkbox"/> Contractor bids	October 1, 2002
<input type="checkbox"/> All necessary permits issued	November 1, 2002
<input type="checkbox"/> Construction begins	November 15, 2002
<input type="checkbox"/> Construction completed	May 15, 2003



State of Washington, King County

City of Seattle
TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on June 24, 2002, 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 624-8344.

ORDINANCE NO. 120840

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 120839

AN ORDINANCE relating to the Downtown Seattle Transit Tunnel ("Tunnel"), authorizing execution of an Agreement with the Central Puget Sound Regional Transit Authority ("Sound Transit") and King County regarding the design, construction, operation and maintenance of the Downtown Seattle Transit Tunnel and related facilities that, among other things, describes how joint bus and rail transit operations will be implemented in the Tunnel by King County and Sound Transit, confirms the authority of Sound Transit and King County to use certain City rights-of-way for public transportation purposes, identifies a funding plan and schedule for completing various downtown Seattle street and traffic improvements to accommodate downtown bus service during and after retrofit of the Tunnel, identifies various payments and other actions to be made or undertaken by one or more parties thereto, and supersedes the Agreement authorized by Ordinance 119945.

ORDINANCE NO. 120838

AN ORDINANCE relating to the Department of Finance to close certain funds and subfunds, to transfer all unexpended and unencumbered balances and other assets and liabilities of such funds and subfunds to other funds; and to abandon certain unexpended appropriations.

ORDINANCE NO. 120837

AN ORDINANCE relating to the processing of use and occupation permit applications and amending Chapter 15.04 of the Seattle Municipal Code to correct an error.

ORDINANCE NO. 120836

AN ORDINANCE relating to the Community Development Block Grant Final Loan Program, authorizing a short-term loan of up to THREE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,100,000) in Block Grant funds to YouthCare, a Washington nonprofit corporation, to finance site acquisition of 870 John Street in the South Lake Union neighborhood for the Orion Center; authorizing amendments to the 2001-2004 Consolidated Plan and 2002 Action Plan to reflect such loan; appropriating funds for the loan and for possible new advances after early repayments, and ratifying and confirming prior acts.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 10, 2002.

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STATE OF WASHINGTON - KING COUNTY

--SS.

147157
PUBLICATIONS
City of Seattle, Clerk's Office

No. TITLE ONLY

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:120836-120840

was published on

7/10/2002

J. Stedman
Subscribed and sworn to before me on

7/10/2002

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

Affidavit of Publication

