

ORDINANCE No. 121456

COUNCIL BILL No. 114875

AN ORDINANCE relating to redevelopment in the Pioneer Square neighborhood; authorizing a loan of federal Section 108 loan proceeds to finance acquisition of the Cadillac Hotel Building at 319 Second Avenue South; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce or subsidize interest on the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; amending Ordinance 120873; and authorizing amendments to the City's 2001-2004 Consolidated Plan to reflect the transactions contemplated by this ordinance.

COMPTROLLER FILE No. _____

Introduced:	APR 19 2004	By:	McIVER
Referred:	APR 19 2004	To:	Finance & Budget
Referred:		To:	
Referred:		To:	
Reported:	4-26-04	Second Reading:	
Third Reading:	4-26-04	Signed:	4-26-04
Presented to Mayor:	4-27-04	Approved:	5/7/04
Returned to City Clerk:	5/7/04	Published:	Suble 11 pg
Vetoed by Mayor:		Veto Published:	
Passed over Veto:		Veto Sustained:	

US5047

Law Department

The City of Seattle--Legislative

Richard J. McDevitt

REPORT OF COMMITTEE

Honorable President:

Your Committee on

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recommend that

Approved ^{AS Americas} J-O RC, NL

4-26-04 Passed 9-0

Committee Chair

mc

Law Department

The City of Seattle--Legislative Department

Richard J. McLean

REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recommend that the same:

Approved ^{As Amended} 9-0 RC, NL

(L)

4-26-04 Passed 9-0

*MC Study
Approved for City of Seattle*

*4/26/04
Final Draft
Approved by
Committee
Revision in
Green Bill to
Formal
Final Draft
(And that got
all done)*

Committee Chair

(S)

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ORDINANCE 121456

AN ORDINANCE relating to redevelopment in the Pioneer Square neighborhood; authorizing a loan of federal Section 108 loan proceeds to finance acquisition of the Cadillac Hotel Building at 319 Second Avenue South; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce or subsidize interest on the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; amending Ordinance 120873; and authorizing amendments to the City's 2001-2004 Consolidated Plan to reflect the transactions contemplated by this ordinance.

WHEREAS, pursuant to Ordinance 120873, in order to support certain eligible activities under the federal Section 108 program, including the acquisition and rehabilitation of certain properties within the City, the City issued a note, without recourse to general funds, for a maximum commitment amount of Fifteen Million Five Hundred Thousand Dollars (\$15,500,000), and entered into a contract with the United States Department of Housing and Urban Development ("HUD") for a Section 108 guaranty of the note and agreements with a custodian (the "Custodian") to establish separate accounts to handle disbursements and receipts, which documents allowed the City to request funds under the note from time to time;

WHEREAS, Ordinance 120873 also authorized loans of a portion of the note proceeds and authorized acceptance of a companion Brownfields Economic Development Initiative Grant in the amount of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) to reduce debt service obligations on such loans;

WHEREAS, under Ordinance 120873, the City made three loans in the cumulative amount of Eight Million Sixteen Thousand Dollars (\$8,016,000) from the proceeds of the City's note, to borrowers 211 First Avenue Building, L.P. (211 First Avenue), Buttnick Building, L.P. (Buttnick Building) and Triad City Loan LLC (City Loan Building); and

WHEREAS, Ordinance 121201 authorized a loan in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000) from the note proceeds to The Compass Center, a Lutheran Organization; and

WHEREAS, in order to fix the interest rate on the portion of the City's note used to fund the first three loans through a public offering of participation interests in notes issued by several jurisdictions under similar HUD guarantees, and in order to revise the schedule of repayments, the City issued a replacement note in the maximum commitment amount of \$7,484,000, representing the portion of the \$15.5 million not drawn for the first three loans ("Replacement Note"), on which the balance now outstanding is approximately \$970,000, representing the loan to the Compass Center less a partial repayment made with Community Development Block Grant funds provided by the City under a separate

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2 agreement, and approximately \$6,184,000 remains available to draw on the Replacement
3 Note;

4 WHEREAS, the Cadillac Hotel Building at 319 Second Avenue South was severely damaged in
5 the Nisqually Earthquake and its rehabilitation will assist community and economic
6 development in the City;

7 WHEREAS, Historic Seattle Preservation and Development Authority, a Washington public
8 authority chartered by the City ("Historic Seattle"), organized Cadillac Preservation LLC,
9 a Washington limited liability company, which has acquired the Cadillac Building using
10 interim financing, Historic Seattle will acquire the property directly from Cadillac
11 Preservation LLC, and Historic Seattle has also organized Cadillac Rehabilitation LLC, a
12 Washington limited liability company, to raise capital from private investors with the
13 assistance of federal income tax credits to rehabilitate the property;

14 WHEREAS, the Director of the Office of Economic Development and the City's Loan
15 Committee have approved a loan in the amount of Two Million Forty Thousand Dollars
16 (\$2,040,000) from the proceeds of the City's Replacement Note and a companion BEDI
17 Grant in the amount of Two Hundred Thirty Thousand Three Hundred Twenty-Three
18 Dollars (\$230,323), to Historic Seattle to finance site acquisition costs of 319 Second
19 Avenue South in the Pioneer Square neighborhood; and

20 WHEREAS, the City's participation in the Section 108 loan guaranty program and the
21 expenditure of guaranteed loan proceeds hereunder is authorized by RCW 35.21.735;
22 and

23 WHEREAS, the Office of Economic Development has given public notice of the proposed loan
24 and the City Council has held a public hearing with respect to the proposed loan;

25 NOW, THEREFORE,

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

27 Section 1. The Mayor or the Director of the Office of Economic Development ("OED
28 Director") is authorized, on behalf of The City of Seattle, to lend and cause the disbursement of
up to Two Million Forty Thousand Dollars (\$2,040,000) from the proceeds of the City's
Replacement Note, a copy of which is filed in Clerk's File 306584, to Historic Seattle

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2 Preservation and Development Authority, a Washington public authority chartered by the City
3 ("Obligor"), pursuant to the Loan Agreement authorized in Section 2 of this ordinance, to finance
4 the acquisition of the real property ("Property") at 319 Second Avenue South in the Pioneer
5 Square neighborhood. The Mayor or the OED Director is further authorized, on behalf of The
6 City of Seattle, to cause there to be drawn from the federal treasury and deposited in the Special
7 Purpose Grants Fund, No. 17820, companion Brownfields Economic Development Initiative
8 ("BEDI") Grant funds in the amount of Two Hundred Thirty Thousand Three Hundred Twenty-
9 Three Dollars (\$230,323), and pursuant to the appropriation in Section 4 of this ordinance, to
10 cause the disbursement of such amount for the benefit of Obligor, for the purposes of reducing or
11 subsidizing interest obligations on the Section 108 loan. The amount of such BEDI Grant funds
12 is based on the ratio of the maximum amount of the Section 108 loan (\$2,040,000) to the
13 maximum proceeds of the City's original Section 108 note and Replacement Note (i.e.,
14 \$15,500,000).

15
16 Section 2.

17 (A) The Mayor or the OED Director is authorized, on behalf of The City of Seattle, to
18 execute, deliver, administer and cause to be performed: (1) a Loan Agreement with the Obligor
19 based on the form attached as Exhibit B to this ordinance and the terms outlined on pages 2 and 3
20 of the Loan Proposal attached as Exhibit C to this ordinance, with such additions and
21 modifications as HUD may require or the Mayor or OED Director may deem necessary or
22 advisable to carry out the purposes of this ordinance; and (2) such amendments and related
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documents as the Mayor or OED Director may deem necessary or advisable to carry out the purposes of this ordinance. The Section 108 loan shall be secured by one or more deeds of trust, in form and content acceptable to the OED Director, against the Property and against other property of Obligor. Each such deed of trust may be subordinated to one or more other mortgages or deeds of trust. The provisions for security shall be designed with the intent that, upon reduction of senior mortgage debt from completion of tax credit equity financing, there will be a loan-to-value ratio no higher than 80%, computed at the time of project stabilization (i.e., achievement of a debt service coverage ratio of 1.2) by dividing the total principal amount of debt secured by such senior mortgages and deeds of trust, together with the principal amount of the Section 108 loan, by the total fair market values of all such properties (or the interests therein subject to the City's deeds of trust, as applicable). The Section 108 loan shall also be recourse to Obligor.

(B) Without limiting the authority in this Section, the Mayor and OED Director is each authorized: (1) to allow the Obligor to grant a master lease of the Property, and convey all rights in the building thereon, to Cadillac Rehabilitation LLC, subject to the City's deed of trust; (2) after substantial completion of rehabilitation of the Property, and in order to facilitate a sale of the Property or an interest therein to the federal government, to cause the City's deed of trust on the Property to be released and reconveyed in whole or in part, and to accept modified or substitute security in the Obligor's or Cadillac Rehabilitation LLC's remaining interests in the Property, or both, provided that the Mayor or OED Director determines in his or her judgment that the City will have security satisfying the 80% loan-to-value limit at the time of project stabilization; and (3) to amend the loan terms, in connection with any conversion of the Replacement Note or a portion thereof to fixed rates, so that BEDI Grant funds or accumulated

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2 reserves from Obligor payments, or both, may be made available to reduce effective interest
3 obligations of the Obligor after such conversion, on such terms and conditions as the Mayor or
4 OED Director may negotiate.

5 Section 3. The Loan Agreement shall provide, consistent with HUD regulations, that
6 the Obligor shall take affirmative steps to assure that minority and women's business enterprises
7 are used when possible, that Obligor shall maintain records of those steps, and that nothing in the
8 Loan Agreement shall be construed to require or authorize any discrimination or preferential
9 treatment contrary to applicable law.

10 Section 4. To the extent that BEDI Grant funds (in addition to BEDI Grant funds
11 previously received and disbursed under Ordinances 120873 and 121201), are received by the
12 City in the Special Purpose Grants Fund, the appropriation for the following in the 2004 Budget
13 is increased from the fund shown, as follows:
14

15

Fund	Department	Budget Control Level	Amount
Special Purpose Grants Fund, No. 17820	Office of Economic Development	6XD20	\$230,323 (BEDI Grant funds)

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19 Section 5. The Amendment to Contract for Loan Guarantee Assistance between the
20 City and HUD dated as of August 21, 2003, and the issuance of the Replacement Note, each is
21 hereby ratified and confirmed. The revised maturity schedule for the combined original Section
22 108 note issued under Ordinance 120873 and the Replacement Note, attached to this ordinance
23 as Exhibit A, is hereby approved. The Mayor or OED Director is further authorized to
24 implement the terms of the Contract for Loan Guarantee Assistance, as so amended, and the
25 Loan Agreement, and to negotiate and execute such additional amendments and agreements and
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2 perform such other acts as the Mayor or OED Director deem necessary or advisable to carry out
3 the purposes of this ordinance and to implement the Section 108 loan guaranty. The additional
4 amendments and agreements authorized by this Section 5 shall be in the form and contain such
5 terms and conditions as the Mayor or OED Director may deem necessary or advisable to carry
6 out the purposes of this ordinance.

7 Section 6. The Mayor or OED Director may require the Obligor to pay a loan
8 origination fee of no more than one percent (1%) of the loan amount, i.e., no more than Twenty
9 Thousand Four Hundred Dollars (\$20,400). Such fee shall be paid directly to the Custodian to be
10 held in trust for the purposes set forth in this Section 6. The OED Director is authorized to cause
11 all of this fee to be disbursed to the National Development Council for consulting services
12 related to the loan authorized hereby, in accordance with the City's existing contract with the
13 National Development Council.

14 Section 7. The City's 2004 Action Plan Worktable, as added to its 2001-2004
15 Consolidated Plan by Ordinance 121318, is amended by replacing the entry for "Cadillac Hotel"
16 with the information on Exhibit D to this ordinance. The Director of the Human Services
17 Department ("HSD Director") is authorized to (a) further amend the City's 2001-2004
18 Consolidated Plan, including the 2004 Action Plan, to reflect the transactions contemplated by
19 this ordinance and (b) provide OED with technical assistance to ensure compliance with
20 Community Development Block Grant ("CDBG") regulations applicable to the Section 108 loan
21 program. The Mayor, OED Director, and the HSD Director are authorized to take such other
22 actions as they shall deem necessary to implement the actions authorized by this ordinance.
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Section 8. Section 3 of Ordinance 120873 is hereby amended as follows:

Section 3. The Mayor or OED Director is authorized, on behalf of The City of Seattle, to execute, deliver, administer and cause to be performed Loan Agreements with the Goodman Entities, and with other borrowers to which loans of Note proceeds shall be approved by any later ordinance (the Goodman Entities and any such other borrowers are collectively referred to as "Obligors"), each based on the form attached as Exhibit F, or such other form as may be authorized by ordinance, with such additions, modifications, and amendments as HUD may require or the Mayor or OED Director may deem necessary or advisable to carry out the purposes of this Ordinance, together with such ancillary and related documents as the Mayor or OED Director may deem necessary or advisable to carry out the purposes of this Ordinance. Such modifications may include, without limitation, provision for an interest rate payable by each Obligor that may be at a rate higher than or different from that interest rate payable on the Note; provisions establishing, adjusting or eliminating a periodic monitoring fee or a similar fee payable by the Obligors, or both. Each loan((s)) to an Obligor shall be secured by a ((~~first lien position~~)) deed of trust, in form and content acceptable to the OED Director, against the property being acquired and improved with such loan. The loans to the Goodman Entities shall also be secured by an unconditional guaranty of payment and performance from John A. Goodman in form and content acceptable to the OED Director. Moreover, the Loan Agreements shall provide, consistent with HUD regulations, that the Obligors shall take affirmative steps to assure that minority and women's business enterprises are used

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2 when possible, and shall maintain records of those steps, and that nothing in the
3 agreement shall be construed to require or authorize any discrimination or preferential
4 treatment contrary to applicable law. Disbursement of such loan proceeds for the costs of
5 renovation of each Obligor's project to be funded from proceeds of the Note shall be
6 governed by a construction disbursement agreement for the benefit of the City in form
7 and content acceptable to the OED Director.

8 Section 9. This ordinance is not intended to create, and shall not be construed to
9 create, any contractual or otherwise binding obligation upon, or commitment by, the City for the
10 benefit of Obligor, Cadillac Rehabilitation LLC or any other party interested in the acquisition or
11 rehabilitation project. The commitments to the Obligor authorized by this ordinance, subject to
12 the limitations herein and under applicable law, shall become effective only if and when the
13 agreements authorized hereby are duly executed and delivered by the City and other necessary
14 parties.

15
16 Section 10. Project Advisory Committee. There is hereby established a Project
17 Advisory Committee ("Committee") for the Cadillac Hotel Building redevelopment project
18 ("Project"), with the composition, functions and duties set forth in this Section.

19 (a) Purposes; Advisory Capacity. The purposes of the Committee are to evaluate the
20 status of the Project prior to disbursement of the Section 108 Loan funds; to monitor progress of
21 the Project; to report to the OED Director, the Mayor and the City Council on the progress of the
22 Project; and to make recommendations. The Committee's functions are advisory only, and
23 nothing in this Section shall in any way limit or modify the authority granted in this ordinance or
24 otherwise to the OED Director or Mayor, nor in any way affect the application of regulatory
25 ordinances to the Project.
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2 (b) Composition. The Committee will consist of the OED Director, the Chair of the City
3 Council Finance and Budget Committee, the Director of the Department of Finance, the Block
4 Grant Administrator in the Human Services Department, or their respective designees (who shall
5 be City employees), and any other City officials with knowledge and expertise involving
6 construction projects who may be designated by a majority of the Committee members. The
7 Office of Economic Development shall provide such support staff for the Committee as the
8 Committee deems necessary. The Committee may, as it deems useful, permit or cause persons
9 with specialized expertise to consult with members of the Committee and to attend all or any of
10 the proceedings, meetings or activities of the Committee. Committee members shall not receive
11 any compensation for service on the Committee other than their regular salaries and benefits.

12
13 (c) Meetings. The Committee shall meet prior to the disbursement of the Section 108
14 Loan proceeds to review the status of the Project, including its contracting, financing, leasing,
15 permitting, budget and financial projections. Based on such review the Committee shall make a
16 recommendation to the OED Director as to whether to proceed with funding and whether any
17 conditions should be satisfied, or additional documentation obtained, prior to such funding.
18 After funding, the Committee shall meet no less frequently than monthly and, based upon reports
19 from the Obligor and from staff, shall evaluate the status of the Project, including: (1) whether
20 Cadillac Rehabilitation LLC is making sufficient progress in developing the Project consistent
21 with the budget for the Project and the deadlines in the Loan Agreement and other financing
22 documents; and (2) whether the Project is being developed substantially in accordance with
23 approved plans and specifications.
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2 (d) Reviews. The Committee shall review or cause to be reviewed monthly reports
3 from the Obligor and/or Cadillac Rehabilitation LLC and any additional information the
4 Committee may reasonably request on the cost, design and progress of the Project and on the
5 financing, leasing and contracting arrangements for the Project.

6 (e) Recommendations. The Committee shall recommend to the OED Director,
7 Mayor and/or City Council such actions as it deems advisable or warranted if the Committee
8 finds that: (1) there may not be sufficient financing to complete the Project or to achieve the
9 permanent financing structure contemplated; or (2) sufficient progress on the Project is not being
10 made; or (3) the Property is not being rehabilitated in accordance with the approved plans and
11 specifications; or (4) the Obligor is in default; or (5) there are developments that create a
12 significant risk of default by the Obligor.

13 (f) Dissolution of Committee. The Committee shall be dissolved without any action
14 on the part of the City or the Committee upon certification by the OED Director that the Property
15 has received a final certificate of Occupancy, that Cadillac Rehabilitation LLC and Obligor have
16 completed permanent financing with the City's Deed of Trust in second lien position on the
17 Property and in first lien position on the Dearborn House, and the Property has achieved 90%
18 occupancy.

19
20 Section 11. Any act pursuant to the authority and prior to the effective date of this
21 ordinance is hereby ratified and confirmed. If any provision of this ordinance is determined to be
22 invalid or unenforceable the remainder shall nonetheless remain in full force and effect.

23
24 Section 12. This ordinance shall take effect and be in force thirty (30) days from and
25 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
26 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of April, 2004, and signed by me in
open session in authentication of its passage this 26th day of April, 2004.

[Signature]
President _____ of the City Council

Approved by me this 7 day of May, 2004.

[Signature]
Gregory J. Nickels, Mayor

Filed by me this 7 day of May, 2004.

[Signature]
City Clerk

(Seal)

Exhibits:

- A. Revised Schedule of Maturities
- B. Form of Loan Agreement
 - Attachment A Legal Description for Property [omitted]
 - Attachment B Description of Project [omitted, see Ex. C to Ordinance]
 - Attachment C Form of Obligor Note
 - Exhibit 1: Schedule of Obligor Note Payment Dates
 - Exhibit 2: City Note [omitted, see Clerk's File 306584]
- C. Loan Proposal
 - Exhibits I-VIII [omitted, available in City Clerk's File 306584]
- D. 2004 Action Plan Amendment

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EXHIBIT A TO ORDINANCE

Revised Maturity Schedule for
Original City Note and Replacement Note Combined (\$15,500,000)

Principal Due Date	Amount of Principal
August 1, 2004	\$330,000
August 1, 2005	\$36,000
August 1, 2006	\$211,000
August 1, 2007	\$237,000
August 1, 2008	\$263,000
August 1, 2009	\$314,000
August 1, 2010	\$365,000
August 1, 2011	\$416,000
August 1, 2012	\$480,000
August 1, 2013	\$551,000
August 1, 2014	\$640,000
August 1, 2015	\$723,000
August 1, 2016	\$841,000
August 1, 2017	\$940,000
August 1, 2018	\$1,020,000
August 1, 2019	\$1,094,000
August 1, 2020	\$1,190,000
August 1, 2021	\$1,287,000
August 1, 2022	<u>\$4,562,000</u>
Total: \$15,500,000	

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EXHIBIT B TO ORDINANCE

LOAN AGREEMENT

between

HISTORIC SEATTLE PRESERVATION AND DEVELOPMENT AUTHORITY

and

THE CITY OF SEATTLE

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LOAN AGREEMENT

THIS LOAN AGREEMENT (as supplemented or amended from time to time, and including all documents and terms incorporated herein by reference, the "Agreement"), dated as of _____, 2004, is entered into by and between HISTORIC SEATTLE PRESERVATION AND DEVELOPMENT AUTHORITY, a Washington public corporation (hereinafter called "HSPDA" or "Obligor") and THE CITY OF SEATTLE, a Washington municipal corporation (hereinafter called "City").

RECITALS

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

A. Obligor will purchase the real property described in Attachment A, attached hereto and made a part hereof by this reference (the "Property"), from Cadillac Preservation LLC, a Washington limited liability company controlled by HSPDA that acquired the Property in November 2002. Obligor will use the proceeds of the Loan (described in Section 1.1 below) to purchase the Property. Obligor intends to cause the rehabilitation of the Property as part of an economic development project described in Attachment B, attached hereto and incorporated herein by this reference (the "Project"). In order to implement such Project the Obligor intends to grant a long-term ground lease or master lease on the Property ("Ground Lease") to Cadillac Rehabilitation LLC, a Washington limited liability company ("LLC") of which Obligor is the managing member.

B. The United States Department of Housing and Urban Development ("HUD") has agreed to guarantee a non-recourse note or notes (as supplemented or amended from time to time, and together with any replacements thereof issued by the City and guaranteed by HUD pursuant to the HUD Contract described below, the "City Note") issued by City in part to fund the Loan, in accordance with Section 108 of the Housing and Community Development Act of 1974, as amended (such Act and the federal regulations promulgated thereunder are hereinafter collectively called the "Act"). As of the date hereof, the City Note is a Variable/Fixed Rate Note, no. B-02-MC-53-0005 in the maximum commitment amount of \$7,484,000, which is one of two notes that are the subject of a Contract for Loan Guarantee Assistance between the City and HUD (as amended by an Amendment dated August 21, 2003 and as it may be further supplemented or amended from time to time, the "HUD Contract") and certain Letter Agreements for Section 108 Guarantee Program Custodial Account (as supplemented or amended from time to time, the "Letter Agreements") among the City, HUD and JPMorgan Chase Bank (hereinafter referred to, with any successors under such agreement or successor agreement, and in its capacity as trustee in connection with the BEDI Grant Reserve Account, as "Custodian"). City has also entered into an Indenture of Trust and Custodial Agreement with the Custodian (as supplemented or amended from time to time, together with any substitute therefor in accordance with Section 7.2 below, the "Custodial Agreement"), which provides for, among other things, the Custodian to hold certain security for the City Note on behalf of HUD and for the establishment and management of certain accounts pursuant to the HUD Contract and Letter Agreements. The HUD Contract is entered into pursuant to an application submitted to HUD by the City dated June 18, 2002, a copy of which

Obligor has received and reviewed (as supplemented or amended from time to time, the "Application"). The Application, HUD Contract, Letter Agreements and Custodial Agreement are incorporated herein by this reference. Unless the context otherwise provides, capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the HUD Contract or City Note, as applicable.

C. The Office of Economic Development of the City ("OED") is responsible within The City of Seattle for making, subject to City Council approval, loans of funds obtained from HUD by pledges of Community Development Block Grant ("CDBG") funds to be made available to the City by HUD, pursuant to the Act. Unless the City otherwise notifies Obligor, in writing, the OED shall be responsible for performance of the obligations of the City under this Agreement and the other Loan Documents, and for oversight of performance of such agreements by Obligor, and references hereinafter made to the City shall be deemed to mean the City, acting through OED. The Director of OED, or his or her duly authorized designee, and any official of the City succeeding to the functions of such Director, is referred to herein as the "OED Director."

D. The Loan shall be evidenced by this Agreement and by Obligor's Promissory Note ("Obligor Note") in the form attached hereto as Attachment C and hereby incorporated by reference, and together with Obligor's other obligations under the Loan Documents, secured by a Deed of Trust, Assignment of Leases and Rents and Security Agreement with Fixture Filing in the form and content acceptable to the City (as supplemented or amended from time to time, and together with any other assignments of leases, tenant estoppels, subordination and attornment agreements delivered in accordance with this Agreement, the "Deed of Trust") on the Property, dated on or about the date hereof. The Obligor Note, this Agreement, the Deed of Trust, the Certificate and Indemnity (defined in Section 3.1 of this Agreement), the Dearborn Deed of Trust (defined in recital E below) and any other documents or instruments executed by Obligor in favor of City pursuant hereto, are collectively referred to herein as the "Loan Documents". Where the context so requires, to the extent that the Loan Documents provide that Obligor's obligations or duties thereunder are determined by reference to any terms or provisions of documents incorporated by reference in any of the Loan Documents, any reference to the "Loan Documents" shall include such terms or provisions.

E. The Obligor's obligations under this Agreement and the other Loan Documents shall be further secured by a deed of trust granted by HSPDA ("Dearborn Deed of Trust") on certain real property located at 1117 Minor Avenue, Seattle, WA ("Dearborn House") and by the assignment of any additional collateral as required by the provisions of this Agreement or by HUD. Moreover, the loan shall be recourse to HSPDA.

F. The portion of principal on the City Note that is scheduled to become due and payable in any year, equal to that portion of principal on the Obligor Note scheduled to become due in the same year, is referred to as the "Corresponding Advance" to such portion of principal on the Obligor Note, and the aggregate of all Corresponding Advances is referred to as the "Corresponding Portion" of the City Note.



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

G. In order to stabilize, to the extent described herein, Obligor's effective interest obligation with respect to the Loan at a rate equal to four and one-half percent (4.5%) per annum, the City will transfer funds in the maximum aggregate amount of Two Hundred Thirty Thousand Three Hundred Twenty-Three Dollars (\$230,323), derived solely from a BEDI Grant made by HUD for such purposes, to the Custodian, for deposit into a reserve account (the "BEDI Grant Reserve Account") to be established at Closing and held as a pledged account securing repayment of the Loan and City Note, subject to application as an interest subsidy on the Loan from time to time.

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 hereto agree as follows:

ARTICLE I - THE LOAN

1.1 The Loan. In reliance upon Obligor's representations and warranties, and subject to the terms and conditions contained in this Agreement, the other Loan Documents, the HUD Contract, the Letter Agreements and the Custodial Agreement, the City hereby agrees to cause funds to be advanced to Obligor through the Custodian (which advances collectively shall constitute the "Loan") in a maximum aggregate principal amount equal to Two Million Forty Thousand Dollars (\$2,040,000), solely for the purposes set forth in Section 1.2 below. Loan disbursements shall be made only to the extent of available funds received by the Custodian for such purposes through issuance by the City of the City Note, and except with respect to the payment of interest from BEDI Grant funds allocated for such purpose as more particularly described in Section 4.6(b) of this Agreement and the Custodial Agreement, the City shall have no obligation to make disbursements to or for the benefit of Obligor for acquisition of the Property, payment of costs of the Project or otherwise, from any other source. Obligor shall have the right to receive Loan funds only pursuant to the terms and conditions of this Agreement and in accordance with the Act.

1.2 Purpose of Loan. Loan proceeds shall be used by Obligor solely for the costs of acquiring the Property and related financing costs in accordance with this Agreement.

1.3 Loan Documentation; Interest.

(a) Loan Documentation. The Loan shall be evidenced by this Agreement and by the Obligor Note, and together with Obligor's other obligations under the Loan Documents, shall be secured by the Deed of Trust and the Dearborn Deed of Trust.

(b) Principal and Interest. The principal of and interest on this Loan shall be due and payable in accordance with the terms set forth in the Obligor Note.



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(c) Consent to Conversion. The City agrees not to request or consent to conversion of the interest rate on the Corresponding Portion of the City Note to a fixed rate or rates, without the prior written consent of the Obligor. In addition, Obligor acknowledges and agrees that under the HUD Contract, HUD will have the unilateral right (with or without notice to or consent of the City or Obligor) to require that the City Note be included in a Public Offering, which will result in fixing the interest rate payable on each maturity of the City Note and on each Corresponding Advance under the Obligor Note at a rate determined by the Public Offering. If the Corresponding Portion of the City Note shall be included in a Public Offering without the written request or consent of the Obligor, then the conversion of interest rates on the Obligor Note resulting therefrom shall be an "Involuntary Conversion" for purposes of this Loan Agreement, and the City shall so notify the Custodian in writing. Notwithstanding any request by the Obligor, the City shall not be obligated to request that the City Note or the Corresponding Portion thereof be included in any Public Offering.

1.4 Security.

(a) Deed of Trust. The obligations of Obligor under the Loan Documents at all times shall be secured by the Deed of Trust, which shall be a lien on the Property and security interest in all personal property associated with the Property, subject only to encumbrances permitted in accordance with Sections 2.4 and 7.16 below, and subject to any other encumbrances, modifications, partial releases or substitutions of security that the OED Director may authorize in writing, in the discretion of the OED Director. The liens and security interests granted pursuant to the Deed of Trust shall be perfected, to the extent possible, by recording in the real property records of King County, Washington, and by filing with the Department of Licensing of the State of Washington, and Obligor agrees to take all action reasonably requested by the City or Custodian, and to pay all fees and costs reasonably required to continue such perfection so long as the Loan or any of Obligor's other obligations under the Loan Documents remain outstanding. The Deed of Trust shall include an assignment of leases and rents; however, upon request by the City, the Obligor agrees to obtain execute and deliver such additional assignments of leases, and consents to assignment and subordination and attornment agreements from individual tenants of the Property as the City may reasonably request prior or subsequent to Closing (defined in Section 4.1 of this Agreement). Obligor understands and agrees that City may assign the Deed of Trust to HUD as security for HUD's rights in connection with its guarantee of all notes of the City that are subject to the HUD Contract.

(b) Dearborn Deed of Trust. The obligations of Obligor under the Loan Documents at all times shall be secured by the Dearborn Deed of Trust, subject only to a deed of trust in favor of Impact Capital until November 30, 2004 (or as such date may be extended with the consent of the City); any encumbrances in favor of the City, Special Exceptions Nos. _____ as shown on schedule B of the pro forma Commitment for Title Insurance issued by _____ Title Insurance Company dated _____ ("Dearborn House Commitment"); liens for property taxes or assessments on Dearborn House not yet due; and any other liens approved in writing by the City and, to extent required by the HUD Contract, HUD. The liens and security interests granted pursuant to the Dearborn Deed of Trust shall be perfected, to the extent possible, by recording in the real property records of King County, Washington, and by filing with the Department of



Licensing of the State of Washington, and Obligor agrees to take all action reasonably requested by the City or Custodian, and to pay all fees and costs reasonably required to continue such perfection so long as the Loan or any of Obligor's other obligations under the Loan Documents remain outstanding. The Dearborn Deed of Trust shall include an assignment of leases and rents; however, upon request by the City, the Obligor agrees to obtain execute and deliver such additional assignments of leases, and consents to assignment and subordination and attornment agreements from individual tenants of Dearborn House as the City may reasonably request prior or subsequent to Closing (defined in Section 4.1 of this Agreement). Obligor understands and agrees that City may assign the Dearborn Deed of Trust to HUD as security for HUD's rights in connection with its guarantee of all notes of the City that are subject to the HUD Contract.

(c) Reserve Accounts. Obligor's obligations under the Loan Documents also shall be secured by all funds and investments in all of the accounts now or hereafter established under the Loan Documents, including without limitation, the Custodial Agreement, relating to the Obligor and specifically including without limitation, the respective subaccounts related to the Obligor Note in the Guaranteed Loan Funds Account, the Guaranteed Loan Funds Investment Account, the Loan Repayment Account, the Loan Repayment Investment Account, and the BEDI Grant Reserve Account (all such accounts are collectively referred to herein as the "Reserve Accounts," and to the extent that the Custodian maintains any account for the purpose of more than one loan, all references to any such account, unless the context clearly requires otherwise, shall refer to the subaccount thereof related to the Obligor Note). Obligor hereby pledges to the City, and grants the City a security interest in, all right, title and interest of Obligor, if any, in and to the funds and investments now or hereafter in the Reserve Accounts, and all earnings thereon and proceeds thereof. Obligor agrees that such funds and other assets shall constitute "cash collateral" as described in the United States Bankruptcy Code. Obligor shall promptly take such actions as shall be reasonably requested by the City or Custodian, and pay all fees and costs reasonably required in order to perfect and continue perfection as a first priority lien and security interest, so long as the Loan remains outstanding, the City's security interest in such accounts, the funds and investments therein, and the proceeds thereof. Obligor agrees that, in addition to all other rights and remedies with respect to Reserve Accounts and otherwise under the Loan Documents, immediately upon acceleration of the balance owing on the Loan, whether upon an Event of Default or any other circumstance permitting acceleration, the City shall have the absolute right, without notice or demand, to apply all funds and assets pledged under this Section to amounts owing under the Loan Documents, and for such purpose to liquidate or cause to be liquidated any investments in any commercially reasonable manner, and irrevocably authorizes any Custodian, upon notice from the City of an Event of Default or any other circumstance permitting acceleration, to comply with the City's directions to so apply any or all such funds and assets and to liquidate investments for such purpose.

(d) Recourse Loan. The Loan shall be made with full recourse to the Obligor and the corporate assets of Obligor.

(e) Proceeds of Transfers. Upon any transfer of any interest in the Property permitted by the City pursuant to this Loan Agreement, the City shall have a security interest in all proceeds, rents, receivables, notes, and security for any of the foregoing, resulting from such



transfer, and/or resulting from any use of proceeds, and Obligor shall execute and deliver promptly to the City all documents requested by the City in order to establish, continue, perfect, or protect such security interests. Obligor hereby pledges to the City, and grants the City a security interest in, all right, title and interest of Obligor in any and all such proceeds, rents, receivables, notes and security, and all earnings thereon and proceeds thereof. Without limiting the foregoing: (a) simultaneously with the granting of a Ground Lease of the Property as contemplated by this Agreement (which shall require the prior written consent of the OED Director), the Obligor shall indorse and deliver to the City any promissory note or other instrument or agreement of the LLC given therefor, and if so required by the OED Director an assignment in form acceptable to the City of a deed of trust granted by the LLC securing the same, also in form acceptable to the City ("LLC Deed of Trust") and such additional security documents as the City may require; (b) simultaneously with the sale of the fee interest in the 'and to the United States as contemplated hereby and the loan of the proceeds thereof to the LLC, the Obligor shall indorse and deliver to the City the promissory note of the LLC in the amount of such loan, secured by the LLC Deed of Trust, and such additional assignments and security documents as the City may require. Such assignments and security documents shall entitle the City to cause the LLC to make payments directly to the Custodian or the City, whether or not there shall be any default by Obligor.

(f) Rights of City With Respect to Security. Obligor irrevocably agrees that, to the full extent permitted by applicable law, the City may realize upon any security for the Loan in any order, either before, concurrently with, or after either (1) any action to realize upon any other form of security (including without limitation the Deed of Trust), or (2) any suit or other proceeding on the Obligor Note, in each case without affecting the status of or waiving any rights or remedies under the Loan Documents or with respect to any security. Obligor consents to any and all actions that the City or Custodian may take to release, subordinate, accept substitution for, modify, compromise or waive any or all security with respect to the Loan, and Obligor agrees that no such action shall impair any rights or remedies of the City or Custodian under the Loan Documents.

(g) Collateral Assignments. The Loan shall be further secured under a Collateral Assignment of Interest in Loan and Debt Service Reserve Accounts and a Collateral Assignment of Leases and Rents in form and substance required by HUD and acceptable to the City (the "Collateral Assignments").

(h) NPS Agreements. The Deed of Trust under subsection 1.4(a), or in the City's discretion a separate assignment in form and content acceptable to the City, shall expressly include (i) an assignment of the lessor's interest in a lease ("NPS Space Lease") to the United States of America, acting through its General Services Administration for space to be used by the National Park Service ("NPS") on terms acceptable to the City, which lease shall have been fully executed and delivered and in which Obligor shall be the landlord either by the original terms or by a valid assignment from the prior owner of the Property with the express written consent of the United States; and (ii) an assignment of all rights of the Obligor pursuant to an agreement between NPS and the Obligor (either by the original terms or by a valid assignment from the prior owner of the Property), and any amendment or substitute thereto, in form and content acceptable to the OED Director, providing for the sale, after completion of rehabilitation, of the land portion of the Property to the NPS. As a condition to any disbursement hereunder the OED Director may require



that Obligor, the seller and NPS shall have executed and delivered such amendments, assignments and such other documents as the City may require to establish the final terms of the NPS Agreements in a manner satisfactory to the OED Director and to ensure the ability of the City to protect its security upon completion of the sale thereunder.

(i) Obligor shall promptly take such actions as shall be reasonably requested by the City or Custodian, and pay all fees and costs reasonably required, in order to perfect and continue the perfection and priority of any and all security interests granted hereunder or pursuant to this Agreement, so long as the Loan remains outstanding. Obligor agrees that, in addition to all other rights and remedies otherwise under the Loan Documents, immediately upon acceleration of the balance owing on the Loan, whether upon an Event of Default or any other circumstance permitting acceleration, the City shall have the absolute right, without notice or demand, to apply all funds and assets granted as security hereunder or otherwise for the Loan, to amounts owing under the Loan Documents, and for such purpose to liquidate or cause to be liquidated any investments in any commercially reasonable manner, and irrevocably authorizes any Custodian, upon notice from the City of an Event of Default or any other circumstance permitting acceleration, to comply with the City's directions to so apply any or all such funds and assets and to liquidate investments for such purpose.

1.5 Loan Fee. Obligor shall pay to City a loan fee of Twenty Thousand and Four Hundred Dollars (\$20,400), representing one percent (1%) of the amount of the Loan, payable to or as directed by the City upon and from the first disbursement of Loan funds hereunder, payment of which loan fee is in addition to Obligor's duty to pay City's costs and fees pursuant to Section 1.6 of this Agreement.

1.6 Obligor's Payment of Costs and Fees. Obligor shall pay to City or at City's direction, as and when due, all other costs and fees of whatever nature incurred by City (whether or not with recourse to the City) in connection with the Loan, including without limitation, fees and costs incurred by the City pursuant to the HUD Contract and City Note (except for those items estimated below, to be allocated on a pro rata basis according to the total principal amount outstanding on the Obligor Note and the City Note at the time fees or costs are incurred from time to time). The costs and fees payable by Obligor shall include, without limitation, (i) any and all charges and costs billed by the Fiscal Agent in respect of the Corresponding Portion of the City Note under the Amended and Restated Master Fiscal Agency Agreement among HUD and The Chase Manhattan Bank (now known as JPMorgan Chase Bank) as Fiscal Agent dated as of May 17, 2000; (ii) on and after the Conversion Date, any charges and costs in respect of the Corresponding Portion of the City Note billed by the trustee under that certain Trust Agreement by and between HUD and Chemical Bank, as Trustee, dated as of January 1, 1995, as now and hereafter amended and supplemented, and under any other trust agreement or similar instrument that may be executed by HUD in connection with a public offering conducted with respect to notes guaranteed by HUD under the Section 108 program (each such offering is referred to herein as a "Public Offering") that involves the City Note, (iii) fees and costs of the Custodian in connection with the Custodial Agreement, Letter Agreements and BEDI Grant Reserve Account; (iv) fees and costs of the City's outside counsel and the Custodian's outside counsel; and (v) title insurance and escrow fees and



costs in connection with Closing. Such fees and costs as of the date of Closing are estimated (but not guaranteed) to be as follows: Custodian's initial fee and first annual fee: \$ _____; City's counsel fees and costs: \$ _____; Custodian's outside counsel fees and costs: \$ _____; title insurance: \$ _____; escrow and other costs: \$ _____; Bank fees and costs: _____. These estimates do not include the following, which shall also be paid by Obligor: the fees described in Section 1.5; fees and costs of the Custodian, if any, other than the initial set-up fee; and any fees or costs of the City's outside counsel or Custodian's outside counsel incurred after the date of Closing, including without limitation, in connection with a Public Offering, and as may be incurred in case of breach or failure to perform by Obligor or in case of any litigation arising in connection with this Agreement.

1.7 City Funds Not Obligated. The Loan will be made only from non-City funds that the Custodian receives under the HUD Contract and City Note, and interest subsidy payments in accordance with Section 4.6(b) hereof will be made only from available funds provided by Interest Stabilization Payments as defined in 4.6(a) and funds deposited in the BEDI Grant Reserve Account. In accordance with RCW 35.21.735, the City Note, and any payments or obligations under the HUD Contract and any documents or agreements relating thereto, including without limitation this Loan Agreement shall be a valid claim only against and payable solely from, the Accounts held by the Custodian and from the security pledged under the HUD Contract, and shall not be an obligation of The City of Seattle or the State of Washington, and neither the faith and credit nor the taxing power of the City or State or any municipal corporation or subdivision of the State or any agency of any of the foregoing is pledged to the payment of principal, interest or premium, if any, on the City Note or for any amounts due under the HUD Contract or any documents or agreements relating thereto including without limitation this Agreement. Nothing herein shall constitute a debt or indebtedness of the City payable from public funds within the meaning of any constitutional or statutory limitation on the incurrence of debt. Obligor agrees and acknowledges that this Agreement does not create any recourse to or claim upon the City's general fund, or any other funds of the City, and Obligor hereby disclaims any such claim.

1.8 Application of Payments. So long as the City or the Custodian shall have received, in immediately available funds and in the manner required hereunder, timely payments of interest and principal on the Obligor Note in the amounts required thereunder, the City shall apply or cause the Custodian to apply such payments to payment of interest on and the principal of the City Note, as such interest and principal shall become due.

1.9 Acceleration on Certain Events. The City shall have the absolute right, in its discretion, to declare all or any part of the principal balance owing on the Loan immediately due and payable in the event that:

(a) HUD or any court of competent jurisdiction shall determine that the Loan or the issuance of the City Note must be terminated, canceled or rescinded for failure to comply with the Act or other applicable law, or that for any reason any City Note cannot be issued or cannot be guaranteed by HUD; or



(b) HUD shall notify the City that any or all of the City Note cannot be included in the pool of notes for purposes of a scheduled Public Offering for any reason, and that HUD or the holder of the City Note is not willing to allow the interim terms of the City Note to remain in effect pending a later public offering;

provided, that unless otherwise required by HUD or by the effect of a court order, Obligor shall be allowed a period of ninety (90) days after notice to Obligor thereof to seek to have such determination reversed or rescinded, or the effect thereof stayed, prior to acceleration of all or any part of the principal balance. If any such stay is obtained, then the City shall have the right to accelerate all or part of the principal balance immediately upon the lifting or termination of such stay.

ARTICLE II – OBLIGOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS

In order to induce City to make the Loan and to cause the Custodian to draw funds subject to the HUD Contract, Obligor represents, warrants and covenants as set forth below in this Article II as of the date hereof, as of the date of Closing, and at all times any of the principal or of interest on the Loan remain outstanding. These representations, warranties and covenants shall survive the execution, delivery and performance of the Loan Documents.

2.1 Organization of Obligor; Authority to Enter into Agreement. Obligor is a public corporation, duly organized and validly existing pursuant to the laws of the State of Washington and the ordinances of the City of Seattle. Obligor has the right and power to purchase, own, develop and lease the Property and to undertake the Project, and Obligor has full power and authority to enter into this Agreement, to borrow money as contemplated herein and to execute and perform the provisions of the Loan Documents. The execution, delivery and performance of this Agreement, and the other Loan Documents have been duly authorized by all necessary corporate action, and no other action of Obligor or any other party is required for the execution, delivery and performance of this Agreement or the other Loan Documents. This Agreement and the other Loan Documents constitute valid and binding obligations of Obligor, each enforceable in accordance with their respective terms.

2.2 Nondiscrimination, Fair Contracting Practices, WMBE.

(a) During the performance of this Loan Agreement, Obligor, LLC and any party contracting with Obligor or LLC in connection with the Project (whether or not to be paid from Loan funds) shall not discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, sexual orientation, gender identity, 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 Loan Agreement. The Obligor shall comply fully with, and ensure that the LLC complies 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 Chapter 14.04 of the Seattle Municipal Code.



(b) 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.

(c) 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 Obligor shall encourage with respect to the Project, the following practices to open competitive opportunities for WMBEs:

(1) Attending a pre-bid or pre-solicitation conference, if scheduled by the City or Obligor, to provide project information and to inform WMBEs of contracting and subcontracting opportunities.

(2) 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.

(3) Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including WMBEs.

(4) Establishing delivery schedules, where the requirements of this contract permit, that encourage participation by WMBEs.

(5) Providing WMBEs that express interest with adequate and timely information about plans, specifications, and requirements of the contract.

(6) 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.

Obligor 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. Obligor shall require that the 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. Obligor and the 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. Nothing in this Section



shall be construed to require or authorize any discrimination or preferential treatment contrary to applicable law.

2.3 No Litigation. There are no actions, suits or proceedings pending, or to the knowledge of Obligor threatened, against or affecting Obligor or the Property in any court of law or in equity, or before or by any governmental or municipal authority.

2.4 Title. Obligor is, or shall be prior to the release of any proceeds of the loan from the escrow established for the disbursement thereof, the owner in fee simple absolute of the Property. The Property is and shall be subject to no liens or encumbrances except:

- (a) The deed of trust in favor of Key Bank, N.A., on terms acceptable to the City;
- (b) The Deed of Trust in favor of City securing the Loan;
- (c) Any other encumbrances in favor of the City;
- (d) The following leases (collectively, the "Leases"): Any leases hereafter approved by the City, in writing. The tenants under the Leases are referred to collectively herein as the "Lessees".
- (e) Special Exceptions Nos. _____ as shown on schedule B of the Title Commitment;
- (f) Liens for property taxes or assessments on the Property not yet due; and
- (g) Any other liens approved in writing by the City and, to extent required by the HUD Contract, HUD.

2.5 Covenants, Zoning, and Codes and Permits. Obligor covenants that from and after the date of completion of the Project, the Property and its uses will at all times comply in all material respects with, all applicable zoning and land use codes, building and construction codes, fire codes, environmental statutes and regulations, and other laws, ordinances, and regulations applicable to the development and operation of the Property, including without limitation, the Americans with Disabilities Act. All permits, consents, approvals or authorizations by, or registrations, declarations, withholding of objections or filings with any governmental body necessary in connection with the valid execution, delivery and performance of this Agreement, or necessary for the present and intended operations of the Property, have been obtained or will be obtained in due course as required to permit timely completion and continuous operation of the Project thereafter, and shall be valid, adequate and in full force and effect.

2.6 Description of the Project. The description of the Project set forth in Attachment B hereto is accurate and complete in all material respects. Obligor shall carry out the Project as



described in Attachment B, subject to all of the conditions and requirements of this Agreement and the other Loan Documents.

2.7 Compliance With Documents. Obligor is and will remain in full compliance with all of the terms and conditions of this Agreement and the other Loan Documents, and any and all other material agreements, instruments or other documents affecting the Property, and no occurrence has or shall have occurred and be continuing, which, with the passage of time or the giving of notice, or both, would constitute a default under any of the foregoing.

2.8 Taxes Are Paid. Obligor has filed all material tax returns which are required and has paid or made provision for the payment prior to the last day on which payment may be made without interest or penalty of all taxes which have or may become due pursuant to said returns or pursuant to any assessments levied against the Obligor or its personal or real property by any taxing agency, federal, state or local, and Obligor has withheld any paid over to proper authorities all withholding taxes required by law. No due or overdue tax liability or lien has been asserted by the Internal Revenue Service or other taxing agency, federal, state or local, and the Obligor knows of no basis for any such deficiency assessment or lien.

2.9 TIN. Obligor's federal tax identification number is _____.

2.10 Additional Federal Requirements for CDBG Subrecipient. Obligor acknowledges that Obligor may be considered a "subrecipient" of CDBG funds under 24 CFR Part 570. Obligor agrees as follows:

(a) Program Income. "Program Income" is defined as 24 CFR Section 570.500(a) and includes, without limitation, (i) proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds, and (ii) gross income from the use or rental of property acquired or improved with CDBG funds, less costs incidental to the generation of the income. Obligor 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, from funds transferred by Obligor or the LLC, shall be construed to include any Program Income received prior to each such payment (except for any Program Income used by Obligor for eligible activities with the consent of the City), 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 Obligor under this subsection to pay Program Income to the City shall continue until the Loan is repaid in full, and shall then terminate, except that (1) pursuant to 24 CFR Section 570.503(b)(3), at the end of any year, upon the City's request, Obligor shall remit to the City Program Income balances (including investments of Program Income) held by Obligor, after deducting therefrom amounts necessary for Obligor's immediate cash needs; and (2) 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 Obligor receives any Program Income that it is not required to pay to the City under this subsection, the Obligor shall use such Program Income for the development of the Project, or for

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



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.

(1) Proceeds of Sale of Land to NPS. It is anticipated that Obligor will sell the land portion of the Property to NPS for an amount totaling Eight Hundred Thousand Dollars (\$800,000). Upon the completion of the transaction, Obligor shall apply the entire proceeds of such sale to pay for Project costs as approved by the OED Director, or shall lend such funds to the LLC on terms acceptable to the OED Director for immediate application to repayment of debt secured by the Property that was incurred to pay Project costs approved by the OED Director, and for no other purpose.

(2) Proceeds of Ground Lease. It is anticipated that Obligor will grant a long-term Ground Lease on the Property to Cadillac Rehabilitation LLC. During the term of the Loan, Obligor shall apply all rental income from such Ground Lease and all other revenue derived from such Ground Lease, to pay debt service on the Loan, or replenish reserves required in connection therewith, or to pay or reimburse Project costs to the extent such use is approved in writing by the OED Director, and for no other purposes.

(b) Reversion of Assets. Upon the expiration of this Agreement Obligor 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) any property under the Obligor's control that was acquired or improved wholly or in part with CDBG funds shall be used solely 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) if such property is not used solely as described in clause (i), the Obligor 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. Any amount paid pursuant to this subsection B shall be applied to repayment of amounts then due or thereafter coming due on the Loan, and any excess after full repayment of the Loan shall be retained by the City for CDBG-eligible purposes. 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. Obligor 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 Obligor 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 Obligor "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 Obligor 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 Obligor is eligible for such an audit in lieu of a single audit under Circular A-133. The Obligor 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 Obligor "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 Obligor. 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, Obligor will be subject to appropriate sanction.

Audits shall be done annually. Audits shall be completed within six (6) months of the end of Obligor'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, Obligor 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 Obligor 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 Obligor 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 Obligor'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, unless otherwise required by HUD, "expiration" of this Agreement shall be the later of the date when the Project has been completed and has achieved at least 90% occupancy by tenants acceptable to the City, or the date when Obligor has completed the sale of the land portion of the Property to the United States as contemplated herein. 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 Obligor has control of any CDBG funds, including Program Income.

ARTICLE III - CONDITIONS PRECEDENT TO LOAN CLOSING

The City's obligation to perform its duties under this Agreement, including without limitation causing disbursement of any funds, shall be subject to the full and complete satisfaction of the following conditions precedent:

3.1 Documents. City shall have received fully executed originals of each of the following, each of which shall have been duly authorized, executed (and acknowledged where appropriate) and delivered by the parties thereto, and shall be in form required by this Agreement, with such modifications as may be approved by the City in accordance with the Ordinance: this Agreement; the Obligor Note; the Deed of Trust; a UCC-1 Financing Statement from Obligor; Subordination, Attornment and Nondisturbance Agreements in form and content acceptable to the City between Obligor and the NPS (with respect to the space lease referred to in subsection 1.4(f)) and between Obligor and any other tenants under Leases in effect on the date of Closing; the Certificate and Indemnity Regarding Building Laws and Hazardous Substances from Obligor, in form and content acceptable to the City (as supplemented or amended from time to time, the "Certificate and Indemnity"); the Dearborn Deed of Trust; Collateral Assignments; any other security documents required by the City pursuant to Section 1.4 hereof, and such other documents as City shall reasonably request.

3.2 Survey. If requested by the City in its sole discretion or the title insurer identified in Section 3.8, below, the City and such title insurer shall have received a recent survey of the Property by a registered surveyor, in form and substance acceptable to the City and title insurer, respectively.



3.3 Appraisal. The City shall have received MAI appraisals for the Property and the Dearborn House, dated within six months of the date of initial disbursement and otherwise in form and content reasonably acceptable to the City and establishing the leasehold value for the Property and the value of the Dearborn House acceptable to the City in its sole discretion.

3.4 Environmental Reports. The City shall have received a Phase I Environmental Report (and such additional environmental reports as the City may reasonably request), establishing that the Property is free from contamination by Hazardous Substances, except contamination that is to be remediated, either in connection with the Project or in connection with a written remediation plan satisfactory to the City in its sole discretion (and receipt of a true and complete, fully executed copy of which shall also be a condition to disbursement hereunder). In addition, if there is an underground storage tank on the Property, the City shall have received evidence of compliance with all applicable requirements of federal, state and local laws, rules, regulations and ordinances including without limitation the financial responsibility requirements of applicable state and/or federal law and/or regulations, together with a certificate of completion approved by the City from the engineering firm responsible for the removal of any storage tanks from the Property if it is to be removed.

3.5 Evidence of Establishment of BEDI Grant Reserve Account. The City shall have received evidence satisfactory to it that the BEDI Grant Reserve Account has been established as an irrevocable reserve for the payment of interest on the Loan and City Note, under terms consistent with the provisions of Section 4.6 of this Agreement and otherwise satisfactory to the City in form and substance.

3.6 Evidence of Authority; Officer's Certificate. City shall have received evidence satisfactory to it that Obligor and the persons signing on behalf of Obligor have the capacity and authority to execute and deliver Loan Documents on behalf of Obligor, including, but not limited to, a copy of Obligor's articles of incorporation, bylaws, and appropriate resolutions authorizing the transactions contemplated hereby, all as certified by an officer of Obligor as true, complete and in full force and effect. City shall have received a Certificate of Obligor, executed by a duly authorized officer of Obligor, in form and content acceptable to the City.

3.7 Insurance. The Obligor shall have provided to the City evidence of insurance coverage as required by the Deed of Trust.

3.8 Title Insurance; Other Confirmation of No Liens.

(a) Obligor shall have caused to be furnished to the City, at Obligor's expense, from _____ ("Title Company"), an ALTA 1970 Form Extended Coverage lender's policy of title insurance in the amount of the maximum principal of the Loan, showing City as an insured mortgagee, that fee title to the Property is vested in Obligor and that the Deed of Trust is a valid lien upon Obligor's interest in the Property, subject only to such encumbrances and exceptions as may be explicitly permitted by the Loan Documents, including Section 2.4 of this Agreement, and any others that may be acceptable to City in its sole discretion. The title policy shall be in form, and shall include the endorsements, satisfactory to the City, shall limit exceptions for taxes limited to



those not yet due and payable, and shall show no additional exceptions or encumbrances, whether senior or junior to the Deed of Trust. In addition, the City shall have received form UCC-11R dated within five days of the date of Closing, showing no liens against the Property or the Obligor, other than liens permitted in accordance with Section 2.4. Finally, the City shall have received such other evidence reasonably requested and satisfactory to the City that all security instruments, guaranties and assignments contemplated by this Agreement are in full force and effect and have the priority contemplated hereby.

(b) Obligor shall have caused to be furnished to the City, at Obligor's expense, from the Title Company, an ALTA 1970 Form Extended Coverage lender's policy of title insurance in the amount of the maximum principal of the Loan, showing City as an insured mortgagee, that fee title to the Dearborn House is vested in Obligor and that the Dearborn Deed of Trust is a valid lien upon Obligor's interest in the Dearborn House, subject only to such encumbrances and exceptions as may be explicitly permitted by the Loan Documents, and any others that may be acceptable to City in its sole discretion. The title policy shall be in form, and shall include the endorsements, satisfactory to the City, shall limit exceptions for taxes limited to those not yet due and payable, and shall show no additional exceptions or encumbrances, whether senior or junior to the Dearborn Deed of Trust. The title policy provided under this subsection (b) may be combined with the policy provided under subsection 3.8(a), or such policies may have endorsements limiting the aggregate liability of the Title Company under both to the maximum principal amount of the Loan. In addition, the City shall have received form UCC-11R dated within five days of the date of Closing, showing no liens against the Dearborn House or the Obligor, other than liens permitted by the City. Finally, the City shall have received such other evidence reasonably requested and satisfactory to the City that all security instruments, guaranties and assignments contemplated by this Agreement are in full force and effect and have the priority contemplated hereby.

3.9 Legal Opinions.

(a) City shall have received a legal opinion, containing reasonable and customary exclusions and qualifications, and in form and content reasonably satisfactory to City and the City's counsel, and sufficient to support such counsel's opinion as required by HUD, from Obligor's counsel, who shall be satisfactory to City, confirming among other matters reasonably requested by the City, that:

(1) Obligor is duly organized and validly existing as a public corporation in the State of Washington and the ordinances of the City of Seattle;

(2) Obligor has the corporate power and authority to execute and deliver the Loan Documents to be executed by Obligor and to perform all of its obligations thereunder;

(3) The execution and delivery of the Loan Documents by Obligor do not, and the transactions contemplated by the Loan Documents will not, violate any laws or regulations applicable to Obligor and will not conflict with and will not cause a default under (i) any provisions of the Obligor's charter, bylaws or other governing documents, or (ii) any other



material agreements, instruments, judgments, decrees, orders or undertakings known to such counsel after reasonable inquiry by which Obligor is bound or to which the Property is subject; and

(4) The Loan Documents have been duly authorized, executed and delivered by Obligor, and constitute the legal, valid, binding obligations of Obligor, enforceable in accordance with their terms.

(b) The City shall have received such additional items as may be required pursuant to the HUD Contract, including without limitation, an opinion of counsel to the City.

3.10 Additional Conditions Precedent to Each Advance of Funds.

(a) The City shall have received such additional documents and further assurances as it may reasonably request or which are required by HUD or any federal, state or county regulatory agency.

(b) Obligor shall be in full compliance with, and shall not be in breach or default under, this Agreement, any of the other Loan Documents; provided, however, that City may, in its discretion, elect to make advances notwithstanding the existence of Obligor's noncompliance or default, and any advance so made shall be deemed to have been made pursuant to this Agreement and secured by the Deed of Trust.

(c) Neither the Property nor any part thereof shall have been materially damaged, destroyed, condemned or threatened with condemnation.

(d) No order or notice shall have been made by, or received from, any governmental agency having jurisdiction stating that the Property, its current or intended uses, or the Project, is or will be in violation of any law, ordinance, code or regulation affecting the Property.

(e) The representations and warranties of Obligor contained herein shall remain accurate in all material respects as of the date of the requested disbursement.

(f) Neither HUD nor any court of competent jurisdiction shall have determined that the issuance of the City Note or the making of the Loan must be terminated, canceled or rescinded for failure to comply with the Act or other applicable law, or that for any reason any City Note cannot be issued or cannot be guaranteed by HUD.

ARTICLE IV - LOAN DISBURSEMENTS AND REPAYMENTS; RESERVE ACCOUNTS

4.1 Initial Disbursement to Finance Property Acquisition. Conditioned upon receipt of proceeds of the City Note and satisfaction of all other applicable conditions to Loan disbursements under this Agreement, Loan funds in the amount of Two Million Forty Thousand Dollars (\$2,040,000), less any fee charged by HUD or the Fiscal Agent for such disbursement, shall be disbursed on the date (the "Closing Date") of closing of the acquisition of the Property (the

"Closing"), to be applied to the costs of acquisition of the Property, related Closing costs, the Loan fee payable to the City in accordance with Section 1.5 of this Agreement, and other fees and costs due and payable at Closing pursuant to Section 1.6 of this Agreement. To the extent that final information as to any costs payable by Obligor hereunder is not available at the time of Closing, the City may instruct the closing agent or Custodian to hold back a reasonable amount, as determined by the City, to cover such costs when known, and after such costs have been determined and paid, to disburse any remainder first to the Obligor to reimburse any eligible acquisition or Closing costs paid by Obligor from other funds, and then the residue, if any, to the Loan Repayment Account.

4.2 Reserved.

4.3 Costs Related to Public Offering. On the Closing Date, the amount of N/A/ Dollars (\$ N/A/), out of the City Loan proceeds, shall be held in the Guaranteed Loan Funds Account established by the Custodian under the Letter Agreements ("Guaranteed Loan Funds Account"), for the purpose of paying the costs to be incurred in connection with the Public Offering, including without limitation trustee's fees and underwriters' fees and costs. Such funds shall nonetheless be considered Outstanding under the Obligor Note. After the Conversion Date, upon payment of all of such fees and costs allocable to the City Note, any remaining amount in the Guaranteed Loan Funds Account shall be transferred to the Loan Repayment Account maintained by the Custodian under the Letter Agreements ("Loan Repayment Account"), and the next deposit(s) required to the Loan Repayment Account in respect of principal under Section 4.6 below shall be reduced, dollar for dollar, by the amount of such transfer. In any event all amounts remaining in the Guaranteed Loan Funds Account on N/A/ shall be transferred to the Loan Repayment Account unless otherwise agreed by HUD and the City. If the Obligor Note shall be paid in full prior to the Conversion Date, the amount so withheld, and earnings thereon, shall be applied as part of such prepayment of the Obligor Note and transferred to the Loan Repayment Account to redeem the City Note. The City may elect, in its sole discretion, to waive the foregoing requirement upon receipt of evidence satisfactory to the City that the payment of such costs has otherwise been duly provided for and that funds necessary to pay such costs will be available when needed. If no funds are held back pursuant to this Section then Obligor shall deliver to the Custodian, by the later of the date ___ days prior to the date set for a Public Offering that will include the City Note, or ___ days after the date of notice thereof to Obligor, the Obligor's prorata share of Public Offering costs as determined by the City or Custodian based on information from HUD. If Obligor does not timely deliver such amount, then the City may direct the Custodian to pay the Obligor's share of Public Offering costs from any of the Reserve Accounts, any other provision of the Loan Documents notwithstanding, and the Obligor shall replenish such Reserve Account(s) on demand.

4.4 Request for Interim Funding Advance; Cancellation upon Failure to Satisfy Closing Conditions; Payment of City's Costs Obligor understands that, pursuant to current HUD procedures, an interim funding advance on the City Note can be made only on a Wednesday and only if a request for such advance is made by the City to HUD consistent with the timing requirements of the Fiscal Agency Agreement and with any additional advance notice that HUD may require, and that after a request has been submitted it may not be possible to cancel the request. The Obligor shall deliver to the City, no later than fifteen (15) Business Days prior to the



Wednesday on which Obligor desires an advance of funds hereunder, an "Obligor's Request for Submission of City's Request for Interim Advance of Funds" in form acceptable to the City. The City shall not be required to submit a request for funds to HUD unless the City has received reasonable assurance that all other conditions to closing will be satisfied by the date of disbursement by HUD. If the City does submit a request for funds to HUD, the City shall not be liable or responsible for any failure or delay by HUD, the Fiscal Agent or the interim purchaser of the City Note, or for any delay in the process of transferring funds to the Custodian and to the escrow agent. If Obligor submits such request and funds are disbursed by HUD on the City Note, but the conditions to disbursement of funds to Obligor are not fully satisfied within fifteen (15) days thereafter, then the City shall have the right to cancel this Agreement, and Obligor shall then pay on demand all fees and costs of the Custodian and Fiscal Agent, and shall reimburse the City for all reasonable fees and costs of its outside counsel and consultants incurred in connection with this Loan, but shall not be liable for the Loan fee described in Section 1.5 of this Agreement. In addition, if this Loan Agreement shall be canceled under this Section after proceeds of the City Note shall have been disbursed to the Custodian, then the Obligor shall pay to the Custodian on demand an amount equal to all interest that shall accrue on the Corresponding Portion of the City Note from the date of such disbursement to the date of redemption thereof, less net earnings actually received (if any) by the Custodian on the proceeds of the City Note prior to such redemption.

4.5 Reserved.

4.6 Loan Repayment Account.

(a) Monthly Deposits. Commencing in the first month disbursement of principal of the City Note in respect of the Obligor Note is to be made, Obligor shall make monthly installment payments to the Custodian for deposit in an account maintained by the Custodian for the accumulation of funds for payments on the Obligor Note (the "Loan Repayment Account," established under the Custodial Agreement and Letter Agreements), in order that the Custodian shall have sufficient funds to pay installments on the Obligor Note as they come due (each such due date being an "Obligor Note Payment Date"). Obligor shall pay to the Custodian on each Deposit Day, the Interest Component and the Principal Component, each for deposit into the Loan Repayment Account. Funds in the Loan Repayment Account shall be used to make payments on the City Note as they come due. Each such monthly deposit shall be due and payable, in immediately available funds, on the "Deposit Day," which shall be the fifteenth (15th) day of the month, or if such day is not a Business Day, then on the previous Business Day; subject to adjustment in respect of any Conversion Date. Subject to the provisions of Section 4.6(b) hereof, the Interest Component payable each month shall be in an amount equal to the interest accrued and to accrue on the Obligor Note during that entire calendar month, except that the Interest Component shall be adjusted ratably in any month the Loan is not outstanding for the entire month. The amount, if any, by which an Interest Component deposit made prior to the Conversion Date, or made after any Involuntary Conversion (as defined in Section 1.3 hereof), exceeds the amount of interest accruing in the same calendar month on the Corresponding Portion of the City Note, is an "Interest Stabilization Payment." Each Principal Component shall be one-twelfth (1/12th) of the total principal coming due on the Obligor Note on the next Obligor Note Payment Date, except



adjusted ratably during any period that fewer than twelve (12) Deposit Days are scheduled to occur prior to the corresponding Obligor Note Payment Date in respect of principal of the Obligor Note. Except as provided in Section 4.6(b) below, Obligor shall not be entitled to any reductions in, or credits against, deposits to the Loan Repayment Account based upon interest or earnings credited to the Loan Repayment Account, the Loan Repayment Investment Account or the BEDI Grant Reserve Account. The Obligor hereby irrevocably assigns all of its right, title and interest, if any, in funds deposited in the subaccounts of the Loan Repayment Account, Loan Repayment Investment Account and BEDI Grant Reserve Account related to the Obligor Note, to the Custodian and the City, and shall have no residual interest in any portion of such Reserves.

(b) Interest Stabilization Payments and Subsidy. Unless the Custodian shall have delivered to Obligor and City a Shortfall Notice (defined in this Section, below), the Interest Component to be deposited by Obligor on any Deposit Day prior to the Conversion Date, or after any Involuntary Conversion, shall not exceed the interest that would accrue on the Obligor Note during the month in which such Deposit Day falls if all amounts of principal bore interest at four and one-half percent (4.5%) per annum. If the actual amount of interest payable on the Obligor Note on an Obligor Note Payment Date prior to the Conversion Date, or after any Involuntary Conversion, is greater than the total of the amounts required as Interest Components under this subsection on the Deposit Days since the preceding Obligor Note Payment Date, the Custodian shall look to other funds on deposit in the Loan Repayment Account, the Loan Repayment Investment Account and the BEDI Grant Reserve Account to pay the balance of interest next scheduled to become due on the City Loan; provided, that the Custodian shall exhaust funds on deposit in the Loan Repayment Account and the Loan Repayment Investment Account from time to time prior to making any withdrawals from the BEDI Grant Reserve Account to pay any portion of the difference between the Interest Component of any monthly deposit and the amount of interest accruing on the Obligor Note in the same month; and provided further, that Custodian is not authorized to and shall not withdraw from the BEDI Grant Reserve Account for such purposes, an aggregate amount greater than Two Hundred Thirty Thousand Three Hundred Twenty-Three Dollars (\$230,323) plus the investment earnings, if any, on that amount actually deposited in the BEDI Grant Reserve Account as a reserve related to the Obligor Note, as such amount may be reduced from time to time under the terms of this Section. If not less than five (5) Business Days prior to any Deposit Day the Custodian determines that there shall or may be insufficient funds available in the Loan Repayment Account, the Loan Repayment Investment Account and the BEDI Grant Reserve Account to pay the full amount of principal and interest to become due on the Corresponding Portion of the City Note on the next date such interest is required to be paid, taking into account the expected payment of interest at a deemed rate of four and one-half percent (4.5%) per annum required to be made by Obligor on such Deposit Day and each subsequent Deposit Day scheduled to occur prior to the corresponding Obligor Note Payment Date, the Custodian shall promptly deliver written notice (each, a "Shortfall Notice") to that effect to the Obligor (with a copy to the City). After receipt of any such Shortfall Notice, on or before each Deposit Day, the Obligor shall pay to the Custodian, for deposit into the Loan Repayment Account, as the Interest Component, the full amount of interest actually accruing on the Loan and Obligor Note during the corresponding month, unless and until the Custodian shall give notice that there are again sufficient funds from Interest Stabilization Payments, if any, such that the Shortfall Notice is no longer in effect. Obligor acknowledges and agrees that Interest



Stabilization Payments made by Obligor in accordance with Section 4.6(a) and deposited in the Loan Repayment Account, together with the earnings thereon, if any, and any BEDI Grant funds, and earnings thereon, in each case to the extent not required to be applied pursuant to this subsection (b), shall be the property of the City, free and clear of any claim of Obligor, whether or not retained by the Custodian as a reserve for the City Note. After the Conversion Date, unless there shall have been an Involuntary Conversion and unless otherwise agreed in writing by the City, (1) the City shall have no obligation whatever to cause the application for the benefit of Obligor of any funds derived from Interest Stabilization Payments or any remaining amounts in the BEDI Grant Reserve Account; and (2) the then remaining balance of Interest Stabilization Payments and earnings thereon, whether or not transferred on the books of the Custodian, shall be deemed transferred to a Loan Loss Reserve and shall not be considered part of the Loan Repayment Account for purposes of subsection 4.6(c) below.

(c) Transfers Authorized; Crediting Payments on Obligor Note. The Custodian is hereby irrevocably authorized to transfer from the Loan Repayment Investment Account to the Loan Repayment Account on each Obligor Note Payment Date, funds in the full amount due on the Obligor Note on each such date, and from the BEDI Grant Reserve Account, the amounts described in Section 4.6(b). The Custodian is then authorized and directed to apply funds in the Loan Repayment Account to the timely payment of amounts due on the Corresponding Portion of the City Note. The Obligor further agrees that upon direction of the City, the Custodian may apply funds in the BEDI Grant Reserve Account to make any payments on the Obligor Note for which there are insufficient funds in the Loan Repayment Account as a result of failure by Obligor to pay funds to the Custodian for deposit therein as required hereunder, but no application of any funds in any account to payments on this Note shall waive or reduce any such required payments from Obligor. Obligor's monthly installment payments into the Loan Repayment Account shall not constitute payments under the Obligor Note. Obligor shall be credited with the payment of interest and principal on the Obligor Note only when and solely to the extent that funds on deposit and/or transferred to the Loan Repayment Account under this Section 4.6(c), not including any amounts in the Loan Loss Reserve, are applied to the payment of the Corresponding Portion of the City Note. The Custodian is further irrevocably authorized by Obligor to liquidate investments in the Loan Repayment Investment Account and BEDI Grant Reserve Account, in the Custodian's discretion, and without liability for any loss on any such liquidation, for the purposes described in this Section 4.6(c). The authorization by Obligor in this Section 4.6(c) is in addition to, and not in limitation of, the authorization in Section 1.4 above.

(d) Investment of Funds; Earnings Remain on Deposit. Funds in the Loan Repayment Account and BEDI Grant Reserve Account shall be invested at the direction of City, but only in instruments that mature (or are redeemable without penalty) within six (6) months and in any event no later than five (5) Business Days before the next Obligor Note Payment Date, and that are guaranteed as to payment of principal by the United States Government, or in money market funds that invest solely in such instruments. All earnings in the Loan Repayment Account and BEDI Grant Reserve Account shall remain therein until applied in accordance with this Agreement, or until all amounts owing under the Loan Documents have been paid in full, or in the case of the BEDI Grant Reserve Account, until any earlier date when any right of the Obligor to have amounts in such Account applied for its benefit shall have terminated hereunder. When all amounts owing



under the Loan Documents have been paid in full, then the remaining balance shall be disbursed to or upon the order of the City.

(e) Late Charge. If any deposit required to be made into the Loan Repayment Account is not received within ten (10) days after the date when such deposit is due, in addition to additional interest required to be paid in accordance with the Obligor Note, Obligor agrees to pay a late charge equal to five percent (5.0%) of the amount past due, as compensation to the City and Custodian for the staff time and resources required to handle such delinquencies, and not as a penalty. Such late charges shall not be credited to the Loan Repayment Account, but shall be retained by the City and/or Custodian. Late charges under this Section are in addition to, and not in substitution for, the other remedies provided in the Loan Documents.

4.7 Application of Payments. Any amounts to be applied to the Obligor Note in accordance with this Agreement shall be applied first to accrued interest on the Obligor Note, next to any premium then due, and the balance, if any, to reduction of principal.

ARTICLE V – OBLIGOR'S LOAN COVENANTS

In addition to other obligations of the Obligor hereunder, Obligor covenants and agrees as follows:

5.1 General. From and after the date hereof and so long as any amount remains unpaid on the Obligor Note, or for so long as any commitment exists to extend credit hereunder, Obligor covenants and agrees that it will:

(a) Promptly pay principal, interest and premium (if any) pursuant to the Obligor Note as and when the same becomes due and payable, and make any and all other payments and deposits required by the Loan Documents;

(b) Preserve and keep in full force and effect its existence as a public corporation under the laws of the State of Washington and the ordinances of the City of Seattle;

(c) Maintain, preserve and keep the Property, improvements thereon, and all equipment used in connection therewith in good repair, working order and condition, ordinary wear and tear excepted, and from time to time make all necessary repairs, renewals, replacements and additions thereto so that at all times the efficiency thereof shall be fully preserved and maintained;

(d) Remain the managing member of Cadillac Rehabilitation LLC so long as the LLC has any interest in the Property.

5.2 Commencement and Completion of Rehabilitation. Obligor shall obtain all necessary permits and approvals and shall substantially commence, or cause the LLC to commence, the rehabilitation of the Property no later than June 30, 2004. Obligor shall complete, or cause the LLC to complete, the rehabilitation consistent with plans and specifications approved by the City and with all applicable permits no later than May 1, 2005. Obligor or LLC shall have obtained a



permanent certificate of occupancy for all space in the rehabilitated building on the Property no later than May 1, 2005.

5.3 Compliance with Laws. All use and operation of the Property and Project, and all work performed in connection with the Property and Project shall comply in all material respects with all applicable laws, ordinances, rules and regulations and executive orders of federal, state, county or municipal governments or agencies now in force or which may be enacted hereafter.

5.4 Inspections. City and its representatives shall have the right, subject to the rights of tenants on the Property, at all reasonable times after three (3) days' prior written notice during regular business hours (and at any time in the event of an emergency) to enter upon the Property and inspect the Property to determine that the same is in conformity with this Agreement and all laws, ordinances, rules and regulations. City shall have the further right, from time to time, to inspect and copy Obligor's books and records relating to the Property. Without limiting the foregoing, Obligor shall permit City to examine and copy all books, records and other papers relating to Obligor's use of the Loan proceeds and to Obligor's compliance with this Agreement, the Act and applicable provisions of federal, state, and local laws, ordinances, rules and regulations.

5.5 Notify City of Litigation or Complaints. Obligor shall promptly notify City in writing of all litigation or threatened litigation involving the Property or any part of the Property, and any other litigation that reasonably could have a material adverse effect on the financial condition of Obligor, and of all complaints or charges made by any governmental authority affecting the Property or Obligor which may require changes in the development or use of the Property.

5.6 Waiver of Immunity.

Obligor waives, after mutual negotiation, and with respect to the City only, its immunity under RCW Title 51, Industrial Insurance.

Initials: Obligor: _____ City: _____

5.7 Federal Regulations. Obligor acknowledges that the Loan is to be made with funds received by the Custodian under the Section 108 program of the Act and that such funds are subject to CDBG program regulations of HUD, and certain other federal laws and regulations. Accordingly, Obligor agrees, represents and warrants that Obligor shall comply with all applicable requirements under HUD regulations for the CDBG program and under other laws and regulations applicable to loans of such federal funds, including without limitation:

(a) Benefit to Low- and Moderate Income Individuals. Obligor's rehabilitation of the Property shall benefit low- and moderate-income persons (as defined by HUD in 24 CFR Section 570.3) to the maximum extent feasible. The Project shall result in the creation of at least forty-five (45) new permanent jobs (full-time equivalent) at the Property. Obligor shall cause each initial nonresidential tenant to sign a Job Creation Agreement, in a form and content acceptable to



the OED Director, under which the tenant will provide reports containing data required by the City on the jobs created.

(b) 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. Obligor 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.

Obligor shall comply with all of the requirements and prohibitions of 24 C.F.R. Section 570.602, implementing the nondiscrimination requirements of Section 109 of the Housing and Community Development Act of 1974, as amended; those of the Americans with Disabilities Act, and regulations at 28 C.F.R. Parts 35 and 36 thereunder; those of HUD regulations under the Age Discrimination Act of 1975, 42 U.S.C. Section 6101 *et seq.*, at 24 C.F.R. Part 146; and those of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and implementing regulations at 24 C.F.R. Part 8. Obligor 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.

Obligor shall ensure compliance with Executive Order 11246, entitled "Equal Opportunity", as amended, 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 Obligor 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 Obligor as "Contractor" thereunder. Obligor shall cause the appropriate "equal opportunity clause" to be set forth 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.

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.

(c) Conflict of Interest. Obligor shall ensure compliance with the provisions of 24 CFR Section 570.611, which provide generally that no officer, agent, employee, consultant or elected or appointed official of The City of Seattle, or of a designated public agency, or of any subrecipient 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 decision-making process or gain inside information with respect to these activities, shall obtain any financial interest or benefit from, or have any financial interest in, the activity funded under this Loan Agreement or any contract or subcontract or agreement with respect thereto or the proceeds thereof, for himself or herself or those with whom he or she has business or immediate family ties; nor shall (s)he for one year after completion of his or her tenure with the City or such subrecipient obtain or have any such financial interest or benefit. Obligor shall incorporate in all such contracts or subcontracts a provision prohibiting any conflict of interest prohibited by this subsection.

(d) 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 or subrecipient during any period of debarment, suspension, or placement in ineligibility status of such contractor or subrecipient under the provisions of 24 C.F.R. Part 24. Obligor represents and warrants that neither Obligor nor its principals is 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." Obligor 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.

(e) Lobbying. Obligor hereby certifies and agrees as follows, in accordance with 31 U.S.C. Section 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 Obligor, 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 loan, 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.

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.

(f) Davis-Bacon and Related Acts. Obligor shall comply with any and all applicable requirements of the Davis-Bacon Act and related acts. These requirements include, but are not limited to: language within each contract for construction 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.

The requirements are defined in the: Davis-Bacon Act, 40 U.S.C. Section 276(a) *et seq.*; Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 328 *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. If under other applicable law or any other agreement with respect to the Project, minimum levels of wages or benefits are required, then Obligor shall ensure compliance with such levels, and if both Davis-Bacon Act requirements and any other such requirements shall apply, then Obligor shall ensure compliance with higher of the applicable levels.

(g) Economic Opportunities for Low- and Very Low-Income Persons. Obligor shall comply, and cause all contractors and subcontractors to comply, with any and 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. Obligor 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.

(h) Relocation and Acquisition. Obligor represents, warrants and agrees that no residential tenants have been or will be displaced in connection with the Project and the Obligor 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. If the Obligor or its affiliate has acquired or entered into an agreement to acquire real property for the Project, then Obligor represents and warrants that prior to making an offer for such property, (1) Obligor or such affiliate clearly advised the owner in writing that it lacked the power of eminent domain and therefore was unable to acquire the property in the event negotiations failed to reach an amicable agreement, and (2) it informed the owner in writing of what Obligor or such affiliate believed to be the fair market value of the property. Obligor represents and warrants that Obligor has provided to City a complete and accurate list of all occupants of the Property as of the date that Obligor obtained site control, and Obligor shall provide a complete and accurate list of all persons occupying the Property at any time after site control and through the date of full occupancy after Project completion. Obligor shall comply fully, at Obligor's sole expense, with the City's Residential Anti-displacement and Relocation Assistance Plan ("RARAP"). If the Project involves the temporary and/or permanent displacement of persons, Obligor represents, warrants and agrees that Obligor has provided and shall provide, at a minimum, all relocation assistance required by 24

CFR Section 42; the federal Uniform Relocation Act and regulations thereunder, 49 CFR Part 24; 24 CFR Section 570.606 and any other applicable federal laws or regulations, and shall maintain complete and accurate records demonstrating such compliance. Obligor agrees that any determination by City of the amount of relocation assistance due to any person shall be final and binding upon Obligor, unless a different determination is made by HUD at the request of such person, in which case the HUD determination shall be final and binding on Obligor. Obligor 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 shall, at City's option, constitute an advance on the Loan, without any requirement for a draw request by, or consent of, Obligor. If, as a result of any such direct payments, the amount advanced by City shall exceed the maximum Loan amount stated herein, then the excess shall be immediately due and payable by Obligor to City, at City's demand. Obligor represents and warrants that, except as expressly stated in a relocation plan submitted by Obligor to City in connection with this Loan, no residential tenants have been required to vacate or will be required to vacate the Property permanently because of the Project. Obligor shall carry out the terms of any relocation plan approved by City, but the terms of any such plan shall not limit Obligor's obligations under this Loan 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.

(i) Architectural Barriers. Obligor shall ensure that the Property, upon completion of the Project, 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).

(j) Flood Insurance Protection. If the Property is in a special flood hazard area as identified by the Federal Emergency Management Agency, then Obligor represents, warrants and agrees that flood insurance is and shall remain in effect, at Obligor's expense, in accordance with Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. Section 4001), so long as any amount is outstanding on the Obligor Note.

(k) Records. Obligor shall maintain and make available to the City and HUD all records reasonably required to demonstrate compliance with all of the requirements of this Agreement, for at least four (4) years after full repayment of the Loan.

(l) Disclosures. Obligor represents, warrants and agrees that it has provided to the City 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 OH to the extent required by such act and regulations; and that all such disclosures are and shall be complete and accurate.

(m) Prior Actions. Obligor represents and warrants that in all actions related to the Project to date Obligor and each of its affiliates involved in the acquisition of the property, each has complied with all requirements referred to in this Section 5.7.



(n) Actions of LLC. Obligor shall ensure that, to the extent the rehabilitation and operation of the Property, and related agreements and activities, are carried out or entered into by LLC, the LLC shall comply with all applicable federal requirements referred to in this section 5.7, and shall maintain and provide to the City or HUD promptly on request documentation of such compliance.

(o) Indemnity. Obligor shall indemnify and hold harmless the City from any loss, damage, expense, claim or demand resulting from Obligor's failure to comply with, or to ensure the LLC's compliance with, any federal requirement to be complied with pursuant to this Agreement or failure to maintain adequate records to demonstrate such compliance. This provision shall survive expiration of this Agreement.

5.8 Reports. Obligor shall deliver to the City reports and information as City may require for purposes of monitoring and evaluating the performance of the Obligor, which may include copies of tenant certifications, rent rolls, leases, property management agreements and any other contracts affecting the Property.

5.9 Liens or Claims of Liens. Obligor shall keep the Property free from liens and encumbrances of all kinds, superior or inferior to the Deed of Trust, except for those permitted pursuant to Section 2.4 above and any of the following:

(a) Liens for property taxes on the Property not yet due and payable;

(b) The rights of tenants as tenants only under leases entered into in the ordinary course of Obligor's operation of the Property and in accordance with this Agreement and the other Loan Documents, but only to the extent that such leases are subordinate to the lien of the Deed of Trust, to the Leases (as defined herein), and to any other material leases, which subordinate status shall be insured by endorsement to the City's title insurance policy, at Obligor's expense, within thirty (30) days of request to Obligor by the City; and

(c) Liens subordinate to the lien of the Deed of Trust, created after the date of Closing with the prior written consent of the OED Director, in his or her discretion.

If any claims of lien shall be asserted against the Property other than as permitted by this Section, Obligor, regardless of any action that City may otherwise be authorized to take, shall obtain a release and satisfaction of such lien claim, bond the lien claim, procure title insurance satisfactory to City protecting City from any loss relating to such lien claim, or otherwise provide to City assurances and security satisfactory to City that the lien claim will be paid or satisfied not later than ten (10) days after a judgment on the lien claim. Provided Obligor complies with the previous sentence, Obligor may in good faith contest any worker's or material supplier's lien in legal proceedings that will prevent enforcement of the lien claim and prevent foreclosure of the Property.

If such a lien claim is not released or satisfied or a bond or other security satisfactory to City provided within forty-five (45) days of written request from City to Obligor, then the failure to do so shall allow the City to declare an Event of Default (as defined in Section 6.1 below) regardless of whether such lien claim is or is not superior to the Deed of Trust.



Nothing in this Section shall be construed to imply that property of a public corporation may be subject to a statutory mechanic's or materialmen's lien or other involuntary lien, nor be construed as consent by Obligor or the City to any such lien.

5.10 Political Activity. No portion of the Loan shall be used for any 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.

5.11 Further Actions. Obligor 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 or obtain such additional insurance as City is required to do or obtain by HUD or other federal, state or county regulatory agency.

5.12 Other Agreements. Obligor shall fully comply in a timely manner with all other agreements for the financing of the Project, including without limitation construction loans, bridge loans, and equity investment contracts ("Other Agreements"), and to the extent that any Other Agreements are the obligations of the LLC, the Obligor shall ensure that the LLC complies in a timely manner with the terms thereof, but nothing in this Section shall be construed to waive, or excuse noncompliance with, and provisions of this Agreement or any applicable City ordinances or permits. Obligor shall timely satisfy, and shall ensure that the LLC timely satisfies, all conditions under any Other Agreements to the receipt of funding for the Project and for the conversion of construction or temporary financing to a term loan.

5.13 Payment of Compensation of Custodian. Obligor shall be responsible for and pay its prorata portion of the fees of the Custodian as provided under the Custodial Agreement. The Custodian's acceptance fee, prorated first annual fee and counsel fees and expenses shall be disbursed to Custodian from the Guaranteed Loan Funds Account at the time of initial Loan disbursement. Thereafter, Obligor shall promptly pay the Custodian's fees and expenses directly to the Custodian.

5.14 Payment of Other Indebtedness. Obligor shall timely pay the principal, interest and all other amounts due on any other indebtedness or liability now or hereafter owing by the Obligor to any person and secured by the Property; provided, that nothing in this Section shall authorize Obligor to make any payment from any funds or assets pledged to the City hereunder.

5.15 Transfer of Property. Obligor shall not cause or permit any transfer of the Property or any interest of Obligor or LLC therein, voluntary or involuntary, without the advance written consent of the City, except for the creation of liens, encumbrances or leases that are expressly permitted under the Loan Documents without the City's consent.

ARTICLE VI - DEFAULT AND REMEDIES

6.1 Events of Default. Upon the occurrence of any of the following events and prior to the complete cure thereof by Obligor in a manner satisfactory to the City, the City shall have the



right to declare an Event of Default hereunder, without notice or demand by City, except as expressly provided in this Section:

(a) Any failure to pay when due any deposit into the Loan Repayment Account in respect of principal or interest on the Obligor Note;

(b) Any failure to make a payment or deposit of money required by any of the Loan Documents, other than amounts referred to in Section 6.1(a) above, that is not cured within ten (10) days of the due date of such payment or deposit (or within ten (10) days of demand in case of amounts due on demand);

(c) Any transfer of the Property or any interest therein, voluntary or involuntary, contrary to Section 5.15 of this Loan Agreement;

(d) Any failure to comply with the terms of Section 5.9 of this Loan Agreement (relating to lien claims) within the time period permitted by such Section;

(e) Any breach or nonperformance by Obligor of any provision of any of the Loan Documents not included within any of Subsections (a)-(d) above that is not cured within sixty (60) days after notice to Obligor of such breach or nonperformance, or such longer cure period as may be permitted under the specific terms of the Loan Document; provided, however, that unless HUD shall otherwise require, if (1) such breach or nonperformance is susceptible to cure but cannot reasonably be cured within such cure period, (2) Obligor shall commence to cure such breach or nonperformance within such cure period and shall thereafter diligently and expeditiously proceed to cure the same, and (3) Obligor shall inform the City in writing of the status of the cure at the expiration of such cure period and every thirty days thereafter, then such cure period shall be extended for such time as is reasonably necessary for Obligor in the exercise of due diligence to cure such breach or nonperformance;

(f) 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 Obligor's property is filed by Obligor, or is filed against Obligor and is not dismissed within ninety (90) days, or if Obligor 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 Obligor and is not discharged within ninety (90) days, or if any law or court order shall require the City, Custodian or any other party to refund or otherwise relinquish any portion of any amount paid under the Obligor Note or this Agreement as a preference or for any other reason except refund of duplicative payment;

(g) Any representation, warranty or disclosure made to City by Obligor, or contained in any information submitted by Obligor to City or to any government agency in connection with the Loan or the Property, proves to be materially false or misleading as of the date when made or reaffirmed, whether or not such representation or disclosure appears in this Agreement;



(h) Any default by Obligor of its obligations under the Certificate and Indemnity, giving effect to any applicable notice and cure provisions thereunder;

(i) Any default under the Dearborn Deed of Trust that shall not be cured within 30 days after notice thereof by the City

6.2 Declaration of Event of Default. City's declaration of an Event of Default hereunder shall be made by notice to Obligor pursuant to Section 7.15 of this Agreement and shall be effective as provided therein.

6.3 Remedies.

(a) Upon declaring 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 advances of Loan funds hereunder and revoke any instructions to any third party holding any such funds;

(2) Declare the Loan immediately due and payable in full;

(3) Foreclose under the Deed of Trust, judicially or nonjudicially;

(4) Foreclose under the Dearborn Deed of Trust, judicially or nonjudicially;

(5) Apply any or all funds in the Reserve Accounts to amounts due under the Loan Documents, whether by reason of acceleration or otherwise, and cause investments in such accounts to be liquidated for such purpose;

(6) Apply or realize on any assets of HSPDA, or on any other collateral or security;

(7) Set off any amounts then owing from the City to Obligor;

(8) Give notice to any person owing any obligation to the Obligor that has been assigned as security for the Loan, that further payments are to be made to the City; and

(9) Seek judicial appointment of a receiver.

(b) All remedies of City provided for herein and in any other Loan Documents are cumulative and shall be in addition to all other rights and remedies provided by law. 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

Loan Documents unless, in the exercise of said rights, City realizes all amounts owed to it under such Loan Documents.

6.4 No Default Prior to Declaration. No default or Event of Default shall exist under this Agreement or the Obligor Note until the same shall have been declared by the City or other party authorized to make such declaration; provided, that failure to declare, or delay in declaring, a default hereunder shall not constitute a waiver of any rights or remedies or excuse any failure by Obligor to strictly comply with its obligations under all of the Loan Documents.

ARTICLE VII - MISCELLANEOUS

7.1 No Waiver. No waiver of any noncompliance or breach by Obligor hereunder shall be implied from any failure by City to take action on account of such noncompliance or breach, and no express waiver shall affect any breach or noncompliance other than as specified in the waiver. Any waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, 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 of, any act by Obligor requiring further 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; Delegation to Custodian; Changes in Custodian and Custodial Agreement. This Agreement is made and entered into for the sole protection and benefit of City, HUD, and Obligor, their successors and assigns, and no other person or persons shall have any right of action hereunder. The terms hereof shall inure to the benefit of the successors and assigns of the parties hereto; provided, however, that the Obligor's interest hereunder cannot be assigned or otherwise transferred without the prior written consent of City. Obligor acknowledges and agrees that City may assign to HUD or any custodian or trustee for HUD any or all of City's rights under this Agreement and any of the Loan Documents and may direct that any payment or performance be provided directly to HUD or such custodian or trustee, whether or not the Obligor Note or this Agreement have been assigned. Obligor agrees that City may delegate to the Custodian the right to make demands and give directions on behalf of City under the Loan Documents, but that the scope of any such delegation shall be strictly limited to the terms of a written instrument duly signed on behalf of the City. Obligor further acknowledges that the Custodial Agreement may be modified or terminated, or a substitute Custodial Agreement executed, or a successor Custodian appointed, in each case without the consent of Obligor so long as the obligations of Obligor are not increased and the rights of the Obligor under the Loan Documents are not adversely affected in any material respect. Except for minor modifications to the Custodial Agreement not affecting Obligor, City agrees to give reasonable advance notice to the Obligor of any action as described in the preceding sentence, and agrees in each case to provide a copy of any modification or substitute Custodial Agreement to Obligor within fifteen (15) days after the execution thereof.

7.3 No Defense Based on City Regulatory Actions. Obligor understands that (a) the operations of Obligor in the Property and elsewhere are subject to numerous laws, regulations, ordinances and permits, including those of City and other governmental bodies relating to land use, environmental hazards, and other regulatory matters, and (b) the modification, interpretation,

application, or revocation of such laws, regulations, rules or permits could adversely affect economic return to Obligor from the Property. Obligor has conducted its own investigation and relied on the advice of its own counsel and experts as to all such matters in connection with Obligor's acquisition of the Property. Obligor acknowledges that by entering into this Agreement the City does not make, and that the City expressly disclaims, any representation or assurance whatever as to (1) the present or future status of the Property or the uses thereof under applicable laws or regulations, including those of the City; or (2) the availability, issuance or continuation of any permits, approvals, or interpretations of any kind that may be required or desired by Obligor or any other party in connection with the Property. Obligor agrees that notwithstanding any regulatory action or omission of City affecting Obligor or affecting the use or development of the Property (whether or not such action or omission shall be determined to be consistent with applicable law in any proceeding), no defense, offset or reduction of liability shall be available to Obligor, at law or in equity.

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

7.5 Entire Agreement; Amendments. This Agreement, the other Loan Documents, and the documents, laws and regulations incorporated by reference herein constitute the entire agreement of the parties hereto with respect to the Loan and supersede any prior agreements or understandings, written or oral, with respect to the Loan. Obligor is not relying upon any promises, representations or understandings, written or oral, in entering into the Loan Documents, other than as expressly set forth in the Loan Documents. The obligations of Obligor under the Loan Documents are not conditioned upon, and shall not be affected by, any other agreement, understanding, performance or nonperformance by the City or any other party, and in any proceeding to enforce any of Obligor's obligations under the Loan Documents, Obligor shall not be entitled to assert, by way of excuse, offset, counterclaim, grounds for equitable relief, or otherwise, any actual or alleged action or inaction by or on behalf of the City except to the extent that any such action or inaction is expressly required of the City by, and is made a condition of Obligor's obligation by, the 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 a duly authorized officer of City and by Obligor, and no such writing shall be construed to modify, waive, or affect the terms of the Loan Documents except to the extent that such document expressly so provides.

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.

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 one gender shall also include the other gender if applicable under the circumstances.

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



7.9 Governing Law. 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.

7.10 Survival. All agreements, representations and warranties made herein and in the Obligor 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 Obligor hereunder and the indebtedness evidenced by the Obligor Note have been fully paid and satisfied, and thereafter to the extent provided in the Loan Documents, regardless of whether the Obligor Note is surrendered or marked as canceled or paid in full.

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, 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.

7.13 Duplicate Originals; Counterparts. This Agreement shall be executed in duplicate and each of the parties hereto shall receive an original. Each original shall constitute one and the same agreement. This Agreement may be executed in counterparts, and each such counterpart shall be deemed to be an original.

7.14 Construction. The Loan Documents shall be construed so as to conform to the requirements of the HUD Contract and applicable federal laws and regulations. The Loan Documents are the product of negotiation between the parties and therefore shall not be construed strictly in favor of, or against, either party except as may be specifically provided in the Loan Documents with respect to particular provisions thereof.

7.15 Notices. Any notice, demand or request required hereunder shall be given in writing at the addresses set forth below by personal service, by facsimile transmission, or by first class mail. The addresses may be changed by notice to the other party given in the same manner as provided above. Notices personally served or sent by facsimile shall be effective when actually received during normal business hours, and otherwise on the following Business Day. 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 its deposit in the U.S. mail.

If to Obligor:



If to City: Office of Economic Development
City of Seattle
700 Fifth Avenue, Suite 5752
Seattle, Washington 98104
Attn: Director
fax: (206) 684-0379

7.16 Additional Terms and Conditions

The terms of this Section are intended to be in addition to, and not in substitution for, the terms and conditions set forth above, but in case of any irreconcilable conflict, the terms of this Section shall control. The inability of Obligor to satisfy any condition below for any reason shall not excuse any failure to comply in a timely manner with any other provision hereof. All provisions and conditions in this Section, and all other conditions to disbursement set forth in this Agreement, are for the benefit only of the City (and where applicable, HUD) and may be waived in whole or in part by the OED Director in his or her discretion, but no waiver shall be valid unless in writing signed by the OED Director.

(a) Obligor shall not cause or permit the commencement of any rehabilitation, construction, demolition or other physical change to the Property (collectively, "Work") prior to all of the following having occurred:

- (i) all plans and specifications for all Work shall have been approved in writing by the Washington State Historic Preservation Officer;
- (ii) all plans and specifications for all Work shall have been approved in writing by the OED Director, in his or her discretion;
- (iii) all plans and specifications as approved pursuant to clauses (i) and (ii) above shall be fully consistent with the terms of the NPS documents;
- (iv) Obligor shall have demonstrated to the satisfaction of the OED Director that the Work will satisfy all conditions necessary in order to qualify for federal historic preservation tax credits and to comply with all requirements of other lenders and with actual or anticipated funding conditions of investors for the provision of equity financing for the Project.

(b) No later than twenty (20) months after the closing of this Loan ("Permanent Loan Funding Date"), the Obligor shall cause the total debt secured by the deed of trust in favor of Key Bank, N.A. to be reduced to no more than \$4,080,000, and shall satisfy all conditions necessary to convert such debt to a term loan of no less than ten (10) years, with payments based on an amortization of at least thirty (30) years, and shall cause any other monetary lien with priority over the City's Deed of Trust to be fully reconveyed of record so that the City's Deed of Trust is a second lien on the Property and the assignment of the lessor's interest in the NPS Space Lease is second only to an assignment to secure such debt owing to Key Bank, and if so required by the City the Obligor shall cause endorsements to the City's policy of title insurance, satisfactory to



the OED Director, to be issued at the Obligor's sole expense, insuring such priority. Notwithstanding the above, if, on the Permanent Loan Funding Date, the total debt in favor of Key Bank exceeds \$3,810,000, the amount of such excess above \$3,810,000 shall be dedicated by Obligor for debt service and/or operating costs on terms satisfactory to the City.

(c) No later than the closing date of this Loan, and as a condition to disbursement of Loan proceeds, the Obligor shall have executed and delivered to the City a security agreement, in form and content satisfactory to the OED Director, assigning and pledging to the City the Borrower's rights to receive payments from the LLC in the amount of no less than \$460,474, which payments shall be due from the LLC upon its receipt of certain funds from an equity investor, under an agreement or instrument satisfactory to the OED Director, and the Obligor and LLC shall have executed and delivered such documents and provided such evidence as the OED Director shall require, which may include delivery of original instruments and express consent or agreement of the investor, to establish that the City has a first priority perfected security interest in such rights to payment and such remedies as the OED shall require. Such security agreement shall provide that HSPDA shall agree to hold the amount of \$460,474 out of repayments from the LLC in a dedicated bank account, as security for the Loan, and to be used to fund costs of the Project to the extent the OED Director may so approve, until the Obligor and LLC shall have achieved such goals, including without limitation stabilized operating income of the Property after rehabilitation, as the OED Director deems adequate.

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

CITY:
THE CITY OF SEATTLE, a
Washington municipal corporation

By: _____
Jill Nishi
Director of Office of Economic Development

OBLIGOR:
HISTORIC SEATTLE PRESERVATION AND
DEVELOPMENT AUTHORITY

By: _____

Its: _____

Attachment A Legal Description for Property
Attachment B Description of Project
Attachment C Form of Obligor Note

Exhibit B to Ordinance
Form of Loan Agreement

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



Exhibit 1: Schedule of Obligor Note Payment Dates
Exhibit 2: City Note

NOTICE: HISTORIC SEATTLE PRESERVATION AND DEVELOPMENT
AUTHORITY is organized pursuant to Seattle Municipal Code (SMC) Chapter 3.110 and RCW
35.21.730-.755. RCW 35.21.750 provides as follows:

"All liabilities incurred by such public corporation, commission or authority shall be
satisfied exclusively from the assets and properties of such public corporation, commission or
authority and no creditor or other person shall have any right of action against the city, town or
county creating such public corporation, commission or authority on account of any debts,
obligations or liabilities of such public corporation, commission or authority."

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ATTACHMENT A
LEGAL DESCRIPTION FOR PROPERTY

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A-1



ATTACHMENT B
DESCRIPTION OF PROJECT

[See Exhibit C to Ordinance]

Exhibit B to Ordinance, Attachment B
Project Description

B-1



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ATTACHMENT C
FORM OF OBLIGOR NOTE

VARIABLE/FIXED RATE PROMISSORY NOTE

Seattle, Washington
_____, 2004

\$2,040,000

FOR VALUE RECEIVED, HISTORIC SEATTLE PRESERVATION AND DEVELOPMENT AUTHORITY ("Obligor"), a Washington public corporation, promises to pay to THE CITY OF SEATTLE, WASHINGTON ("Payee"), a Washington municipal corporation, or order, at the time or times provided herein, in lawful money of the United States, the sum of Two Million Forty Thousand Dollars (\$2,040,000), with interest as provided herein.

This Note is given to evidence a loan (the "Loan") made pursuant to the Loan Agreement dated as of _____, 2004 (as supplemented or amended from time to time, the "Loan Agreement"), between the Obligor and the Payee. The funds used by the Payee to make the Loan have been obtained by Payee exclusively through the sale of a note in the maximum commitment amount of \$7,484,000 issued by the Payee, a copy of which note, with a schedule of Principal Due Dates as modified by agreement of the City and HUD, is attached hereto as Exhibit 2 and incorporated herein by this reference (as so modified, and including any note issued in replacement thereof or for a portion thereof that includes the amount disbursed in order to fund the Loan evidenced hereby, the "City Note") pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended (42 USC §5308) and 24 CFR 570.700, *et seq.*, pursuant to which the Payee has entered into certain agreements, including, but not limited to, (a) with the United States Department of Housing and Urban Development ("HUD"), a Contract for Loan Guarantee Assistance, as amended ("HUD Contract") which contract incorporates by reference, an Amended and Restated Master Fiscal Agency Agreement between HUD and JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank), (b) with HUD, the BEDI Grant Agreement #B-99-BD-53-0015, and (c) with JPMorgan Chase Bank, an Indenture of Trust and Custodial Agreement (which documents, as amended or amended from time to time, may be referred to collectively as the "Master Agreement"). The Obligor acknowledges and agrees that the Loan is made subject to all of the terms and conditions of the HUD Contract, Master Agreement and the City Note. Any capitalized terms not defined herein shall have the meanings provided in the City Note, the Loan Agreement or the Master Agreement as applicable.

Each portion of principal outstanding on this Note shall bear interest from the date hereof at the greater of 4.5% per annum or the rate applicable to the Corresponding Advance of principal under the City Note. For each installment of principal shown on Exhibit 1 hereto, the Corresponding Advance consists of an equal amount of principal on the City Note maturing in the same year as such installment of principal hereunder. The "Blended Rate" on this Note for any period is the single rate that, if applied to all installments of principal hereunder for such

Exhibit B to Ordinance, Attachment C
Form of Obligor Note

C-1

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period, would result in the same amount of interest accruing in such period on the aggregate amount of principal under this Note, as is determined by applying the rates actually applicable to each installment of principal for such period.

Interest on this Note shall be due and payable on the 15th day of each calendar month next preceding each of the following dates if interest on the City Note is scheduled to become due and payable on such date: February 1, May 1, August 1, and November 1 of each year. The amount of interest payable on this Note on each such 15th day shall include interest accrued through such date and interest to accrue through the end of the month in which the interest payment becomes due under this Note. Interest on this Note also shall be due ___ days before any other date when interest shall become due on the Corresponding Portion of the City Note, and the amount of interest then payable on this Note shall include interest accrued and to accrue up to such date when interest shall become due on the City Note. Interest on the City Note is due and payable quarterly in arrears prior to the Conversion Date, on the Conversion Date, and semiannually thereafter. Principal on this Note is due and payable as set out on Exhibit 1 attached hereto and incorporated herein by this reference. Each date upon which principal or interest, or both, is due and payable hereunder is an "Obligor Note Payment Date."

The principal amount due under this Note on each Obligor Note Payment Date shall be as set forth on the attached Exhibit 1, except to the extent such principal amount shall have been reduced by prepayment before such Obligor Note Payment Date as provided herein.

On and after the Conversion Date (whether conversion to a fixed rate or rates is effected with the consent of the Obligor or otherwise), as more fully set forth in the City Note, each Corresponding Advance will accrue interest on the City Note at the fixed rate that the underwriters of the City Note, or securities representing participation interests in a pool of notes guaranteed by HUD, including the City Note, determine will enable them to sell the City Note or such participation interests under then prevailing market conditions as of the Conversion Date at one hundred percent (100%) of the aggregate amount thereof. Conversion to a fixed rate is subject to limitations set forth in the Loan Agreement.

Notwithstanding the foregoing, following the occurrence of any default hereunder or under the Loan Agreement, which default is not cured as permitted by the Loan Agreement, the outstanding principal balance of the Loan and this Note shall bear interest at the greater of the rate set as provided above or twelve percent (12%) per annum.

Interest payable on or before the Conversion Date shall be calculated on the basis of a 360-day year and the actual number of days elapsed. Interest after the Conversion Date shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The period of time over which interest is computed in order to determine the amount payable on any Obligor Note Payment Date is referred to as the "Interest Period" for such Obligor Note Payment Date.

Anything herein to the contrary notwithstanding, all principal, interest, fees, costs and other charges that Obligor is obligated to pay in connection with this Note and the Loan shall be due and payable, in full, no later than July 15, 2022.

Exhibit B to Ordinance, Attachment C
Form of Obligor Note

C-2

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This Note, together with other obligations of Obligor under the Loan Documents are secured by a Deed of Trust, Assignment of Leases and Rents, and Security Agreement with Fixture Filing (as supplemented or amended from time to time, the "Deed of Trust"), of even date herewith, from the Obligor for the benefit of the Payee. This Note, together with other obligations of Obligor under the Loan Documents, are secured by other collateral, including without limitation security interests in the monies and investments held in certain Reserves established in accordance with the Loan Agreement and Master Agreement, and by an assignment of leases and rents.

The principal hereof and any interest accrued hereon may be prepaid, subject in the case of principal to approval by HUD of prepayment by the Payee of an equal amount of each respective Corresponding Advance on the City Note, and provided, however, that any prepayment shall be applied to the principal installment(s) with latest maturity unless otherwise agreed in writing by the holder hereof and by HUD, and provided, further:

(a) On or before the Conversion Date, this Note may be prepaid in whole or in part upon thirty (30) days prior written notice to the Payee and with, and only with, the consent of HUD. Any prepayment of the principal hereof shall be accompanied by all accrued interest thereon to the date of prepayment, and partial prepayments shall be credited against the principal amount last becoming due hereunder.

(b) After the Conversion Date, Obligor shall give 90 days prior written notice of its intention to make any prepayment. Any prepayment shall be applied to the payments last becoming due under this Note. No partial prepayment shall relieve the Obligor of the obligation to make any future payments due after the date of any prepayment. Any prepayment shall be in an amount not less than the amount which is sufficient to defease the Corresponding Advances on the City Note, as provided in the Master Agreement. If in the event of any prepayment, the Payee incurs any costs, expenses, fees, charges, premiums or losses, the Obligor shall pay such items upon demand in addition to the principal and interest due hereunder.

Any prepayment by Obligor or any third party, or recovery from the disposition of any collateral, after default shall constitute a prepayment and be subject to all terms and conditions regarding prepayment.

In the event of any default by Obligor in any term or condition of this Note, the Loan Agreement, the Deed of Trust, the Certificate and Indemnity, or any other document executed in connection herewith, which default is not cured as permitted by the applicable document, the entire principal and accrued interest hereunder shall become immediately due and payable without notice or demand at the option of the holder of this Note. If the entire balance of principal and interest shall be declared due and payable after the Conversion Date, then the Obligor shall pay to the holder hereof, in addition to all other amounts owing, any further amount required in order that the holder is able to fully defease, solely from the payments by Obligor hereunder and without costs to such holder, all of the outstanding Corresponding Advances under



the City Note. Obligor acknowledges that such additional amount, if any, is intended to protect the holder hereof from potential loss resulting from the enforcement of the terms hereof after default, and not as a penalty.

If Obligor is in default under the provisions of this Note, the Loan Agreement, the Deed of Trust, the Certificate and Indemnity, or any other document executed in connection herewith, and Payee or other holder of this Note commences any action to enforce collection hereof or foreclosure under any security document given in connection herewith or therewith, the Obligor agrees to pay all costs and expenses incurred by Payee, including but not limited to Payee's or such holder's reasonable attorneys' fees.

Demand, protest, and notice of demand and protest are hereby waived, and the Obligor, to the extent authorized by law hereby waives any and all homestead or other exemption rights which otherwise might apply to the obligation evidenced by this Note, and/or any property covered by any security document given in connection herewith. The Obligor executes this Note as a principal and not as a surety.

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

OBLIGOR:

HISTORIC SEATTLE PRESERVATION AND
DEVELOPMENT AUTHORITY, a Washington
public corporation

By: _____
Printed Name: _____
Its: _____

NOTICE: HISTORIC SEATTLE PRESERVATION AND DEVELOPMENT AUTHORITY is organized pursuant to Seattle Municipal Code (SMC) Chapter 3.110 and RCW 35.21.730-.755. RCW 35.21.750 provides as follows:

"All liabilities incurred by such public corporation, commission or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission or authority and no creditor or other person shall have any right of action against the city, town or county creating such public corporation, commission or authority on account of any debts, obligations or liabilities of such public corporation, commission or authority."



STATE OF WASHINGTON)
) ss.
County of KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath, stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of Historic Seattle Preservation and Development Authority, a Washington public corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

DATED: _____, 2004.

NOTARY PUBLIC

Print Name: _____

Residing at: _____

My appointment expires: _____

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Exhibit 1 to Obligor Note

Principal repayment schedule.

Due Date	Amount
July 15, 2004	\$0
July 15, 2005	\$0
July 15, 2006	\$33,000
July 15, 2007	\$35,000
July 15, 2008	\$37,000
July 15, 2009	\$39,000
July 15, 2010	\$41,000
July 15, 2011	\$43,000
July 15, 2012	\$45,000
July 15, 2013	\$47,000
July 15, 2014	\$49,000
July 15, 2015	\$51,000
July 15, 2016	\$53,000
July 15, 2017	\$55,000
July 15, 2018	\$57,000
July 15, 2019	\$59,000
July 15, 2020	\$62,000
July 15, 2021	\$65,000
July 15, 2022	\$1,269,000

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EXHIBIT C TO ORDINANCE

CITY OF SEATTLE

PROPOSAL FOR USE OF GUARANTEED LOAN FUNDS

FROM

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

FOR A

SECTION 108 LOAN UNDER
THE CITY OF SEATTLE'S

ECONOMIC AND COMMUNITY DEVELOPMENT LOAN FUND

TO ASSIST WITH THE ACQUISITION AND
REHABILITATION OF THE CADILLAC HOTEL

IN THE AMOUNT OF \$2,040,000

MARCH 18, 2004

Exhibit C to Ordinance
Loan Proposal

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CADILLAC HOTEL
319 SECOND AVENUE SOUTH
SEATTLE, WASHINGTON

Loan Summary

Borrower: Historic Seattle Preservation and Development Authority, a Washington public corporation ("Historic Seattle").

Purpose: Acquisition of the Cadillac Hotel building for historic restoration.

Loan Amount: \$2,040,000

Term: 19 years

Rate: Section 108 variable rate at 4.5% (subject to availability of funds, as described below, to stabilize at such rate).

The City will establish a rate subsidy account funded with up to \$230,323 in BEDI funds, plus any excess of the payments by the Borrower at a 4.5% rate over the floating rate on the Section 108 note of the City. This account shall be used to maintain the effective floating rate of interest at 4.5 percent until such time as the Section 108 loan shall be converted to fixed rates at the request of, or with the approval of, the Borrower. The commitment to maintain the effective interest rate at 4.5 percent is subject to funds in this account.

Principal Repayment: Principal repayment shall be due annually as follows:

July 15, 2004	0	July 15, 2014	49,000
July 15, 2005	0	July 15, 2015	51,000
July 15, 2006	33,000	July 15, 2016	53,000
July 15, 2007	35,000	July 15, 2017	55,000
July 15, 2008	37,000	July 15, 2018	57,000
July 15, 2009	39,000	July 15, 2019	59,000
July 15, 2010	41,000	July 15, 2020	62,000
July 15, 2011	43,000	July 15, 2021	65,000
July 15, 2012	45,000	July 15, 2022	68,000
July 15, 2013	47,000		

On July 15, 2022 a final payment of 1,201,000 shall be due in addition to the annual \$68,000 payment.

Security: A second deed of trust on the Cadillac Hotel Building at 319 2nd Ave South, Seattle, Washington, and underlying land (together, the "Property") during the period of construction. Following completion of construction and sale of the land, the deed of trust will convert to a second lien on the lessee's interests in a master leasehold and in the Cadillac Hotel Building.

A second deed of trust on real property owned by Historic Seattle located at 1117 Minor, Seattle, WA ("the Dearborn House"), subject to a first deed of trust in the amount of \$500,000 to Impact Capital. Following completion of construction, the Impact Capital loan will be paid through permanent financing and the City's deed of trust will convert to a first deed of trust.

A security interest, prior to completion of construction and lease-up, in Historic Seattle's right to certain bridge loan repayment from the limited liability company formed to finance the rehabilitation, and in such funds when repaid to Historic Seattle from project



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CADILLAC HOTEL
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sources.

The loan will be recourse to Historic Seattle.

The loan amount has been limited so that it is projected that at project stabilization (achievement of 1.2 debt coverage), the loan amount and the senior debt that will then remain on the collateral shall not exceed 80 percent of the value of the pledged collateral. The projected collateral value is based on current appraisals.

- Loan Fee:** 1 percent of the principal amount.
- Financial Reports:** Historic Seattle shall provide the City of Seattle, Office of Economic Development with annual financial statements on the borrower within 120 days of the end of its fiscal year and a rent roll and annual operating statement for the project certified by the borrower.
- Environmental:** All required environmental contaminant removal, remediation and disposal shall be undertaken in full compliance with applicable OSHA standards.
- Approvals:** The loan is conditioned on approval by OED of final plans and specifications, site plan, building and development permits and licenses, a guaranteed maximum priced construction contract, architect contract and, if required by Key Bank NA, a payment and performance bond.

Project Description

The purpose of this Section 108 proposal is to assist with economic and community development activities in the City of Seattle. The proceeds will be drawn from proceeds of a City non-recourse note issued under the previously approved Contract for Loan Guarantee Assistance with HUD ("Section 108 Loan Fund"). The Cadillac Hotel building will be the fifth loan under the Section 108 Loan Fund. The previous four, 211 First Avenue, The Buttnick Building, City Loan Building and the Compass Center totaled \$9,316,000. This loan is for \$2,040,000. The borrower, Historic Seattle will use the loan proceeds to acquire the Property. The BED1 funds in the amount of \$230,323 will be used for interest subsidy and a loan loss reserve.

The Section 108 loan will allow Historic Seattle to acquire the earthquake damaged commercial property known as the Cadillac Hotel. This property will be rehabilitated to house the Seattle headquarters of the National Park Service, the Klondike Gold Rush Museum as well as other commercial enterprises. The Klondike Gold Rush Museum is part of the National Park Service. Prior to the Nisqually Earthquake in February of 2001 the Cadillac Hotel operated as a commercial building housing offices, a restaurant and night club. The building sustained more damage from the February 2001 earthquake than any other building in the Seattle area. Since the earthquake it has remained vacant and unsafe for occupancy. The building's restoration has been of great interest to the City of Seattle and to Historic Seattle both because of its historic status and its historic significance to the Pioneer Square Historic District. The building was listed in the amendments to both the original BED1 and Section 108 applications as a property that the two funds would assist.

The cost of acquisition and rehabilitation of this building is currently estimated at \$8,642,048. The Section 108 funds will be used by Historic Seattle to acquire the property from Cadillac Preservation LLC. Rehabilitation costs for the building will be financed through a combination of bank debt, Historic and New Market Tax Credit equity, and conventional equity.

Following acquisition and prior to completion of rehabilitation, Historic Seattle will grant a 45 year lease to Cadillac Rehabilitation LLC, an entity managed by Historic Seattle. Cadillac Rehabilitation LLC will receive the private construction financing, contract for the rehabilitation, own the property improvements and lease the building to tenants. In return, Cadillac Rehabilitation LLC will provide payments to Historic Seattle in an amount sufficient, alone or together with additional payments in return for funding from land sale proceeds as described below, to pay Historic Seattle's debt service on the Section 108 loan.



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Following completion of rehabilitation, Historic Seattle will sell the land interest in the property to the National Park Service. The land sale will be subject to the 45 year master lease between Historic Seattle and Cadillac Rehabilitation LLC. The proceeds of the land sale will be contributed or lent by Historic Seattle to Cadillac Rehabilitation LLC for payment of soft costs incurred in the rehabilitation or retirement of interim financing of such costs.

Cadillac Rehabilitation LLC will sublease approximately 10,855 square feet of space in the basement and first floor of the project to the National Park Service, and an additional 11,432 square feet of space in the second and third floors to other office tenants. The National Park Service may be granted an option to purchase the master leasehold in 8 years following rehabilitation for its then determined fair market value. A chart illustrating the transfers of ownership and lease interests is attached as Exhibit 1.

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Project Financing

Note: For convenience, the following summary of estimated projects costs and uses combines the costs incurred and funds received by Historic Seattle with those incurred and received by Cadillac Rehabilitation LLC.

Project Costs:

Hard Costs			
	Site Acquisition	800,000	
	Building Acquisition	1,200,000	
	Acquisition Closing Costs	40,000	
Total Acquisition			2,040,000
	Construction	3,300,000	
	Off-site Improvements	17,312	
Subtotal Hard Costs			3,317,312
	Sales Tax	291,923	
Subtotal Construction Costs			3,609,235
	Contingency	420,000	
	Commercial TIs	601,749	
	[\$27/sf for "plain vanilla" build-out of entire tenant space]		
Total Hard Costs			4,630,984
Soft Costs			
	Permits	41,466	
	Survey	6,207	
	Geotechnical	10,500	
	Environmental (Phase I&II)	12,000	
	City light Charges	10,000	
	Water meter fee	5,000	
	Hazardous Materials	30,000	
	Architectural / Engineering	422,229	
	Exhibit Design	300,000	
	Project Management	165,866	
	Insurance	50,481	
	Construction Period R E Taxes	14,684	
	Construction Period Utilities	11,071	
	Construction Interest Bank & CDC	80,250	
	Construction Interest Section 108	107,100	
	Acquisition Loan Interest	57,000	
	Bridge Loan Interest	40,000	
	Rate Lock Bank	114,300	
	Construction Loan Fees Bank & CDC	24,050	
	Permanent Loan Fee	28,575	
	Section 108 Loan Fee	20,400	
	Bridge Loan Fee	5,000	
	Bank Inspection Fee	5,000	
	Appraisal	20,500	
	Title Insurance / Closing / Escrow	10,000	
	Excise Tax	35,800	
	Tax Credit Fees	3,000	
	Investor Fees	10,000	
	Owner Legal	50,000	
	Investor Legal	30,000	
	Bank Legal	20,000	
	Accounting / Organizational	15,000	
	Lease Commission	55,585	
	Operating Reserve	75,000	
	Soft Cost Contingency	85,000	

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Total Soft Costs 1,971,064

TOTAL PROJECT COST* 8,642,048

*Excludes \$1,200,000 Development Fee to Historic Seattle Preservation and Development Authority payable not as a separately paid cash developer fee but rather over the long term from residual cash flow of the project after all other debt. This developer fee represents 13.9% of the development costs and is considered normal according to historic tax credit practices.

Sources Construction:

Key Bank NA	2,810,000
Key Bank CDC	1,802,369
(new market tax credit loan)	
Key Bank CDC Equity	641,894
(historic tax credit and new market tax credit equity)	
Section 108	2,040,000
Impact Capital	500,000
Historic Seattle Save the Buildings Funds (grant)	200,000
Historic Seattle Equity Bridge Loan	647,785

TOTAL CONSTRUCTION SOURCES* 8,642,048

*Excludes \$1,200,000 Development Fee Loan from Historic Seattle Preservation and Development Authority.

Sources Permanent:

Key Bank NA	3,810,000
Section 108	2,040,000
Key Bank CDC Equity	1,604,737
(historic tax credit and new market tax credit equity)	
Sale of Fee Interest in Land	800,000
Historic Seattle Save the Buildings Funds	200,000
Historic Seattle Equity	187,311

TOTAL PERMANENT SOURCES* 8,642,048

*Excludes \$1,200,000 Development Fee Loan from Historic Seattle Preservation and Development Authority.

Section 108 Submission Requirements

A. Community Development Objectives of the Loan Fund

The Section 108 Loan Fund was set up to assist in economic and community development lending in Seattle's Brownfield Showcase and Enterprise Communities. In doing so the loan fund furthers the City of Seattle's Economic Development Goals as listed in the City's 2001 - 2004 Consolidated Plan. Within the Economic Development component of the Consolidated Plan is the following objective:

"Provide operating, grant and loan, and project management support to neighborhood business districts and community based development organizations, and to special projects, so that Seattle has thriving neighborhoods and broadly shared prosperity."

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Stated in the Outcome section of the plan is the expectation that the City of Seattle will directly assist businesses and development projects with Section 108 loans.

B. Description of how the Proposal meets one of the Criteria in 24 CFR 570.208 - National Objectives.

The City of Seattle's Section 108 / BEDI loan fund was established to create jobs for low and moderate income persons, provide services to a low income area and/or eliminate conditions of blight. All projects assisted through the fund are to be located within the boundaries of the City of Seattle's federally designated Enterprise Community or within the Brownfield Showcase Community.

Section 570.208 defines the criteria under which an activity may meet Section 570.200(a)(2), National Objectives. Section 570.200(a)(2) requires that all CDBG activities meet one of three national objectives. These objectives are: 1) benefit to low and moderate income families; 2) aid in the prevention or elimination of slums or blight; and 3) meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. Each project funded through the Section 108 loan fund will meet one of the National Objectives listed in Section 570.200(a)(2) as detailed in Section 570.208.

The Cadillac Hotel project will meet the requirements of Section 570.208(a)(4). Section 570.208(a)(4) defines activities that meet the requirements of 570.200(a)(2) through the creation or retention of jobs. The subsection states that to qualify as a job creation or retention activity "the project must "create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low-and moderate-income persons." Sections 570.208(a)(4)(i) & (ii) specify that to qualify under Section 570.208(a)(4) the jobs created or retained must either be held by or be available to low- and moderate-income persons. Section 570.208(a)(4)(iv) lists minimum standards for the presumption that jobs will be "held by or made available to low- and moderate-income persons." Finally, Section 570.208(a)(4)(iv) and (v) state that if the assisted business is located in a census tract or block numbering area that is part of a Federally-designated Enterprise Community, and if the job is located within that census tract, then the person may be presumed to be a low- or moderate-income person. The project will create at least 45 new permanent jobs, a sufficient number to satisfy the requirements of 570.208(a)(4) and 570.209. Because the Cadillac Hotel is located in Pioneer Square neighborhood and is in a Federally-designated Enterprise Community, the project receives the presumption that new permanent jobs benefit low- or moderate-income individuals.

C. Eligibility under 24 CFR 570.703

The Cadillac Hotel project will be eligible under 570.703(i)(1), economic development activities eligible under Section 570.203. Under 24 CFR 570.203 (a) the City can provide assistance for acquisition of real property for economic development projects carried out by public or private nonprofit subrecipients. In addition, these activities will meet the guidelines provided in Section 570.209 (Guidelines for evaluating and selecting economic development projects).

Section 570.207(a) excludes: buildings or portions thereof, used for the general conduct of government, general governmental expenses and political activities. None of the projects to be assisted with Section 108 proceeds will include buildings used for the general conduct of government, general governmental expenses, nor for political activity.

Section 108 / BEDI funds will be used for the acquisition of the Cadillac Hotel and will meet the requirements of Section 570.203 (b). Historic Seattle will be considered a subrecipient pursuant to 24 CFR 570.

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D. City's Underwriting Guidelines and Analysis - 24 CFR 570.209

24 CFR Section 570.209 contains guidelines and objectives for evaluating project costs and financial requirements. While these guidelines and objectives are non-binding, the City of Seattle feels they provide a valuable basis for analyzing loans and therefore uses the framework outlined in Section 570.209 to evaluate economic development projects.

Pursuant to Section 570.209, the City of Seattle established underwriting guidelines for the \$15,500,000 Section 108 fund and has applied such standards for each of the four previous projects for the fund. The City considers the following factors in its underwriting analysis:

Ability to Repay

Projects to be funded will have at least a 1.1-projected debt coverage ratio. If the project includes more than a small percentage of its rental income from start-up or financially weak tenants then a higher debt coverage ratio shall be required.

Collateral

Projects to be funded should have a loan to value ratio of not greater than 80 percent at project stabilization. This value must be supported by an appraisal prior to funding. If greater than an 80 percent loan to value ratio is proposed, outside collateral sufficient to provide an 80 percent loan to value shall be required. In certain cases outside guarantees may suffice for additional collateral.

Development Team Capacity and Experience

Projects to be funded should have a development team that has both the capacity and experience to complete the project as demonstrated by past projects and financial strength.

Developer / Owner Commitment

Developer / owner commitment can take many forms. While each project is likely to be different the forms of developer commitment that can be expected include: adequate equity, guarantees of completion, guarantees to fund shortfalls or guarantees of minimum cash flow.

Character

Projects to be funded should have developers with good credit histories, demonstrated integrity, and quality references.

Proposed Costs

Projects to be funded should have reasonable proposed project costs.

Commitment of Funds

Projects to be funded should have commitments of construction and permanent financing.

Need for Public Assistance

Projects to be funded should demonstrate a need for public financial assistance.

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1. **Ability to Repay**

a. Primary Source of Repayment

The primary source of repayment for the loan will be payments from Cadillac Rehabilitation LLC to Historic Seattle, funded by project rental income. The operating pro forma, attached as Exhibit VI, shows the building with rental income sufficient to achieve a 1.19 debt coverage ratio projected for the first full year of occupancy and a stabilized 1.2 debt coverage ratio in the second year. This is superior to the City's underwriting guideline of a minimum 1.1 debt coverage ratio as outlined above. Projections for the initial three years of operations are as follows (with a description of later years in the attached Exhibit VI):

Operating Pro Forma	Yr 1	Yr 2	Yr 3
Gross Effective Income	\$616,032	\$622,898	\$629,934
Expenses	(109,206)	(112,482)	(115,857)
Net Operating Income	506,826	510,416	514,077
Debt Service			
Key Bank	(301,808)	(301,808)	(301,808)
City of Seattle	(125,239)	(125,239)	(125,239)
Cash Flow After Debt Service	79,779	83,370	87,030
Debt Coverage Ratio	1.19	1.2	1.2

The building is nearly 50 percent pre-leased on a per square foot basis and over 60 percent pre-leased on a rental income basis. The National Park Service will occupy this space through a signed 20-year lease* and will pay \$30 per square foot rent, well above the market rent. As a result, the project will have a very strong tenant providing a reliable and above-market source of rental income. This level of pre-leasing commitment is also significant considering the current condition of the building. Pro forma rents for the remaining 11,432 square feet are \$18 per square foot rent with expense income estimated to be \$4.75. These rates are within the range of rents for comparable properties in the Pioneer Square neighborhood. As described in the appraisal, attached as Exhibit V, rental rates for comparable properties range from \$12 to \$28 per square foot. The pro forma includes a 4 percent vacancy rate, but this represents 4 percent vacancy of the **overall** building rental income. In year 2 (when the project is projected to achieve 1.2 debt coverage, i.e., project stabilization), 4 percent of the overall building rental income will equal an annual vacancy amount of \$21,682. Because the National Park Service is a key tenant with no assumed vacancy for its space, the \$21,682 vacancy amount applies only to the rental income of the remaining 11,432 square feet (\$209,891 at year 2). This represents a vacancy rate of 10.33 percent of the rental income for the remaining 11,432 square feet. The Cadillac Hotel vacancy rate is close to the 12.45 percent average market vacancy rate for Pioneer Square, as described in the appraisal. Upon closer analysis of the appraisal, the 12.45 percent market vacancy rate should be considered even lower due to the fact that the appraisal examined vacancy rates for Class A, B and C office space, with Class B space representing the greatest share of vacancies. Although the appraisal did not examine Class A rehabilitated space separately, it would be reasonable to conclude that Class A rehabilitated space, such as the Cadillac Hotel, would be more desirable and have a lower vacancy rate than the 12.45 percent market vacancy rate.

* The United States General Services Administration, acting on behalf of the National Park Service, will be the tenant on the lease. A copy of the lease is attached as Exhibit III. The Park Service will purchase the land for \$800,000 upon completion of rehabilitation, subject to a 45 lease retained by Cadillac Rehabilitation LLC. A copy of the purchase agreement is attached as Exhibit IV.

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b. Secondary Source of Repayment

The secondary source of repayment is recourse to the project collateral as discussed later in the section entitled Collateral on page 11.

c. Tertiary Source of Repayment

The tertiary source of repayment is the financial strength of Historic Seattle Preservation and Development Authority.

Analysis of Historic Seattle's financial strength is relevant to determine its capacity to develop and manage project operations, as well as due to the recourse nature of the loan. As discussed in greater detail in the section below entitled Developer/Owner Commitment on page 13, Historic Seattle has strong financial strength to develop and manage project operations, thus providing additional confidence in the ability to repay the loan.

d. Balloon Payment - Loan Refinancing

The Key bank loan is due in 10 years though it is amortized over 30 years. The City of Seattle Section 108 loan is due on 2022 with a significant balloon payment. It is anticipated that the lump sum payment will be made through private refinance of the Section 108 loan. Given the principal pay down on each of these loans and the historic increases in rental rates in the Pioneer Square market the City of Seattle does not anticipate the project will have difficulty in refinancing either loan at maturity. The combined loan balances on the Section 108 and Bank loan at maturity of the Section 108 loan will be approximately \$3,600,000, representing less than 60 percent of the current appraised value of the building. It is anticipated that the loan to value ratio will improve to an even lower number, due to an appreciation in property value over the 19 year term. Moreover, the building will retain its value, as the leases will mandate that tenants maintain their respective tenant space, and the project will have adequate common area reserves sufficient to maintain common areas and exterior.

e. Commitment of Funding

All the sources of construction and permanent financing for the Cadillac Hotel project have been committed. Key Bank National Association will provide a \$2,810,000 construction loan and a \$3,810,000 permanent loan. Key Community Development Corporation will provide \$1,604,737 in tax credit equity and \$1,802,369 in construction debt. Impact Capital has committed to make a bridge loan of \$500,000. These commitments are attached as Exhibit II. The Impact Capital Bridge Loan will be repaid from the tax credit equity pay-in from Key Community Development Corporation. Also, \$460,474 of the total \$647,785 Historic Seattle Equity Bridge Loan will be repaid from the tax credit equity pay-in. As a condition of the City of Seattle's loan, the City will have a security interest in the \$460,474 repayment as additional collateral. This security interest will be released at the later of project completion or stabilized lease-up (1.2 debt coverage). Given the level of reserves, commissions and tenant allowance, it is anticipated that the building will achieve pro forma occupancy by completion of construction or shortly thereafter and will be able to repay its debt obligations.

f. Repayment Risks

The primary repayment risk is achieving lease-up. As discussed above, this risk is mitigated by the fact that the project is 50 percent pre-leased on a square foot basis and 60 percent pre-leased on an income basis. The risk is further mitigated by two additional factors. First, if the project should not be able to achieve break-even lease-up by completion of construction, the lease-up reserve could be accessed for a period of 4.5 months on the vacant space (i.e., portion of the property not pre-leased to the National Park Service). Second, upon construction completion, the



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funds coming back to Historic Seattle from its Historic Seattle Equity Bridge Loan could be accessed. Together the two reserve sources represent over 2.5 years of projected income on the vacant space.

2. Collateral

a. Over the term of the loan, the City of Seattle's Section 108 loan will be secured by three sources of collateral. The borrower will grant a second deed of trust on 319 Second Avenue, Seattle, Washington, known as the "Cadillac Hotel Building" to be converted to a second security interest in a 45 year leasehold including the property improvements held by Cadillac Rehabilitation LLC at completion of construction. The appraised value of the leasehold interest at completion is \$6,050,000. The appraisal was completed and dated May 19, 2003. The loan secured by the first deed of trust will be reduced to a balance of \$3,810,000 upon receipt by Cadillac Rehabilitation LLC of all permanent financing.

b. The City's loan will also be secured by a second deed of trust on 1117 Minor, Seattle, Washington, known as the "Dearborn House" to be converted to a first deed of trust upon completion of construction. The property was appraised on October 23, 2003. The appraised value of the fee simple interest in the property is \$1,600,000. The current first deed of trust is held by Impact Capital for \$500,000 and will be retired before completion of construction.

c. The City will also have a security interest in Historic Seattle's cash funds totaling \$460,474. This represents the amount that Historic Seattle will receive as partial repayment of its \$647,785 Historic Seattle Equity Bridge Loan (such partial repayment to be made from tax credit equity). The City will release this security interest at the later of construction completion and lease-up stabilization.

d. The loan will be recourse to Historic Seattle.

e. Collateral Coverage

As indicated below, a deed of trust on the Cadillac Hotel property is not sufficient to achieve the required 80 percent loan to value coverage at project stabilization. If the City relied on the leasehold value of the Cadillac Hotel property alone, the loan to value coverage at project stabilization would be 96.7 percent. The City needs to rely on outside collateral, i.e., deed of trust on the Dearborn House, in order to achieve 80 percent loan to value. Collateral coverage at project stabilization may be described as either loan to value or loan to discounted value.

(i) Loan to Value (not to exceed 80%)

Loan to Value Ratio = $\frac{\text{Loan Amount}}{\text{Fair Market Value of Collateral}}$

Loan Amount = \$3,810,000 prior lien of Key Bank
+ 2,040,000 Section 108 loan
\$5,850,000

Fair Market Value of Collateral =
\$ 6,050,000 appraised value of 319 2nd Ave
+ 1,600,000 appraised value of 1117 Minor
\$ 7,650,000

Loan to Value Ratio = $\frac{\text{Loan Amount } (\$5,850,000)}{\text{Fair Market Value of Collateral } (\$7,650,000)}$



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Loan to Value Ratio = .77

(ii) Loan to Discounted Value (not to exceed 1:1)

Collateral	Appraised Value	Discount Rate	Discounted Value	Less Prior Liens	Net Value	Loan to Discounted Value
2 nd Deed of Trust (319 2 nd Ave)	\$6,050,000 (value of leasehold interest)	.80	\$4,840,000	\$3,810,000	\$1,030,000	
1 st Deed of Trust (1117 Minor Ave)	\$1,600,000	.80	\$1,280,000	\$0	\$1,280,000	
Total	\$7,650,000		\$6,120,000	\$3,810,000	\$2,310,000	.883

f. Collateral Risks

Deeds of trust on the Cadillac Hotel property and Dearborn House will provide the required 80 percent loan to value upon lease-up/project stabilization. It is customary underwriting practice to determine loan to value coverage at the time of stabilization. Prior to stabilization, it is customary underwriting practice for a lender to rely on steps to mitigate construction risk and lease-up risk rather than loan to value coverage. The most common construction risk involves the risk of cost overruns and force majeure ("acts of god"). Construction risk for this project will be mitigated by the involvement of a highly experienced development team - Historic Seattle, Rafn (contractor) and Stickney Murphy (architect) (as discussed later in greater detail). The City of Seattle has the right to approve the contractor's guaranteed maximum price contract, has the protection of adequate construction contingencies, has a security interest in Historic Seattle's right to receive partial repayment (\$460,474) of its \$647,785 Bridge loan, and will have insurance protection. As discussed above, the City will also mitigate lease-up risks by strong pre-leasing involving the Park Service as key tenant, and pro forma rent and vacancy assumptions for the remaining tenant space that are well within the market range as supported by an appraisal. Finally, it should be noted that Historic Seattle has pledged its own offices as additional collateral. This demonstrates considerable commitment on the part of the borrower.

g. Collateral Liquidation Risk

Should Historic Seattle default on the loan the City of Seattle will foreclose on its security interests on the Cadillac Hotel property and the Dearborn House. In addition to the collateral, the City has access to the proceeds of a BEDI grant in the amount of \$1,750,000. These funds have been allocated on a pro rata basis to serve as interest subsidy and loan loss reserve to Section 108 loans. The funds allocated to the Cadillac Hotel project are \$230,323.

3. Development Team Capacity and Experience

Historic Seattle Preservation and Development Authority will serve as the project developer. Historic Seattle has more than 25 years experience in historic rehabilitation in the City of Seattle. Historic Seattle has selected the Rafn Company as general contractor. Rafn has an established record of excellence in historic renovation in Seattle since undertaking some of the first historic

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rehabilitation projects in Pioneer Square over 30 years ago. Stickney Murphy Romine will be the project architect. Stickney Murphy is one of the leading Seattle architectural firms with a specialty in historic rehabilitation.

Overall the capacity and experience of the development team can only be considered first class. A more detailed description of the development team's capacity and experience is attached as Exhibit VII.

4. Developer / Owner Commitment

Historic Seattle is a City chartered public development authority. Its mission is to preserve historic properties. Historic Seattle has committed over 2 years and has invested \$647,785 in a bridge loan to Cadillac Rehabilitation LLC for the project. It has also raised \$200,000 in additional grant funds for the project. Of the \$847,785 total amount, Historic Seattle will commit \$387,311 as equity on a permanent basis. For this investment, Historic Seattle will receive a 13.7% internal rate of return ("IRR") – a figure on the low side of average for real estate investment. Moreover, Historic Seattle will defer its entire developer fee to project financing. Without Historic Seattle's commitment this prominent and historic building would have been lost long ago. The developer's commitment is unquestionable.

Attached as Exhibit VIII are the financial statements of Historic Seattle Preservation and Development Authority for the years ending December 31, 1999, 2000, 2001 and 2002 plus the interim statements ending October 31, 2003. The statements were audited by Ernst Jonson & Company, P.S., certified public accountants.

Statement of Activities				
	2002	2001	2000	1999
Total Revenues	\$1,773,298	\$1,203,416	\$ 922,881	\$ 774,204
Total Expenditures	1,253,342	1,005,833	849,522	736,963
Increase in Unrestricted Net Assets	519,956	197,583	73,359	37,241
Statement of Financial Position				
	2002	2001	2000	1999
Cash & Equivalents	\$ 177,179	\$ 113,606	\$ 352,143	\$ 380,463
Accounts Receivable	23,467	29,895	29,038	1,029
Non-Current Assets	4,953,917	3,599,274	2,563,567	2,572,763
Total Assets	5,154,563	3,742,775	2,944,748	2,954,255
Notes Payable	1,634,912	702,553	274,828	354,992
Accounts Payable	164,290	196,250	21,884	19,562
Other Liabilities	120,111	128,678	130,325	135,349
Total Liabilities	1,919,313	1,027,481	427,037	509,903
Unrestricted Net Assets	3,235,250	2,715,294	2,517,711	2,444,352
Current Ratio	.67	.38	Information not available	



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DEBT to Worth .59 .38 .17 .21

For each of the years reviewed Historic Seattle has had revenue in excess of its expenditures. On December 31, 2002 net assets (net worth) exceeded \$3,000,000 and had steadily grown over the previous four years. For the most recent year end total revenue was just short of \$1,869,000 including grant income of \$925,000. Expenses were just over \$1,250,000 including depreciation of nearly \$150,000. While grant income has been a steady source of revenue, 2002 was an exceedingly successful year. Without grant income Historic Seattle would not have had revenue in excess of expenditures. This has been the case for each of the years reviewed. While Historic Seattle's financial viability can be viewed as in part dependent on its ability to generate grant income, it has been consistently successful at increasing its grant income for each of the years reviewed.

On the interim statements Historic Seattle shows income at 118 percent of budget while expenses were at 91 percent of budget. Grant income for 2003 was budgeted at \$7,500 and currently exceeds \$325,000. As of October 31, 2003 Historic Seattle's interim operating surplus was over \$270,000.

Based on the statements reviewed, the City of Seattle feels confident in Historic Seattle's capacity to develop and manage the project.

5. **Character**

Historic Seattle has demonstrated the strength of its dedication to historic preservation in its perseverance in pursuing the preservation of this severely damaged building. Its character can be seen clearly in its actions.

6. **Reasonableness of the Proposed Project Costs**

Because of the magnitude of the damage that the building suffered in the Nisqually Earthquake and the need to restore the building according to the Park Service standards for historic preservation, cost comparables are not possible. The proposed budget contemplates the full subordination of the developer fee and the full depletion of Historic Seattle's Save the Buildings Fund. These factors and the experience of the development team will combine to assure a commitment to cost refinement and development efficiencies. The Bank and the City's loan commitments are conditioned on a final guaranteed maximum price contract for development within the proposed budget.

7. **Commitment of Funds.**

All sources of financing have been committed. Once the Section 108 loan is approved the project will begin.

8. **Need for Public Assistance**

The Cadillac Hotel project is a unique commercial development. It was a key historic building in the City of Seattle's first historic district. When it was severely damaged in the Nisqually Earthquake, the City of Seattle's Office of Economic Development, the Pioneer Square community and Historic Seattle Preservation and Development Authority pledged to pursue its restoration, if feasible. Only through a combination of public and private resources has Historic Seattle been able to propose the current development structure and restore the building. The Section 108 loan represents less than 25 percent of the project cost. Nearly one third of the project budget is comprised of equity from Key Community Development Corporation and Historic Seattle. Given the achievable rental rates in Pioneer Square the building could achieve no more commercial debt.



CADILLAC HOTEL
319 SECOND AVENUE SOUTH
SEATTLE, WASHINGTON

The Section 108 debt was only possible through Historic Seattle's willingness to pledge its own office building as additional collateral.

E. A Description of the Pledge of CDBG Grant Revenues

The City of Seattle understands that if the participants in this Section 108 loan fund fail to make timely payments and the City of Seattle therefore fails to make a required payment on its notes, HUD will deduct that payment from the City of Seattle's CDBG Letter of Credit and in accepting this loan guarantee, the City of Seattle has pledged its CDBG funds and all other applicable grants as security for the guarantee.

F. Principal Repayment Schedule

July 15, 2004	0	July 15, 2014	49,000
July 15, 2005	0	July 15, 2015	51,000
July 15, 2006	33,000	July 15, 2016	53,000
July 15, 2007	35,000	July 15, 2017	55,000
July 15, 2008	37,000	July 15, 2018	57,000
July 15, 2009	39,000	July 15, 2019	59,000
July 15, 2010	41,000	July 15, 2020	62,000
July 15, 2011	43,000	July 15, 2021	65,000
July 15, 2012	45,000	July 15, 2022	68,000
July 15, 2013	47,000		

On July 15, 2022 a final payment of 1,201,000 shall be due in addition to the annual \$68,000 payment.

List of Exhibits [exhibits omitted, available for review at City Clerk's Office]

Exhibit I – Chart of Transfers of Ownership

Exhibit II – Loan and Investment Commitments

Exhibit III – Lease to the United States General Services Administration (for NPS)

Exhibit IV – Purchase Agreement with the National Park Service

Exhibit V – Appraisal

Exhibit VI – Operating Pro Forma

Exhibit VII – Description of Development Team and Experience

Exhibit VIII – Financial Statements of Historic Seattle Preservation and Development Authority

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EXHIBIT D TO ORDINANCE

AMENDMENT TO THE 2001-2004 CONSOLIDATED PLAN
2004 Action Plan

Cadillac Hotel (319 2nd Avenue)

\$2,040,000 will be loaned to Historic Seattle Preservation and Development Authority from the City's \$15,500,000 Section 108 loan pool. Funds will be used to pay for site acquisition costs. The Cadillac Hotel, upon completion, will include offices for the National Park Service, the site of the Klondike Gold Rush National Historical Park, as well as other offices.

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FISCAL NOTE FOR NON-CAPITAL PROJECTS

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

Legislation Title: AN ORDINANCE relating to redevelopment in the Pioneer Square neighborhood; authorizing a loan of federal Section 108 loan proceeds to finance acquisition of the Cadillac Hotel Building at 319 Second Avenue South; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce or subsidize interest on the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; amending Ordinance 120873; and authorizing amendments to the City's 2001-2004 Consolidated Plan to reflect the transactions contemplated by this ordinance.

• **Summary of the Legislation:**

This legislation authorizes OED, on behalf of the City, to make a \$2,040,000 Section 108 Loan to Historic Seattle Preservation and Development Authority, for site acquisition of the Cadillac Hotel Building at 319 Second Avenue South in the Pioneer Square neighborhood. Loan proceeds of \$2,040,000 in federal Section 108 funds will come from a previously approved federal Section 108 loan fund in the amount of \$15,500,000 (Ordinance 120873). This legislation also authorizes the appropriation and disbursement of \$230,323 from a previously approved companion federal Brownfields Economic Development Initiative grant in the amount of \$1,750,000 ("BEDI Grant"). The BEDI Grant will be used to reduce or buy-down the interest rate on this Section 108 loan to 4.5%.

• **Background:** (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):

In August 2002, OED, on behalf of the City, created a federal Section 108 loan fund in the amount of \$15,500,000 and accepted a companion federal BEDI Grant in the amount of \$1,750,000. The purpose of the Section 108 loan fund is to assist with economic and community development activities in the City of Seattle's Brownfield Showcase and Enterprise Communities. The guaranteed loan funds are used to create a loan pool targeted to projects that will have positive economic and community development benefits within targeted communities. BEDI Grant funds are applied as needed to reduce or stabilize interest on the Section 108 loans.



Ken Takahashi
March 19, 2004
Cadillac Hotel Section 108
Version 8

Four previous loans have been made from the loan fund – 211 First Avenue, the Buttnick Building, the City Loan Building and Compass Center. These loans provided acquisition and rehabilitation financing for projects in the Pioneer Square neighborhood.

Similarly, the Section 108 loan to Historic Seattle Preservation and Development Authority ("Historic Seattle") will provide financing for Historic Seattle to acquire the Cadillac Hotel property, located at 319 Second Avenue South in Pioneer Square.

The Cadillac Hotel is a three-story plus basement, 26,000 square foot, historic commercial building located at 319 Second Avenue South. Of all the properties in Pioneer Square that were damaged by the Nisqually Earthquake, the Cadillac sustained the most extensive damage. The building is currently unoccupied and red tagged, needing immediate seismic upgrades and other rehabilitation. Upon completion, the rehabbed Cadillac Hotel will contain the assembly and exhibition space for the Klondike Gold Rush National Historical Park on the basement and first floor. The second and third floors will contain offices for the National Park Service and other commercial/office tenants. Acquisition and rehabilitation costs of the site have been estimated at \$9,879,963.

The Section 108 loan will be in the amount of \$2,040,000. The term of the loan will be 19 years, with the loan repayment schedule based on a period longer than 19 years. Loan payments will be based on a 30 year amortization schedule. Because all principal and interest will be due in 19 years (and not 30 years), there will be a significant balloon payment due on the maturity date in 2022.

Historic Seattle will pay interest at 4.5% as long as the floating rate (as determined by 20 basis points above the 3-month London Interbank Offered Rate ("LIBOR Rate") as adjusted monthly) does not rise above 4.5%. If the floating rate exceeds 4.5%, the \$230,323 in BEDI Grant funds will be applied as needed to stabilize the rate at 4.5%. If both the floating rate exceeds 4.5% and BEDI Grant funds have been exhausted, Historic Seattle will pay interest at the floating rate.

The Section 108 loan will be secured by:

- (a) second position deed of trust on the Cadillac Hotel during construction; after completion of construction, deed of trust converts to second lien on borrower's rights to master lease on the property;
- (b) second position deed of trust on outside collateral – 1117 Minor Ave (the office headquarters of Historic Seattle known as the Dearborn House); after completion of construction, deed of trust converts to first position deed of trust;
- (c) recourse loan to Historic Seattle.



The Cadillac Hotel project has several strengths:

- The completed project will provide significant public benefits including historic preservation, creation of 45 new permanent jobs and continued economic revitalization of Pioneer Square.
- The project has a strong development team. All team members – Historic Seattle as developer, Rafn as contractor and Stickney Murphy Romine as architect – have considerable experience and capacity for rehabilitation projects such as the Cadillac Hotel.
- The project has a solid key tenant – National Park Service. The National Park Service's leasehold represents over 60% pre-leasing of the building rental income, a reliable source of rental income that far exceeds market rates. The National Park Service in acquiring the land portion of the Cadillac Hotel property will also provide a valuable source of equity (\$800,000) for construction financing.
- The project financing, with the exception of the Section 108 loan, is fully committed with all construction and permanent financing sources.

The Cadillac Hotel project also has potential risks which will be mitigated:

- As in any real estate development project, construction risk represents the most significant risk for the loan. The Cadillac Hotel project will have high rehabilitation costs due to the extensive damage caused by the 2001 earthquake and the high costs associated with rehabbing any historic building. Rehabilitation costs in the amount of \$8,642,048 will exceed the post-rehabilitation appraised property value of \$6,050,000. Despite the high cost, the Executive is supportive of this project, because it will result in the creation of new jobs in a low-income neighborhood and the rehabilitation of an historic property that the community felt strongly about preserving. OED believes that the risk will be mitigated to a significant degree. OED will have rights to approve a guaranteed maximum price construction contract. The project will also have sufficient construction contingencies to cover cost overruns. The City will also have a security interest in Historic Seattle funds totaling \$460,474 until the later of construction completion and project stabilization. Finally, as discussed above, an experienced development team has been selected.
- The City and other lenders are providing financing on the project that is 96.7% of the total post-rehabilitation appraised value of the Cadillac Hotel property. This is in excess of OED's underwriting guidelines which caps our loan to value coverage ratio at 80%. A deed of trust in the Cadillac Hotel property alone does not provide sufficient security for the City's loan. As such, the City needs to rely on outside collateral by taking a deed of trust in Historic Seattle's office headquarters (Dearborn House). The combined value

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of the two properties will provide sufficient security to achieve 80% loan to value. The use of outside collateral to meet this guideline is permissible by HUD. In the event of a loan default, the City would foreclose on both deeds of trust. Finally, the City will have recourse to Historic Seattle in the event of loan default.

- Lease-up stabilization also represents a risk for the project, particularly given the current vacancy rates for commercial properties in the City. The loan applicant has not yet obtained pre-leasing sufficient to reach the break even point. However, as discussed above, the loan applicant has obtained an impressive 60% pre-leasing of the building rental income. The operating pro forma includes reasonable rent (\$18 per square feet) and vacancy (10.3 percent) assumptions for the remaining space – supported by an appraisal within market range. The project will also have reserves sufficient for 2.5 years of rental income on the vacant space.
- The loan repayment schedule assumes a \$1,201,000 balloon payment due on the maturity date of the loan (2022). This represents some risk. However, several factors mitigate this risk and provide assurances that Historic Seattle will privately refinance the Section 108 loan in order to make the balloon payment. First, on the maturity date of the Section 108 loan, the loan balances for the Section 108 loan and the private bank loan associated with the Cadillac Hotel property will be less than 60 percent of the current appraised value of the building. Also, it is anticipated that the property value will appreciate over the 19 year term. As such the increased value of the property will make a refinance attractive. Finally, the leases on the Cadillac Hotel property will mandate that tenants maintain their respective tenant space, thereby helping the building to retain its value. The good condition of the building will make a refinance attractive.

The complete loan proposal containing the full details of the Section 108 loan proposal and the Cadillac Hotel project is attached as Exhibit C to the Ordinance.

Following disbursement of the Section 108 loan and BEDI Grant for the Cadillac Hotel, a total of \$11,356,000 of loan proceeds from the \$15,500,000 HUD Section 108 loan pool will have been disbursed. The remaining \$4,144,000 will be set aside for more projects yet to be identified. Also, a total of \$1,282,129 of grant funds from the \$1,750,000 BEDI Grant funds will have been disbursed. The remaining \$467,871 will be set aside for more projects yet to be identified.

- Please check one of the following:

☐ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has financial implications.** (Please complete all relevant sections that follow.)



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 March 19, 2004
 Cadillac Hotel Section 108
 Version 8

Anticipated Revenue/Reimbursement: Resulting From This Legislation: This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2004 Revenue	2005 Revenue
N/A				
TOTAL				

Notes:

Total Regular Positions Created Or Abrogated Through This Legislation, including FTE Impact: This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/ Full Time	2004 Positions	2004 FTE	2005 Positions**	2005 FTE**
N/A							
TOTAL							

* List each position separately

** 2005 positions and FTE are total 2005 position changes resulting from this legislation, not incremental changes. Therefore, under 2005, please be sure to include any continuing positions from 2004

Notes:

- **Do positions sunset in the future?** (If yes, identify sunset date):

N/A

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Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2004 Expenditures	2005 Anticipated Expenditures
Special Purpose Grants Fund, No. 17820	Office of Economic Development	6XD20	\$230,323 (BEDI funds)	
TOTAL			\$230,323	

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

Notes:

This is the fifth project of a \$15,500,000 federal Section 108 loan fund and companion \$1,750,000 federal BEDI Grant, both of which were created in August 2002. If this loan is approved, proceeds from the Section 108 loan fund in the amount of \$2,040,000 will be deposited directly by HUD to the City's trustee/custodian known as JP Morgan Chase ("Custodian"). Proceeds from the BEDI Grant fund in the amount of \$230,323 will be deposited by the federal Treasury Department to the City, and the City will then deposit such funds with the Custodian. According to an agreement with the Custodian, the City will direct the Custodian to disburse Section 108 and BEDI Grant funds to Historic Seattle, and the Custodian will also be authorized to receive loan repayments from Historic Seattle.

Historic Seattle will pay interest at 4.5% as long as the floating rate (as determined by 20 basis points above the 3-month London Interbank Offered Rate ("LIBOR Rate") as adjusted monthly) does not rise above 4.5%. If the floating rate exceeds 4.5%, the \$230,323 in BEDI Grant funds will be applied as needed to stabilize the rate at 4.5%. If both the floating rate exceeds 4.5% and BEDI Grant funds have been exhausted, Historic Seattle will pay interest at the floating rate.

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

There is no financial cost for not implementing the legislation. The cost would be measured in terms of unachieved public benefits.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as

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March 19, 2004
Cadillac Hotel Section 108
Version 8

reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

Yes. A public hearing will be held before Council committee consideration of this Ordinance.

- **Other Issues** *(including long-term implications of the legislation):*

None.

Please list attachments to the fiscal note below:

N/A

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**Legislative Department
Seattle City Council
Memorandum**

Date: April 13, 2004

To: Members, Finance and Budget Committee

From: Traci Ratzliff, Central Staff Analyst

Subject: Legislation authorizing a Section 108 loan for the Cadillac Hotel

Attached you will find a memo from the Office of Economic Development that describes the loan terms and structure for a proposed \$2.040 million Section 108 loan for Historic Seattle's acquisition and rehabilitation of the Cadillac Hotel. In addition, the attached memo briefly highlights key policy changes and risks associated with this loan.

There are risks associated with this loan. This memo provides Councilmembers with additional information on the proposed Section 108 loan and the risks associated with this loan. Proposed legislation authorizing this loan is scheduled for discussion and vote at the April 21st, Finance and Budget Committee.

Background

The Cadillac Hotel was severely damaged in the 2001 earthquake. The building was owned by a private developer at the time of the earthquake. The developer wanted to demolish the damaged building and build a new building but ultimately agreed to sell the Cadillac to Historic Seattle (actually a Limited Liability Corporation of which Historic Seattle is the General Partner) in order to preserve this historic building.

The estimated cost of acquisition and rehabilitation of the Cadillac is \$8.6 million. Severity of building damage, age of the building, and its location in a historic district requiring compliance with specific codes all affect the cost of rehabilitation. The after rehabilitation value of the building is estimated to be \$6.05 million. The building will be rehabilitated into commercial space. Fifty percent of the building will be leased to the National Park Service. The remaining 11,000 square feet has not been leased.

Key Policy Changes/Risks

Maximum Loan To Value (LTV) Amount - The City's current policy for approving loans on eligible projects is a maximum LTV ratio of 80%. The LTV for the Cadillac is 96.7% (after rehabilitation is completed). This is in excess of the City's current policy and the policy of conventional lenders for loans on commercial properties. CM McIver and staff requested OED to examine alternatives to the proposed loan amount and structure in an effort to reduce the LTV ratio to the City's current policy of 80% and/or to provide increased security for the City's loan, including: Having Historic Seattle contribute more funds to the project; or increasing other sources of debt and reducing the City's loan amount. The first two options were either not

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email: council@seattle.gov

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possible or not agreeable to OED or Historic Seattle. The loan is structured so that collateral (in addition to the Cadillac building) is being pledged by Historic Seattle to provide security for the City's loan. Historic Seattle's office building on First Hill is the additional collateral pledged for the City's loan. OED has made it clear that should Historic Seattle be unable to make its debt service payments on the property that they will foreclose on this property. It is only with the addition of this collateral, that the City's loan is fully secured AFTER construction is completed. This does not address the risk that exists prior to the completion of construction (see below), only AFTER construction has been completed.

Construction Risk - This is the most significant risk associated with this loan. This is the risk that the project begins construction but is not completed due to high, additional, construction costs for which no further funding is available. The costs of historic rehab are high. The City will approve a guaranteed maximum price construction contract. However, there is always the possibility that costs of rehab could increase above that price. OED has required a construction contingency of 12.6% that could cover some increased costs. These provisions of the loan reduce the risk but do not make them disappear. If costs were to increase substantially beyond the available contingencies, the project could be stopped until additional funds are identified. Historic Seattle does not have additional funding to put into this project should such funding be required. If construction was not completed on this project, there would likely be insufficient security for the City's loan putting at risk up to \$2.040 million of City funds.

Lease up Risk - This risk occurs from construction completion to the point of project stabilization (95% occupancy). Currently, fifty percent of the commercial space in the Cadillac is pre-leased by the National Park Service. The remaining fifty percent is not yet leased. The unleased space represents over \$200,000 per year in income (or 33% of the total income) to/for this project. Currently, Seattle has a high vacancy rate for commercial space. Historic Seattle will establish operating reserves sufficient to cover approximately 2.5 years of rental income for the vacant space. This reduces the risk of default as these reserves would be available to cover debt payments on the City's loan, as well as other loans on this property, for up to 2.5 years.

In summary, there are risks associated with making this loan, as described above. Up to \$2 million of City funds are at risk of loss.

If you have further questions about this matter, please do not hesitate to contact me at 4-8153.

Attachment

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Office of Economic Development
City of Seattle

Jill Nishi, Director
Gregory J. Nickels, Mayor



MEMORANDUM

DATE: March 11, 2004
FROM: Jill Nishi
Ken Takahashi
TO: Councilmember Peter Steinbrueck
CC: Traci Ratzliff
Janet Credo
RE: Cadillac Hotel Loan Proposal

We wanted to brief you on the proposed Section 108 loan to Cadillac Rehabilitation LLC. OED hopes that the information is helpful in your review. We anticipate that the Finance and Budget Committee will review legislation for this loan at its April 7th committee meeting. We look forward to the opportunity to discuss this project with you in greater detail.

I. Background

OED seeks Council approval of a \$2,040,000 Section 108 loan and a companion \$230,323 federal Brownfields Economic Development Initiative Grant ("BEDI Grant") to Cadillac Rehabilitation LLC (an entity managed by Historic Seattle Preservation and Development Authority). Cadillac Rehabilitation LLC will use loan proceeds to acquire the historic Cadillac Hotel at 319 Second Avenue South in Pioneer Square, which was severely damaged during the 2001 Nisqually Earthquake. The BEDI Grant will be used for interest stabilization and as a loan loss reserve. Following acquisition, Cadillac Rehabilitation LLC will rehabilitate the building.

Upon completion of rehabilitation, Cadillac Rehabilitation LLC will sell the land interest to the National Park Service ("NPS"). NPS will then occupy approximately one-half of the building for offices and the new home of the Klondike Gold Rush Museum. Cadillac Rehabilitation LLC will retain rights to a master lease and ownership of property improvements. The remaining space will be leased to private office tenants.

Historic Seattle requests Council consideration of the loan proposal in April 2004. The borrower is scheduled to acquire the Cadillac Hotel at the end of May 2004. Rehabilitation of the building will be completed by June 2005.

II. Summary of Loan Terms

- a) Amount: \$2,040,000 Section 108 Loan
- b) Term: 19 years
- c) Interest Rate: Floating Rate with 4.5% target rate (stabilized by the BEDI Grant)
- d) Security/Collateral:

(i) second position deed of trust on the Cadillac Hotel during construction; after completion of construction, deed of trust converts to second lien on borrower's rights to master lease and improvements of subject property;

(ii) second position deed of trust on outside collateral – 1117 Minor Ave (the office headquarters of Historic Seattle known as the Dearborn House); after completion of construction, deed of trust converts to first position deed of trust;

(iii) unconditional guaranty of the loan by Historic Seattle.

III. Analysis:

a) Strengths:

- The completed project will provide significant public benefits including historic preservation, creation of 45 new permanent jobs and continued economic revitalization of Pioneer Square.
- The project has a strong development team. All team members – Historic Seattle as developer, Rafn as contractor and Stickney Murphy Romine as architect – have considerable experience and capacity for rehabilitation projects such as the Cadillac Hotel.
- The project has a solid key tenant – National Park Service. The National Park Service's leasehold represents over 60% pre-leasing of the building rental income, a reliable source of rental income that far exceeds market rates. The National Park Service in acquiring the land portion of the Cadillac Hotel property will also provide a valuable source of equity (\$800,000) for construction financing.
- The project financing, with the exception of the Section 108 loan, is fully committed with all construction and permanent financing sources.

b) Potential Risks:

- As in any real estate development project, construction risk represents the most significant risk for the loan. The Cadillac Hotel project will have high rehabilitation costs due to the extensive damage caused by the 2001 earthquake and the high costs associated with rehabbing any historic building. Rehabilitation costs in the amount of \$8,642,048 will exceed the post-rehabilitation appraised property value of \$6,050,000. Despite the high cost, the Executive is supportive of this project, because it will result in the creation of new jobs in a low-income neighborhood and the rehabilitation of an historic property that the community felt strongly about preserving. OED believes that the risk will be mitigated to a significant degree. OED will have rights to approve a guaranteed maximum price construction contract. The project will also have sufficient construction contingencies to cover cost overruns. The City will also have a security interest in

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Historic Seattle funds totaling \$460,474 until the later of construction completion and project stabilization. Finally, as discussed above, an experienced development team has been selected.

- The City and other lenders are providing financing on the project that is 96.7% of the total post-rehabilitation appraised value of the Cadillac Hotel property. This is in excess of OED's underwriting guidelines which caps our loan to value coverage ratio at 80%. A deed of trust in the Cadillac Hotel property alone does not provide sufficient security for the City's loan. As such, the City needs to rely on outside collateral by taking a deed of trust in Historic Seattle's office headquarters (Dearborn House). The combined value of the two properties will provide sufficient security to achieve 80% loan to value. The use of outside collateral to meet this guideline is permissible by HUD. In the event of a loan default, the City would foreclose on both deeds of trust. Finally, the City will also have an unconditional guaranty from Historic Seattle to provide further security for the loan.
- Lease-up stabilization also represents a risk for the project, particularly given the current vacancy rates for commercial properties in the City. The loan applicant has not yet obtained pre-leasing sufficient to reach the break even point. However, as discussed above, the loan applicant has obtained an impressive 60% pre-leasing of the building rental income. The operating pro forma includes reasonable rent (\$18 per square foot) and vacancy (10.3 percent) assumptions for the remaining space – supported by an appraisal within market range. The project will also have reserves sufficient for 2.5 years of rental income on the vacant space.
- The loan repayment schedule assumes a \$1,201,000 balloon payment due on the maturity date of the loan (2022). This represents some risk. However, several factors mitigate this risk and provide assurances that the loan can be privately refinanced to make the balloon payment. The loan balances for the Section 108 loan and bank loan at the maturity date of the Section 108 loan will be less than 60 percent of the current appraised value of the building. It is anticipated that the property value will appreciate over the 19 year term. Finally, the leases will mandate that tenants maintain their respective tenant space, thereby helping the building to retain its value.

Based on the project's significant public benefits (i.e., job creation and preservation of historic property) and the mitigation of potential risks, OED recommends approval of the proposed loan. Please feel free to contact us should you have any questions.

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

March 23, 2004

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Drago:

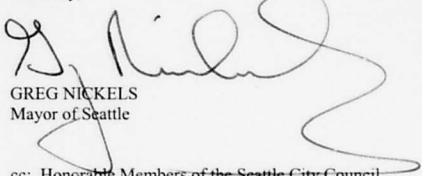
The 2001 Nisqually Earthquake caused serious damage throughout the City of Seattle, particularly in the Pioneer Square neighborhood. Several historic buildings in Pioneer Square such as the Cadillac Hotel, at 319 Second Avenue South, became unsuitable for occupancy. The damage contributed to the general economic decline of the neighborhood.

The attached proposed Council Bill authorizes OED, on behalf of the City, to make a \$2,040,000 Section 108 loan to Historic Seattle Preservation and Development Authority, for site acquisition of the Cadillac Hotel. This legislation also authorizes the disbursement of a companion Brownfields Economic Development Initiative grant (BEDI Grant) in the amount of \$230,323 to subsidize interest and serve as a loan loss reserve on the Section 108 loan. After receiving such acquisition financing, the borrower will have all funding sources needed to rehabilitate the Cadillac Hotel.

If approved, this will be the fifth project of the \$15,500,000 Section 108 loan fund and companion \$1,750,000 BEDI Grant created in August 2002. Several key public benefits will be obtained from this project. Preservation of the historic Cadillac Hotel will be achieved. The project will also retain a strong tenant in the neighborhood – the National Park Service. Approximately one-half of the building will be used as the regional offices for the National Park Service and the new home of the Klondike Gold Rush Museum. The remaining half of the building will be used as office space for other tenants. In total, a minimum of 45 new jobs will be created by the project.

Thank you for your consideration of this legislation. With the support of the City Council, the Cadillac Hotel project will be an important step toward the economic recovery of Pioneer Square. Should you have questions, please contact Ken Takahashi, in the Office of Economic Development at 684-8378.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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ORDINANCE _____

AN ORDINANCE relating to redevelopment in the Pioneer Square neighborhood; authorizing a loan of federal Section 108 loan proceeds to finance acquisition of the Cadillac Hotel Building at 319 Second Avenue South; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce or subsidize interest on the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; amending Ordinance 120873; and authorizing amendments to the City's 2001-2004 Consolidated Plan to reflect the transactions contemplated by this ordinance.

WHEREAS, pursuant to Ordinance 120873, in order to support certain eligible activities under the federal Section 108 program, including the acquisition and rehabilitation of certain properties within the City, the City issued a note, without recourse to general funds, for a maximum commitment amount of Fifteen Million Five Hundred Thousand Dollars (\$15,500,000), and entered into a contract with the United States Department of Housing and Urban Development ("HUD") for a Section 108 guaranty of the note and agreements with a custodian (the "Custodian") to establish separate accounts to handle disbursements and receipts, which documents allowed the City to request funds under the note from time to time;

WHEREAS, Ordinance 120873 also authorized loans of a portion of the note proceeds and authorized acceptance of a companion Brownfields Economic Development Initiative Grant in the amount of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) to reduce debt service obligations on such loans;

WHEREAS, under Ordinance 120873, the City made three loans in the cumulative amount of Eight Million Sixteen Thousand Dollars (\$8,016,000) from the proceeds of the City's note, to borrowers 211 First Avenue Building, L.P. (211 First Avenue), Buttneck Building, L.P. (Buttnick Building) and Triad City Loan LLC (City Loan Building); and

WHEREAS, Ordinance 121201 authorized a loan in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000) from the note proceeds to The Compass Center, a Lutheran Organization; and

WHEREAS, in order to fix the interest rate on the portion of the City's note used to fund the first three loans through a public offering of participation interests in notes issued by several jurisdictions under similar HUD guarantees, and in order to revise the schedule of repayments, the City issued a replacement note in the maximum commitment amount of \$7,484,000, representing the portion of the \$15.5 million not drawn for the first three loans ("Replacement Note"), on which the balance now outstanding is approximately \$970,000, representing the loan to the Compass Center less a partial repayment made with Community Development Block Grant funds provided by the City under a separate

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2 agreement, and approximately \$6,184,000 remains available to draw on the Replacement
3 Note;

4 WHEREAS, the Cadillac Hotel Building at 319 Second Avenue South was severely damaged in
5 the Nisqually Earthquake and its rehabilitation will assist community and economic
6 development in the City;

7 WHEREAS, Historic Seattle Preservation and Development Authority, a Washington public
8 authority chartered by the City ("Historic Seattle"), organized Cadillac Preservation LLC,
9 a Washington limited liability company, which has acquired the Cadillac Building using
interim financing, Historic Seattle will acquire the property directly from Cadillac
Preservation LLC, and Historic Seattle has also organized Cadillac Rehabilitation LLC, a
Washington limited liability company, to raise capital from private investors with the
assistance of federal income tax credits to rehabilitate the property;

10 WHEREAS, the Director of the Office of Economic Development and the City's Loan
11 Committee have approved a loan in the amount of Two Million Forty Thousand Dollars
12 (\$2,040,000) from the proceeds of the City's Replacement Note and a companion BEDI
13 Grant in the amount of Two Hundred Thirty Thousand Three Hundred Twenty-Three
Dollars (\$230,323), to Historic Seattle to finance site acquisition costs of 319 Second
Avenue South in the Pioneer Square neighborhood; and

14 WHEREAS, the City's participation in the Section 108 loan guaranty program and the
15 expenditure of guaranteed loan proceeds thereunder is authorized by RCW 35.21.735;
and

16 WHEREAS, the Office of Economic Development has given public notice of the proposed loan
17 and the City Council has held a public hearing with respect to the proposed loan;

18 NOW, THEREFORE,

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

20 Section 1. The Mayor or the Director of the Office of Economic Development ("OED
21 Director") is authorized, on behalf of The City of Seattle, to lend and cause the disbursement of
22 up to Two Million Forty Thousand Dollars (\$2,040,000) from the proceeds of the City's
23 Replacement Note, a copy of which is filed in Clerk's File 306584, to Historic Seattle
24 Preservation and Development Authority, a Washington public authority chartered by the City
25 ("Obligor"), pursuant to the Loan Agreement authorized in Section 2 of this ordinance, to finance
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2 the acquisition of the real property ("Property") at 319 Second Avenue South in the Pioneer
3 Square neighborhood. The Mayor or the OED Director is further authorized, on behalf of The
4 City of Seattle, to cause there to be drawn from the federal treasury and deposited in the Special
5 Purpose Grants Fund, No. 17820, companion Brownfields Economic Development Initiative
6 ("BEDI") Grant funds in the amount of Two Hundred Thirty Thousand Three Hundred Twenty-
7 Three Dollars (\$230,323), and pursuant to the appropriation in Section 4 of this ordinance, to
8 cause the disbursement of such amount for the benefit of Obligor, for the purposes of reducing or
9 subsidizing interest obligations on the Section 108 loan. The amount of such BEDI Grant funds
10 is based on the ratio of the maximum amount of the Section 108 loan (\$2,040,000) to the
11 maximum proceeds of the City's original Section 108 note and Replacement Note (i.e.,
12 \$15,500,000).

13
14 Section 2.

15 (A) The Mayor or the OED Director is authorized, on behalf of The City of Seattle, to
16 execute, deliver, administer and cause to be performed: (1) a Loan Agreement with the Obligor
17 based on the form attached as Exhibit B to this ordinance and the terms outlined on pages 2 and 3
18 of the Loan Proposal attached as Exhibit C to this ordinance, with such additions and
19 modifications as HUD may require or the Mayor or OED Director may deem necessary or
20 advisable to carry out the purposes of this ordinance; and (2) such amendments and related
21 documents as the Mayor or OED Director may deem necessary or advisable to carry out the
22 purposes of this ordinance. The Section 108 loan shall be secured by one or more deeds of trust,
23 in form and content acceptable to the OED Director, against the Property and against other
24 property of Obligor. Each such deed of trust may be subordinated to one or more other
25 mortgages or deeds of trust. The provisions for security shall be designed with the intent that,
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2 upon reduction of senior mortgage debt from completion of tax credit equity financing, there will
3 be a loan-to-value ratio no higher than 80%, computed at the time of project stabilization (i.e.,
4 achievement of a debt service coverage ratio of 1.2) by dividing the total principal amount of
5 debt secured by such senior mortgages and deeds of trust, together with the principal amount of
6 the Section 108 loan, by the total fair market values of all such properties (or the interests therein
7 subject to the City's deeds of trust, as applicable). The Section 108 loan shall also be recourse to
8 Obligor.

9 (B) Without limiting the authority in this Section, the Mayor and OED Director is each
10 authorized: (1) to allow the Obligor to grant a master lease of the Property, and convey all rights
11 in the building thereon, to Cadillac Rehabilitation LLC, subject to the City's deed of trust; (2)
12 after substantial completion of rehabilitation of the Property, and in order to facilitate a sale of
13 the Property or an interest therein to the federal government, to cause the City's deed of trust on
14 the Property to be released and reconveyed in whole or in part, and to accept modified or
15 substitute security in the Obligor's or Cadillac Rehabilitation LLC's remaining interests in the
16 Property, or both, provided that the Mayor or OED Director determines in his or her judgment
17 that the City will have security satisfying the 80% loan-to-value limit at the time of project
18 stabilization; and (3) to amend the loan terms, in connection with any conversion of the
19 Replacement Note or a portion thereof to fixed rates, so that BEDI Grant funds or accumulated
20 reserves from Obligor payments, or both, may be made available to reduce effective interest
21 obligations of the Obligor after such conversion, on such terms and conditions as the Mayor or
22 OED Director may negotiate.
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24 Section 3. The Loan Agreement shall provide, consistent with HUD regulations, that
25 the Obligor shall take affirmative steps to assure that minority and women's business enterprises
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are used when possible, that Obligor shall maintain records of those steps, and that nothing in the Loan Agreement shall be construed to require or authorize any discrimination or preferential treatment contrary to applicable law.

Section 4. To the extent that BEDI Grant funds (in addition to BEDI Grant funds previously received and disbursed under Ordinances 120873 and 121201), are received by the City in the Special Purpose Grants Fund, the appropriation for the following in the 2004 Budget is increased from the fund shown, as follows:

Fund	Department	Budget Control Level	Amount
Special Purpose Grants Fund, No. 17820	Office of Economic Development	6XD20	\$230,323 (BEDI Grant funds)

Section 5. The Amendment to Contract for Loan Guarantee Assistance between the City and HUD dated as of August 21, 2003, and the issuance of the Replacement Note, each is hereby ratified and confirmed. The revised maturity schedule for the combined original Section 108 note issued under Ordinance 120873 and the Replacement Note, attached to this ordinance as Exhibit A, is hereby approved. The Mayor or OED Director is further authorized to implement the terms of the Contract for Loan Guarantee Assistance, as so amended, and the Loan Agreement, and to negotiate and execute such additional amendments and agreements and perform such other acts as the Mayor or OED Director deem necessary or advisable to carry out the purposes of this ordinance and to implement the Section 108 loan guaranty. The additional amendments and agreements authorized by this Section 5 shall be in the form and contain such terms and conditions as the Mayor or OED Director may deem necessary or advisable to carry out the purposes of this ordinance.

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2 Section 6. The Mayor or OED Director may require the Obligor to pay a loan
3 origination fee of no more than one percent (1%) of the loan amount, i.e., no more than Twenty
4 Thousand Four Hundred Dollars (\$20,400). Such fee shall be paid directly to the Custodian to be
5 held in trust for the purposes set forth in this Section 6. The OED Director is authorized to cause
6 all of this fee to be disbursed to the National Development Council for consulting services
7 related to the loan authorized hereby, in accordance with the City's existing contract with the
8 National Development Council.

9 Section 7. The City's 2004 Action Plan Worktable, as added to its 2001-2004
10 Consolidated Plan by Ordinance 121318, is amended by replacing the entry for "Cadillac Hotel"
11 with the information on Exhibit D to this ordinance. The Director of the Human Services
12 Department ("HSD Director") is authorized to (a) further amend the City's 2001-2004
13 Consolidated Plan, including the 2004 Action Plan, to reflect the transactions contemplated by
14 this ordinance and (b) provide OED with technical assistance to ensure compliance with
15 Community Development Block Grant ("CDBG") regulations applicable to the Section 108 loan
16 program. The Mayor, OED Director, and the HSD Director are authorized to take such other
17 actions as they shall deem necessary to implement the actions authorized by this ordinance.

18
19 Section 8. Section 3 of Ordinance 120873 is hereby amended as follows:

20
21 Section 3. The Mayor or OED Director is authorized, on behalf of The City of Seattle, to
22 execute, deliver, administer and cause to be performed Loan Agreements with the
23 Goodman Entities, and with other borrowers to which loans of Note proceeds shall be
24 approved by any later ordinance (the Goodman Entities and any such other borrowers are
25 collectively referred to as "Obligors"), each based on the form attached as Exhibit F, or
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2 such other form as may be authorized by ordinance, with such additions, modifications,
3 and amendments as HUD may require or the Mayor or OED Director may deem
4 necessary or advisable to carry out the purposes of this Ordinance, together with such
5 ancillary and related documents as the Mayor or OED Director may deem necessary or
6 advisable to carry out the purposes of this Ordinance. Such modifications may include,
7 without limitation, provision for an interest rate payable by each Obligor that may be at a
8 rate higher than or different from that interest rate payable on the Note; provisions
9 establishing, adjusting or eliminating a periodic monitoring fee or a similar fee payable by
10 the Obligors, or both. Each loan((s)) to an Obligor shall be secured by a ((~~first lien~~
11 ~~position~~)) deed of trust, in form and content acceptable to the OED Director, against the
12 property being acquired and improved with such loan. The loans to the Goodman Entities
13 shall also be secured by an unconditional guaranty of payment and performance from
14 John A. Goodman in form and content acceptable to the OED Director. Moreover, the
15 Loan Agreements shall provide, consistent with HUD regulations, that the Obligors shall
16 take affirmative steps to assure that minority and women's business enterprises are used
17 when possible, and shall maintain records of those steps, and that nothing in the
18 agreement shall be construed to require or authorize any discrimination or preferential
19 treatment contrary to applicable law. Disbursement of such loan proceeds for the costs of
20 renovation of each Obligor's project to be funded from proceeds of the Note shall be
21 governed by a construction disbursement agreement for the benefit of the City in form
22 and content acceptable to the OED Director.
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2 Section 9. This ordinance is not intended to create, and shall not be construed to
3 create, any contractual or otherwise binding obligation upon, or commitment by, the City for the
4 benefit of Obligor, Cadillac Rehabilitation LLC or any other party interested in the acquisition or
5 rehabilitation project. The commitments to the Obligor authorized by this ordinance, subject to
6 the limitations herein and under applicable law, shall become effective only if and when the
7 agreements authorized hereby are duly executed and delivered by the City and other necessary
8 parties.

9
10 Section 10. Any act pursuant to the authority and prior to the effective date of this
11 ordinance is hereby ratified and confirmed. If any provision of this ordinance is determined to be
12 invalid or unenforceable the remainder shall nonetheless remain in full force and effect.

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

16
17 Passed by the City Council the ____ day of ____, 2004, and signed by me in
18 open session in authentication of its passage this ____ day ____, 2004.

19
20 President ____ of the City Council

21 Approved by me this ____ day of ____, 2004.

22
23 Gregory J. Nickels, Mayor

24 Filed by me this ____ day of ____, 2004.

25
26 City Clerk

27
28 (Seal)

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Exhibits:

- A. Revised Schedule of Maturities
- B. Form of Loan Agreement
 - Attachment A Legal Description for Property [omitted]
 - Attachment B Description of Project [omitted, see Ex. C to Ordinance]
 - Attachment C Form of Obligor Note
 - Exhibit 1: Schedule of Obligor Note Payment Dates
 - Exhibit 2: City Note [omitted, see Clerk's File 306584]
- C. Loan Proposal
 - Exhibits I-VIII [omitted, available in City Clerk's File 306584]
- D. 2004 Action Plan Amendment

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STATE OF WASHINGTON - KING COUNTY

--SS.

172016
CITY OF SEATTLE, CLERKS OFFICE

No. ORDINANCE TITLE ONLY

Affidavit of Publication

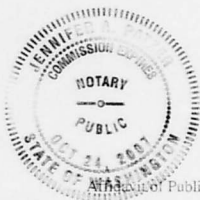
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published 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

CT:121451,452,455-457 (121456)

was published on

5/13/2004



Affidavit of Publication

Mel Dond

Subscribed and sworn to before me on

5/13/2004

James J. Bateman

Notary public for the State of Washington,
residing in Seattle

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State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on April 28, 2004, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 121457

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

ORDINANCE NO. 121456

AN ORDINANCE relating to redevelopment in the Pioneer Square neighborhood; authorizing a loan of federal Section 108 loan proceeds to finance acquisition of the Cadillac Hotel Building at 319 Second Avenue South; appropriating and authorizing the disbursement of Brownfields Economic Development Initiative grant ("BEDI Grant") funds to reduce or subsidize interest on the loan; authorizing and ratifying loan documents, amendments, replacements and related documents and actions; amending Ordinance 120873; and authorizing amendments to the City's 2001-2004 Consolidated Plan to reflect the transactions contemplated by this ordinance.

ORDINANCE NO. 121455

AN ORDINANCE amending the 2003 Adopted Budget; changing appropriations for a department in the 2003 Budget; and making cash transfers between various City funds and subfunds.

ORDINANCE NO. 121452

AN ORDINANCE relating to the sale of surplus property located north of 2125 12th Avenue S.; authorizing the sale of real property to an abutting property owner and execution of a Quitclaim Deed in connection therewith; and designating the disposition of sales proceeds.

ORDINANCE NO. 121451

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the execution of a five (5) year concession agreement with two five (5) year options, with Fifth Avenue Sports, LLC to manage, maintain, and provide boat rental services at the Department's facility at Green Lake Park.

Publication ordered by JUDITH PIPPIN,
City Clerk.
Date of publication in the Seattle Daily
Journal of Commerce, May 13, 2004.
5/13/172016

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