

Ordinance No. 122562

Council Bill No. 116056

AN ORDINANCE related to parking lot management agreements between the City of Seattle and the Pike Place Market Preservation and Development Authority; authorizing the execution of said agreements; and directing the deposit of revenues into the Cumulative Reserve Subfund, Unrestricted Subaccount.

CF No. \_\_\_\_\_

Date Introduced:	<u>Oct. 22, 2007</u>	
Date 1st Referred:	To: (committee) <u>Budget</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>11-26-2007</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
<u>11-26-2007</u>	<u>2</u>	
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

## The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: C. [Signature]

Councilmember

### (E) Committee Action:

11-7-07 Budget Pass As Amended 8-0 (Absent: TR)

11-19-07 Full Council: Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_  
(initial/date)

*Law Department*

Law Dept. Review

OMP  
Review

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Review

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ORDINANCE 122562

AN ORDINANCE related to parking lot management agreements between the City of Seattle and the Pike Place Market Preservation and Development Authority; authorizing the execution of said agreements; and directing the deposit of revenues into the Cumulative Reserve Subfund, Unrestricted Subaccount.

WHEREAS, the City of Seattle (the "City") has contracted with the Pike Place Market Preservation and Development Authority (the "Market PDA") for management and operation of parking lots at certain City-owned properties in the vicinity of the Pike Place Market, commonly known as the "Desimone/PC-1 North Lot," and the "Blanchard and Lenora Lots;" and

WHEREAS, beginning in 2008, the City will require use of portions or all of the parking lots from time to time in connection with anticipated safety and mobility improvements to the Alaskan Way Viaduct; and

WHEREAS, the City has terminated the Market PDA's rights to continue using and operating the parking lots under existing agreements, effective January 1, 2008; and

WHEREAS, the City and the Market PDA now desire to enter into a new Parking Operation and Management Agreement to allow the parking lots to remain in service, in whole or in part, until such time as construction activities require their removal from service; and

WHEREAS, the new agreement contemplates that, in the event the parking lots are removed from service as a result of a public works project, the City will endeavor to obtain compensation from the project budget on behalf of the Market PDA, and will support the Market PDA's efforts to develop replacement parking, which is fundamentally important to the ongoing commercial viability of the Pike Place Market; and

WHEREAS, the agreement obligates the Market PDA to remit to the City a portion of the revenues generated from said parking lots, except that, for 2008 only, the Market PDA shall be entitled to retain the City's portion of anticipated revenue to pay costs incurred for planning for anticipated renovations to the Pike Place Market; and

WHEREAS, all revenues paid to the City during the term of the agreement authorized by this legislation are to be deposited into the Cumulative Reserve Subfund, Unrestricted Subaccount; NOW, THEREFORE,

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

Section 1. As requested by the Fleets and Facilities Department Director and recommended by the Mayor, said Director is hereby authorized to execute, for and on behalf of the City of Seattle, an agreement with the Market PDA, substantially in the form of Exhibit "1" attached hereto and identified as

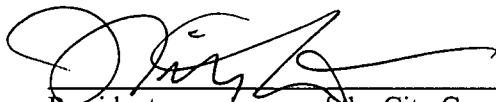


1 "Parking Operation and Management Agreement," for management and operation of certain parking lots  
2 at City-owned properties in the vicinity of the Pike Place Market commonly known as the "Desimone/PC-  
3 1 North Lot" and the "Blanchard and Lenora Lots."

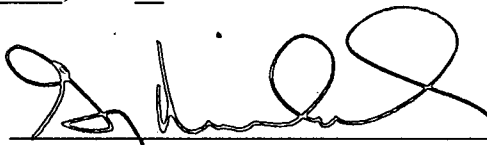
4 Section 2. The City's portion of revenues from the agreement authorized by Section 1 hereof  
5 shall be deposited into the Cumulative Reserve Subfund, Unrestricted Subaccount (00164). The  
6 Executive shall monitor such revenues for reporting and budgeting purposes.

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

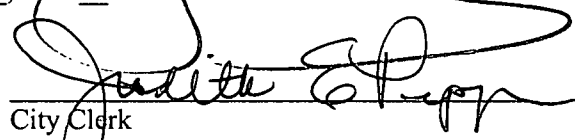
10 Passed by the City Council the 19<sup>th</sup> day of November, 2007, and signed by me in open session  
11 in authentication of its passage this 19<sup>th</sup> day of November, 2007.

13   
14 President \_\_\_\_\_ of the City Council

15 Approved by me this 26<sup>th</sup> day of November.

17   
18 Gregory J. Nickels, Mayor

19 Filed by me this 26<sup>th</sup> day of November, 2007.

21   
22 City Clerk

22 (Seal)

23 Exhibit 1: Parking Operation and Management Agreement  
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## PARKING OPERATION AND MANAGEMENT AGREEMENT

This Agreement is entered into by and between THE CITY OF SEATTLE ("City"), a municipal corporation of the State of Washington, acting through the City's Director of Fleets & Facilities and the Pike Place Market Preservation and Development Authority ("Operator"), a Washington public corporation.

WHEREAS, the City owns certain properties in the vicinity of the Pike Place Market that it acquired as right-of-way for the Alaskan Way Viaduct and for urban renewal purposes; and

WHEREAS, for many years, the City has contracted with Operator to use, operate and maintain such properties for controlled public parking to the extent not required for other municipal purposes; and

WHEREAS, Operator has successfully operated and maintained the properties, commonly known as the "Desimone/PC-1 North Lot" and the "Blanchard and Lenora Lots," and has shared the revenue therefrom with the City; and

WHEREAS, beginning in 2008, the City will require use of portions or all of the properties from time to time in connection with anticipated safety and mobility improvements to the Alaskan Way Viaduct; and

WHEREAS, the City has terminated Operator's rights to continue using and operating the properties under the existing agreements, effective January 1, 2008; and

WHEREAS, the City and Operator now desire to enter into a new Parking Operation and Management Agreement to allow the properties to remain in parking service, in whole or in part, until such time as construction activities require their removal from service; and

WHEREAS, the City supports Operator's planning for an anticipated levy to renovate the Pike Place Market and the new agreement contemplates the use of a portion of the revenues from the properties for such purposes;

NOW, THEREFORE, the City and Operator agree as follows:

### **1. Property Description.**

The properties that are subject to this Parking Operation and Management Agreement ("Agreement") are the Desimone/PC-1 North Lot, located at 1615 Western Avenue, Seattle, WA, and the Blanchard and Lenora Lots, located at 50 Blanchard Street and 50 Lenora Street, Seattle, WA, respectively. In this Agreement, the properties are referred to collectively as "the Parking Lots" and are legally described as follows:





A. Desimone/PC-1 North Lot

Those portions of Lots 5, 6, 7, 8, 9, 10, 11, and 12, Block 36, and that certain unnumbered tract or lot lying generally southeast of Block 36, delineated on an Addition to the town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 6th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 99, Records of King County, Washington, and those portions of the vacated alley in said Block 36 and vacated Pine and Stewart streets more particularly described as follows:

Beginning at the most northerly corner of Lot 5, Block 36, of said Plat of A. A. Denny's Sixth Addition to the City of Seattle, thence southwesterly along the northwesterly margin of said Lot 5 to its intersection with the northeasterly line of Armory Way, as established by Seattle Condemnation Ordinance No. 66339, as amended by Seattle Ordinance No. 67125; thence southeasterly along said northeasterly line of Armory Way to a point on a line parallel with and 30 feet northwest of the northwesterly line of Block H, Addition to the Town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 4th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 69, Records of King County; thence northeasterly along said parallel line to the southwesterly line of Western Avenue as widened under the provisions of Ordinance Nos. 11704 and 18109 of the City of Seattle; thence northwesterly along said southwesterly line of Western Avenue to its intersection with the northwesterly line of Lot 6, Block 36, said Plat of A. A. Denny's 6th Addition to the City of Seattle; thence southwesterly along the northwesterly line of said Lot 6 to the most westerly corner thereof; thence southwesterly along the southwesterly projection of the northwesterly line of said Lot 6 to the point of beginning.

Also known as Parcel B of Seattle Lot Boundary Adjustment #8800103 recorded under King County Recording No. 8807250812 and as amended under Recording No. 8811290942, Records of King County, Washington.

B. Blanchard and Lenora Lots

All those ground surface level portions of the street right-of-way under the Alaskan Way Viaduct which lie between the south margin of Bell Street and a line 60 feet south of and parallel with the centerline of Lenora Street; EXCEPTING therefrom any developed surface street areas within the right-of-way.

**2. Term of Agreement.**

Unless terminated earlier as provided in Section 9, below, the Term of this Agreement shall be three (3) years, commencing January 1, 2008, and terminating December 31, 2010.



### **3. Permitted Use.**

Operator shall use the Parking Lots solely for the operation of surface public parking lots, for pay. Consistent with the parties 1986 High Occupancy Vehicle Parking Program Memorandum of Agreement (the "HOV Agreement"), the portion of the Blanchard and Lenora Lots commonly known as the "Blanchard Parking Lot" shall contain not less than eight (8) nor more than twenty (20) parking spaces designated for high-occupancy vehicles. Operator shall not impose a parking charge on either the City or any person whom the City certifies to be a participant (whether driver or passenger) in the City's high-occupancy vehicle ("HOV") parking program. The City shall have the right to determine the terms and conditions for parking in any of the HOV parking spaces including but not limited to which HOV parking program participants shall have the right to use such spaces, for how long any such use may last each day, whether any charge shall be associated with such use, what use shall be made of any revenue derived from such HOV parking, and when (and if) such specialized use shall be available. If the City determines that some or all of the HOV parking spaces should be treated like the remaining parking spaces in the lot (and thus be available for use by any person for the then-current charge), the City shall notify Operator of that decision and the effective date on which such treatment shall commence. From and after that date until the effective date of a City decision to again restrict some or all of such parking spaces for use by HOV parking program participants, Operator may treat such spaces just like other spaces in the lot. All such operational changes may be implemented without having to amend this Agreement and shall not become effective upon less than thirty (30) days' notice to Operator. Operator shall keep said property free from any and all liens or encumbrances.

### **4. Accounting and Allocation of Revenues.**

A. Allocation of Revenues & Expenses. The allocation of revenues and expenses associated with activity on the Parking Lots shall be as follows:

(1) Out of the aggregate gross receipts from any and all activities on the Parking Lots, Operator shall pay all taxes arising out of the operation of the Parking Lots, including the City of Seattle parking tax required by Chapter 5.35 of the Seattle Municipal Code (Ordinance 122192); the remainder shall constitute the "Effective Gross Receipts."

(2) For calendar year 2008 or any portion thereof during which this Agreement is in effect, Operator shall retain 100% of the Effective Gross Receipts from the Parking Lots. Operator agrees that it shall use so much of the 2008 Effective Gross Receipts as would have been payable to the City were the revenue-sharing percentages described in Subsection 4.A (3) in effect, solely to pay costs and expenses incurred in planning for anticipated renovations to the Pike Place Market.

(3) For calendar year 2009 and each subsequent year or portion thereof until this Agreement expires or is terminated, in whole or in part, for the Desimone/PC-1 North Lot, Operator shall retain 65% of the Effective Gross



Receipts and shall pay the City the remaining 35% of the Effective Gross Receipts. For the Blanchard and Lenora Lots, Operator shall retain 55% of the Effective Gross Receipts and shall pay the City the remaining 45% of the Effective Gross Receipts. Operator shall pay the City its share of the Effective Gross Receipts monthly, at the same time the monthly accounting report is to be transmitted to the City pursuant to Subsection 4.B. The first payment to be made pursuant to this Agreement shall include all accumulated amounts due but not paid to the City under this Agreement for months in which Operator operated and managed the Parking Lots prior to full execution of this Agreement, and shall be remitted to the City with the first monthly report due after full execution of this Agreement.

(4) From Operator's share of the Effective Gross Receipts, Operator shall pay all costs of operating the Parking Lots including, but not limited to, labor, maintenance, insurance, licenses, permits and fees.

B. Records and Reports. Operator shall keep a daily record of all gross receipts generated and expenses (direct and indirect) incurred from operation of the Parking Lots. Operator shall deliver to the City at the address specified in Section 17, for each month during the Term hereof, an accurate accounting report of all revenues and expenses associated with operation of the Parking Lots. For 2008, such reports shall, in addition, contain an itemization of all costs Operator incurs in developing the renovation plans described in Subsection 4.A (2). Each accounting report shall be provided to the City within thirty (30) days after the end of each month throughout the Term; provided, that the first delivery after full execution of this Agreement shall, in addition, include a monthly report for each month during which the Operator operated and managed the Parking Lots prior to full execution of this Agreement. Each report shall state, for each lot, separately, the gross receipts generated from activity on the lot; as deductions, the aggregate amount of taxes collected as a consequence of that activity, stated separately by type of tax; and out of the remainder, the respective amount of Operator's fee and compensation under this Agreement and the amount payable to the City. Any monies due and payable to the City hereunder shall be submitted in the form of a check made payable to The City of Seattle, with each monthly report. Financial records and reporting shall be on forms subject to the City's approval.

C. Audit. Operator shall permit the City, from time to time as the City Auditor or the Director of City's Fleets and Facilities Department deems necessary (including up to six years after the expiration or termination of this Agreement), to inspect and audit at any and all reasonable times in King County, Washington, or at such other reasonable location as such auditor selects, all of Operator's pertinent books and records maintained in connection with the performance of this Agreement, and shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof, upon such auditor's request.





## **5. Maintenance of Parking Lots.**

During the Term of this Agreement, or any extension thereof, Operator shall, at its sole expense, clean, maintain and repair the Parking Lots, including the lighting systems, paving, fences and pay boxes installed therein, to maintain these improvements in a condition as good as at the time of original installation, reasonable wear excepted. Operator shall not make any improvements to any of the Parking Lots costing more than \$5,000.00, without the City's prior, written approval, which approval the City shall not unreasonably condition, withhold or delay.

## **6. Indemnification of City.**

Operator agrees to indemnify, save harmless and defend the City and the City's officers, employees and agents from any and all losses, claims, actions or damages suffered by any person or entity (including but not limited to Operator's agents, employees, officers, contractors and their successors and assigns as well as the City's officers, employees, and agents, and all third persons) by reason of or resulting from any act or omission of Operator or any of its officers, agents, employee, or invitees in connection with actions of Operator arising out of or in any manner connected with this Agreement or property damage of any kind, whether tangible or intangible, including consequential damages or loss of use resulting therefrom, suffered by any such person and arising out of or in any manner connected with this Agreement or the operation of the Parking Lots, or caused or occasioned, in whole or in part, by reason of the presence of Operator or any of its officers, employees, agents or contractors, or the property of any of the same upon or in proximity to the City's property. In addition, Operator waives, with respect to the City only, Operator's immunity under RCW Title 51 (the Industrial Insurance Act). The indemnification obligation set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **7. Indemnification of Operator.**

The City agrees to indemnify, save harmless and defend the Operator from any and all losses, claims, actions or damages suffered by any person or entity by reason of or resulting from any act or omission of the City or any of its officers, agents, employees, or invitees in connection with actions of the City arising out of or in any manner connected with this Agreement or the City's role as owner of the Parking Lots, but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence of the City, its authorized officers, agents, employees or invitees. The indemnification set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **8. Insurance.**

### **A. Operator Furnished Insurance.**

Operator shall, at all times during the Term of this Agreement, maintain continuously, at its own expense, insurance covering each of the Parking Lots, with minimum levels of coverage and limits of liability as specified below:

(1) Commercial General Liability ("CGL") insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap/Employers Liability ("E.L.")

with a limit of liability of not less than \$1,000,000 each occurrence bodily injury and property damage combined single limit ("CSL") except:

- \$1,000,000 each Offense as respects Personal/Advertising Injury
- \$1,000,000 each Accident/Employee/Disease Stop Gap/E.L.

(2) Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles, with a limit of liability of not less than \$1,000,000 CSL.

(3) Garage Keeper's Legal Liability ("GKLL") insurance covering physical damage (including loss of use arising therefrom) to non-owned automobiles with a minimum limit of liability of not less than \$500,000 each occurrence.

(4) In lieu of CGL, Automobile Liability and GKLL insurance, Garage Liability insurance with a limit of liability of not less than \$1,000,000 CSL, including GKLL insurance with a minimum limit of liability of not less than \$500,000 each occurrence.

(5) Statutory Worker's Compensation ("WC") insurance under which Operator shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington ("RCW"); provided, that if Operator is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Operator shall certify that qualification by a letter that is signed by an authorized representative of Operator and delivered to the City indicating that Operator is a qualified self insured, and setting forth the limits of any excess insurance covering its employees.

(6) An Employee Dishonesty and Forgery or Alteration Policy in the principal amount of \$200,000.00.

#### B. City Furnished Insurance.

If any new construction or substantial structural modification is being performed upon the Property or any portion thereof by either Operator or the City, the City shall place and maintain Builder's Risk Property insurance on an "All Risks" basis (including the perils of earthquake and flood) with a limit of liability equivalent to the replacement cost of the Property plus the total hard and soft costs of the new construction



or substantial structural modification. The premium cost for such insurance shall be borne by Operator. Such insurance shall remain in force between the beginning of construction until substantial completion of the new construction or substantial structural modification. The City shall provide an insurer's waiver of subrogation in favor of Operator.

C. General Requirements Regarding Operator's Insurance and Bond;  
Adjustments (Not Applicable to Statutory Workers Compensation).

(1) As respects CGL and Automobile Liability insurance, the City of Seattle shall be an additional insured for primary and non-contributory limits of liability.

(2) Coverage and/or limits may be altered or increased as necessary, to reflect type of or exposure to risk. City shall have the right to annually review the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such limits upon ninety (90) days' prior written notice.

(3) Insurers must maintain a minimum A. M. Best's ratings of A- with Financial Size category (FSC) VII unless procured as surplus lines under the provisions of chapter 48.15 RCW and insurance policy and endorsement language is subject to the City's approval.

(4) The Fidelity Bond shall be subject to approval by the City Attorney as to company, form, and coverage and the surety shall be included in the current U.S. Department of the Treasury's Listing of Approved Sureties (TC Circular 570).

(5) Insurance coverage shall not be cancelled unless not less than thirty (30) days notice of Cancellation, except ten (10) days with respect to cancellation for non-payment of premium, has been actually mailed or delivered to notice address specified in Subsection 8.C (2), or as may otherwise be required by RCW 48.18.290.

D. Evidence of Insurance. Operator shall deliver, or cause to be delivered, prior to the effective date of this Renewal and Amendment Agreement, and thereafter, on or before the expiration date of any such policy or bond, or as otherwise provided herein, the following documents as evidence of Operator's insurance coverage:

(1) An Acord certificate or other certificate form stating coverages, minimum limits of liability and terms and condition in conformance with the requirements specified in this Section 8.

(2) A copy of the policy provision documenting that the City of Seattle is an additional insured under CGL or Garage Liability insurance for primary and





non-contributory limits of liability endorsement. In addition, at any time Builder's Risk Property insurance is placed, a copy of the policy provisions documenting that the City of Seattle is an insured subject to a standard mortgagee clause and a waiver of subrogation.

(3) Within thirty (30) days after Operator's receipt of a request therefrom, a complete, true and certified copy of any Operator's insurance policy so requested.

E. Insurance Notice Address. Evidence of insurance as specified in Subsection 8.C. above shall be issued to "The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669" and shall be delivered electronically to the City either as an email attachment to [riskmanagement@seattle.gov](mailto:riskmanagement@seattle.gov) or faxed to (206) 470-1270.

## **9. Termination.**

### **A. Termination for Default.**

City may terminate this Agreement if Operator has failed to substantially perform its obligations under this Agreement through no fault of the City, the City has provided notice to Operator identifying the obligation that the City has failed to substantially perform, and Operator has failed to remedy such specified failure within the cure period specified herein. The duration of such cure period shall be thirty (30) days after the date of Operator's receipt of the City's notice of failure unless such cure cannot reasonably be accomplished within a period of thirty (30) days, in which case Operator shall not be in default of this Agreement and this Agreement shall not be subject to termination if Operator commences a cure within that thirty (30) day period and thereafter diligently prosecutes such cure until completion. If the City terminates this Agreement pursuant to this Section, Operator shall reimburse the City for all expenses it incurs in connection with such termination.

### **B. Termination for Public Works Purposes.**

If the City determines that the Parking Lots are needed in whole or in part for any public works purpose, the City may terminate this Agreement as to all or any portion of the Parking Lots upon not less than thirty (30) days' prior written notice to Operator. In the event of such termination, the City will encourage the owner of the public works project to compensate Operator for lost revenues occasioned by such termination from the public works project budget, but such compensation is not guaranteed. The City acknowledges that the Parking Lots represent a significant component of the reservoir of parking owned or controlled by the Operator and that such parking is fundamentally important to the ongoing commercial viability of the Pike Place Market. In the event of such termination, the City shall use its good faith best efforts to support the development of replacement parking, by the owner of the public works project, in mitigation for the loss of the Parking Lots, in whole or in part, as a feature of any public works project for which Parking Lots may be needed.



C. Termination for Convenience.

Either party may terminate this Agreement for its convenience by giving the other party notice of its intent to so terminate not less than 180 days prior to the effective date of termination.

D. Effect of Termination.

Termination of this Agreement shall not terminate any previously incurred obligation of either party to the other for any period of time prior to the effective termination date including, but not limited to, Operator's obligation to deliver any report to the City, or to remit to the City, without offset or reduction, the City's share of parking revenues as contemplated in this Agreement.

**10. City Access to Property.**

The City or its agents or designees shall at all times have the right to enter upon any portion of the described property for the purpose of inspection, repair, alteration and maintenance of the elevated roadway or of any public or private utilities within said property.

**11. Non-Discrimination.**

A. Operator shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Operator shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. Operator shall post in conspicuous places, available to employees and applicants for employment, notices as provided by City setting forth the provisions of this nondiscrimination clause.

B. Operator shall furnish to the Director of Finance (or his/her designee), upon request and on such form as may be provided therefor, a report of the affirmative action taken by Operator in implementing the requirements of this section, and will permit access to Operator's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director of Finance for the purposes of investigation to determine compliance with the requirements of this section.



C. If, upon investigation, the Director of Finance finds probable cause to believe that Operator has failed to comply with any of the requirements of this section, Operator and the Director of Fleets and Facilities shall be so notified in writing. The Director of Fleets and Facilities shall give Operator an opportunity to be heard, after ten calendar days' notice. If the Director of Fleets and Facilities concurs in the findings of the Director of Finance, he/she may suspend the Agreement and/or withhold any funds due or to become due to Operator, pending compliance by Operator with the requirements of this section.

D. City encourages the use of women and minority employees and apprentices on all City contracts and encourages outreach efforts in employment opportunities. Outreach efforts may include use of targeted solicitation lists, advertisements in publications directed to underrepresented communities, providing student internships or apprentice opportunities, noting Operator's Equal Employment Opportunity (EEO) policy in solicitations, emphasizing EEO and outreach policies within the company, and using the services of available minority community and public organizations to perform outreach.

E. Upon request by the Department of Finance, Operator shall submit EEO Reports in the form specified by City, detailing actual employment data for Operator and for any and all subcontractor(s) utilized for the Work.

F. Operator, by executing this Agreement, is affirming that Operator complies with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.44 as incorporated in this Agreement. Any violation of the mandatory requirements of the provisions of this section shall be a material breach of Agreement for which Operator may be subject to damages and sanctions provided for by the Agreement and by applicable law.

G. The foregoing provisions of this section shall be inserted in all subcontracts for the services covered by this Agreement.

## **12. Nondiscrimination in Employee Benefits.**

A. Operator shall comply with the requirements of SMC Ch. 20.45 and the Equal Benefits Program Rules implementing such requirements, under which Operator is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as Operator provides to its employees with spouses. At City's request, Operator shall provide complete information and verification of Operator's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Agreement. The equal benefit provisions of SMC Ch. 20.45 do not apply to subcontractors used under this Agreement.

B. Any violation by Operator of the provisions of SMC Ch. 20.45 shall be a material breach of the Agreement, for which Operator shall be subject to the remedies thereunder, including but not limited to payment of liquidated damages in the amount of \$500 for each calendar day Operator is in violation of SMC Ch. 20.45 during the Term of





the Agreement, termination of the Agreement, disqualification of Operator from bidding on or being awarded a City contract for a period of up to five (5) years, and/or other remedies specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

**13. Compliance with Seattle's "Fair Contracting Practices Ordinance" Required**

Operator shall 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.

**14. No Partnership**

Nothing herein shall be construed to create a partnership or joint venture, or to make Operator an agent of the City.

**15. Survival of Payment and Reporting Obligations**

The obligations of Operator to submit to the City reports regarding Operator's gross receipts during any month in which it manages the Property pursuant to this Agreement and to remit a percentage of the gross receipts generated from use of the Property pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement.

**16. No Assignment.**

Operator shall not assign its rights or obligations under this Agreement without the City's prior, written consent, which consent may be granted, withheld or conditioned in the City's sole discretion.

**17. Addresses for Communications & Transmittals**

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

A. If to Operator, to:

Executive Director  
Pike Place Market Preservation  
& Development Authority  
85 Pike Street, Suite 500  
Seattle, WA 98101



B. If to the City,

Send payments to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98214-4689  
206-386-4038

Send reports to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124  
206-386-4038  
206-684-0506 (fax)

With a copy to:

Jen Chan, PDA  
Department of Finance  
City of Seattle  
600 Fourth Avenue, 6<sup>th</sup> Floor  
P.O. Box 94747  
Seattle, WA 98124-4747  
206-233-0085 (fax)

Myrna L. Frasier, CFM  
Real Property & Facilities Manager  
Facility Operations Division  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124-4689  
206-233-7094 (work)  
206-615-0585 (fax)



Ted Maslin, CFM  
Director, Real Estate Services  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124-4689  
206-684-8396 (work)  
206-684-0525 (fax)

or to such other address as shall be furnished in writing with fifteen (15) days' prior written notice by either party to the other. Notices shall be deemed to have been given upon actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

#### **18. Cumulative Remedies.**

All remedies available at law or in equity to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies

#### **19. Captions; Interpretation by Context.**

The titles of the Sections of this Agreement are for convenience only, and do not, and are not to be construed to, define or limit the contents. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

#### **20. Entire Agreement**

This Agreement, together with the HOV Agreement, which is incorporated herein by reference, embodies the entire Agreement of the parties hereto with respect to the operation and maintenance of the Parking Lots as of the execution date. It is the party's intent that this Agreement supersedes and extinguishes any prior agreements between them with respect to the subject Parking Lots, except as to such of Operator's reporting and payment obligations and the City's audit rights as survive under any previous agreements.





In Witness whereof the parties to this Agreement have had their authorized representative execute the same by affixing his signature in the space below:

Pike Place Market Preservation  
and Development Authority

By: \_\_\_\_\_

The City of Seattle

By: \_\_\_\_\_

Fleets & Facilities Department



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brenda Bauer, to me known to be the Director of Fleets and Facilities for the City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

\_\_\_\_\_  
[Seal or Stamp]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
[Printed Name]

My appointment expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ for the Pike Place Market Preservation and Public Development Authority, the public corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said public corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

\_\_\_\_\_  
[Seal or Stamp]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
[Printed Name]

My appointment expires \_\_\_\_\_

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ORIGINAL

## PARKING OPERATION AND MANAGEMENT AGREEMENT

This Agreement is entered into by and between THE CITY OF SEATTLE ("City"), a municipal corporation of the State of Washington, acting through the City's Director of Fleets & Facilities and the Pike Place Market Preservation and Development Authority ("Operator"), a Washington public corporation.

WHEREAS, the City owns certain properties in the vicinity of the Pike Place Market that it acquired as right-of-way for the Alaskan Way Viaduct and for urban renewal purposes; and

WHEREAS, for many years, the City has contracted with Operator to use, operate and maintain such properties for controlled public parking to the extent not required for other municipal purposes; and

WHEREAS, Operator has successfully operated and maintained the properties, commonly known as the "Desimone/PC-1 North Lot" and the "Blanchard and Lenora Lots," and has shared the revenue therefrom with the City; and

WHEREAS, beginning in 2008, the City will require use of portions or all of the properties from time to time in connection with anticipated safety and mobility improvements to the Alaskan Way Viaduct; and

WHEREAS, the City has terminated Operator's rights to continue using and operating the properties under the existing agreements, effective January 1, 2008; and

WHEREAS, the City and Operator now desire to enter into a new Parking Operation and Management Agreement to allow the properties to remain in parking service, in whole or in part, until such time as construction activities require their removal from service; and

WHEREAS, the City supports Operator's planning for an anticipated levy to renovate the Pike Place Market and the new agreement contemplates the use of a portion of the revenues from the properties for such purposes;

NOW, THEREFORE, the City and Operator agree as follows:

### **1. Property Description.**

The properties that are subject to this Parking Operation and Management Agreement ("Agreement") are the Desimone/PC-1 North Lot, located at 1615 Western Avenue, Seattle, WA, and the Blanchard and Lenora Lots, located at 50 Blanchard Street and 50 Lenora Street, Seattle, WA, respectively. In this Agreement, the properties referred to collectively as "the Parking Lots" and are legally described as follows:

FILED  
CITY OF SEATTLE  
07 DEC 24 PM 2:54  
CITY CLERK

A. Desimone/PC-1 North Lot

Those portions of Lots 5, 6, 7, 8, 9, 10, 11, and 12, Block 36, and that certain unnumbered tract or lot lying generally southeast of Block 36, delineated on an Addition to the town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 6th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 99, Records of King County, Washington, and those portions of the vacated alley in said Block 36 and vacated Pine and Stewart streets more particularly described as follows:

Beginning at the most northerly corner of Lot 5, Block 36, of said Plat of A. A. Denny's Sixth Addition to the City of Seattle, thence southwesterly along the northwesterly margin of said Lot 5 to its intersection with the northeasterly line of Armory Way, as established by Seattle Condemnation Ordinance No. 66339, as amended by Seattle Ordinance No. 67125; thence southeasterly along said northeasterly line of Armory Way to a point on a line parallel with and 30 feet northwest of the northwesterly line of Block H, Addition to the Town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 4th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 69, Records of King County; thence northeasterly along said parallel line to the southwesterly line of Western Avenue as widened under the provisions of Ordinance Nos. 11704 and 18109 of the City of Seattle; thence northwesterly along said southwesterly line of Western Avenue to its intersection with the northwesterly line of Lot 6, Block 36, said Plat of A. A. Denny's 6th Addition to the City of Seattle; thence southwesterly along the northwesterly line of said Lot 6 to the most westerly corner thereof; thence southwesterly along the southwesterly projection of the northwesterly line of said Lot 6 to the point of beginning.

Also known as Parcel B of Seattle Lot Boundary Adjustment #8800103 recorded under King County Recording No. 8807250812 and as amended under Recording No. 8811290942, Records of King County, Washington.

B. Blanchard and Lenora Lots

All those ground surface level portions of the street right-of-way under the Alaskan Way Viaduct which lie between the south margin of Bell Street and a line 60 feet south of and parallel with the centerline of Lenora Street; EXCEPTING therefrom any developed surface street areas within the right-of-way.

**2. Term of Agreement.**

Unless terminated earlier as provided in Section 9, below, the Term of this Agreement shall be three (3) years, commencing January 1, 2008, and terminating December 31, 2010.

### **3. Permitted Use.**

Operator shall use the Parking Lots solely for the operation of surface public parking lots, for pay. Consistent with the parties 1986 High Occupancy Vehicle Parking Program Memorandum of Agreement (the "HOV Agreement"), the portion of the Blanchard and Lenora Lots commonly known as the "Blanchard Parking Lot" shall contain not less than eight (8) nor more than twenty (20) parking spaces designated for high-occupancy vehicles. Operator shall not impose a parking charge on either the City or any person whom the City certifies to be a participant (whether driver or passenger) in the City's high-occupancy vehicle ("HOV") parking program. The City shall have the right to determine the terms and conditions for parking in any of the HOV parking spaces including but not limited to which HOV parking program participants shall have the right to use such spaces, for how long any such use may last each day, whether any charge shall be associated with such use, what use shall be made of any revenue derived from such HOV parking, and when (and if) such specialized use shall be available. If the City determines that some or all of the HOV parking spaces should be treated like the remaining parking spaces in the lot (and thus be available for use by any person for the then-current charge), the City shall notify Operator of that decision and the effective date on which such treatment shall commence. From and after that date until the effective date of a City decision to again restrict some or all of such parking spaces for use by HOV parking program participants, Operator may treat such spaces just like other spaces in the lot. All such operational changes may be implemented without having to amend this Agreement and shall not become effective upon less than thirty (30) days' notice to Operator. Operator shall keep said property free from any and all liens or encumbrances.

### **4. Accounting and Allocation of Revenues.**

A. Allocation of Revenues & Expenses. The allocation of revenues and expenses associated with activity on the Parking Lots shall be as follows:

(1) Out of the aggregate gross receipts from any and all activities on the Parking Lots, Operator shall pay all taxes arising out of the operation of the Parking Lots, including the City of Seattle parking tax required by Chapter 5.35 of the Seattle Municipal Code (Ordinance 122192); the remainder shall constitute the "Effective Gross Receipts."

(2) For calendar year 2008 or any portion thereof during which this Agreement is in effect, Operator shall retain 100% of the Effective Gross Receipts from the Parking Lots. Operator agrees that it shall use so much of the 2008 Effective Gross Receipts as would have been payable to the City were the revenue-sharing percentages described in Subsection 4.A (3) in effect, solely to pay costs and expenses incurred in planning for anticipated renovations to the Pike Place Market.

(3) For calendar year 2009 and each subsequent year or portion thereof until this Agreement expires or is terminated, in whole or in part, for the Desimone/PC-1 North Lot, Operator shall retain 65% of the Effective Gross

Receipts and shall pay the City the remaining 35% of the Effective Gross Receipts. For the Blanchard and Lenora Lots, Operator shall retain 55% of the Effective Gross Receipts and shall pay the City the remaining 45% of the Effective Gross Receipts. Operator shall pay the City its share of the Effective Gross Receipts monthly, at the same time the monthly accounting report is to be transmitted to the City pursuant to Subsection 4.B. The first payment to be made pursuant to this Agreement shall include all accumulated amounts due but not paid to the City under this Agreement for months in which Operator operated and managed the Parking Lots prior to full execution of this Agreement, and shall be remitted to the City with the first monthly report due after full execution of this Agreement.

(4) From Operator's share of the Effective Gross Receipts, Operator shall pay all costs of operating the Parking Lots including, but not limited to, labor, maintenance, insurance, licenses, permits and fees.

B. Records and Reports. Operator shall keep a daily record of all gross receipts generated and expenses (direct and indirect) incurred from operation of the Parking Lots. Operator shall deliver to the City at the address specified in Section 17, for each month during the Term hereof, an accurate accounting report of all revenues and expenses associated with operation of the Parking Lots. For 2008, such reports shall, in addition, contain an itemization of all costs Operator incurs in developing the renovation plans described in Subsection 4.A (2). Each accounting report shall be provided to the City within thirty (30) days after the end of each month throughout the Term; provided, that the first delivery after full execution of this Agreement shall, in addition, include a monthly report for each month during which the Operator operated and managed the Parking Lots prior to full execution of this Agreement. Each report shall state, for each lot, separately, the gross receipts generated from activity on the lot; as deductions, the aggregate amount of taxes collected as a consequence of that activity, stated separately by type of tax; and out of the remainder, the respective amount of Operator's fee and compensation under this Agreement and the amount payable to the City. Any monies due and payable to the City hereunder shall be submitted in the form of a check made payable to The City of Seattle, with each monthly report. Financial records and reporting shall be on forms subject to the City's approval.

C. Audit. Operator shall permit the City, from time to time as the City Auditor or the Director of City's Fleets and Facilities Department deems necessary (including up to six years after the expiration or termination of this Agreement), to inspect and audit at any and all reasonable times in King County, Washington, or at such other reasonable location as such auditor selects, all of Operator's pertinent books and records maintained in connection with the performance of this Agreement, and shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof, upon such auditor's request.

## **5. Maintenance of Parking Lots.**

During the Term of this Agreement, or any extension thereof, Operator shall, at its sole expense, clean, maintain and repair the Parking Lots, including the lighting systems, paving, fences and pay boxes installed therein, to maintain these improvements in a condition as good as at the time of original installation, reasonable wear excepted. Operator shall not make any improvements to any of the Parking Lots costing more than \$5,000.00, without the City's prior, written approval, which approval the City shall not unreasonably condition, withhold or delay.

## **6. Indemnification of City.**

Operator agrees to indemnify, save harmless and defend the City and the City's officers, employees and agents from any and all losses, claims, actions or damages suffered by any person or entity (including but not limited to Operator's agents, employees, officers, contractors and their successors and assigns as well as the City's officers, employees, and agents, and all third persons) by reason of or resulting from any act or omission of Operator or any of its officers, agents, employee, or invitees in connection with actions of Operator arising out of or in any manner connected with this Agreement or property damage of any kind, whether tangible or intangible, including consequential damages or loss of use resulting therefrom, suffered by any such person and arising out of or in any manner connected with this Agreement or the operation of the Parking Lots, or caused or occasioned, in whole or in part, by reason of the presence of Operator or any of its officers, employees, agents or contractors, or the property of any of the same upon or in proximity to the City's property. In addition, Operator waives, with respect to the City only, Operator's immunity under RCW Title 51 (the Industrial Insurance Act). The indemnification obligation set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **7. Indemnification of Operator.**

The City agrees to indemnify, save harmless and defend the Operator from any and all losses, claims, actions or damages suffered by any person or entity by reason of or resulting from any act or omission of the City or any of its officers, agents, employees, or invitees in connection with actions of the City arising out of or in any manner connected with this Agreement or the City's role as owner of the Parking Lots, but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence of the City, its authorized officers, agents, employees or invitees. The indemnification set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **8. Insurance.**

### **A. Operator Furnished Insurance.**

Operator shall, at all times during the Term of this Agreement, maintain continuously, at its own expense, insurance covering each of the Parking Lots, with minimum levels of coverage and limits of liability as specified below:



(1) Commercial General Liability ("CGL") insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap/Employers Liability ("E.L.")

with a limit of liability of not less than \$1,000,000 each occurrence bodily injury and property damage combined single limit ("CSL") except:

- \$1,000,000 each Offense as respects Personal/Advertising Injury
- \$1,000,000 each Accident/Employee/Disease Stop Gap/E.L.

(2) Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles, with a limit of liability of not less than \$1,000,000 CSL.

(3) Garage Keeper's Legal Liability ("GKLL") insurance covering physical damage (including loss of use arising therefrom) to non-owned automobiles with a minimum limit of liability of not less than \$500,000 each occurrence.

(4) In lieu of CGL, Automobile Liability and GKLL insurance, Garage Liability insurance with a limit of liability of not less than \$1,000,000 CSL, including GKLL insurance with a minimum limit of liability of not less than \$500,000 each occurrence.

(5) Statutory Worker's Compensation ("WC") insurance under which Operator shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington ("RCW"); provided, that if Operator is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Operator shall certify that qualification by a letter that is signed by an authorized representative of Operator and delivered to the City indicating that Operator is a qualified self insured, and setting forth the limits of any excess insurance covering its employees.

(6) An Employee Dishonesty and Forgery or Alteration Policy in the principal amount of \$200,000.00.

#### B. City Furnished Insurance.

If any new construction or substantial structural modification is being performed upon the Property or any portion thereof by either Operator or the City, the City shall place and maintain Builder's Risk Property insurance on an "All Risks" basis (including the perils of earthquake and flood) with a limit of liability equivalent to the replacement cost of the Property plus the total hard and soft costs of the new construction

or substantial structural modification. The premium cost for such insurance shall be borne by Operator. Such insurance shall remain in force between the beginning of construction until substantial completion of the new construction or substantial structural modification. The City shall provide an insurer's waiver of subrogation in favor of Operator.

C. General Requirements Regarding Operator's Insurance and Bond;  
Adjustments (Not Applicable to Statutory Workers Compensation).

(1) As respects CGL and Automobile Liability insurance, the City of Seattle shall be an additional insured for primary and non-contributory limits of liability.

(2) Coverage and/or limits may be altered or increased as necessary, to reflect type of or exposure to risk. City shall have the right to annually review the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such limits upon ninety (90) days' prior written notice.

(3) Insurers must maintain a minimum A. M. Best's ratings of A- with Financial Size category (FSC) VII unless procured as surplus lines under the provisions of chapter 48.15 RCW and insurance policy and endorsement language is subject to the City's approval.

(4) The Fidelity Bond shall be subject to approval by the City Attorney as to company, form, and coverage and the surety shall be included in the current U.S. Department of the Treasury's Listing of Approved Sureties (TC Circular 570).

(5) Insurance coverage shall not be cancelled unless not less than thirty (30) days notice of Cancellation, except ten (10) days with respect to cancellation for non-payment of premium, has been actually mailed or delivered to notice address specified in Subsection 8.C (2), or as may otherwise be required by RCW 48.18.290.

D. Evidence of Insurance. Operator shall deliver, or cause to be delivered, prior to the effective date of this Renewal and Amendment Agreement, and thereafter, on or before the expiration date of any such policy or bond, or as otherwise provided herein, the following documents as evidence of Operator's insurance coverage:

(1) An Acord certificate or other certificate form stating coverages, minimum limits of liability and terms and condition in conformance with the requirements specified in this Section 8.

(2) A copy of the policy provision documenting that the City of Seattle is an additional insured under CGL or Garage Liability insurance for primary and

non-contributory limits of liability endorsement. In addition, at any time Builder's Risk Property insurance is placed, a copy of the policy provisions documenting that the City of Seattle is an insured subject to a standard mortgagee clause and a waiver of subrogation.

(3) Within thirty (30) days after Operator's receipt of a request therefrom, a complete, true and certified copy of any Operator's insurance policy so requested.

E. Insurance Notice Address. Evidence of insurance as specified in Subsection 8.C. above shall be issued to "The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669" and shall be delivered electronically to the City either as an email attachment to [riskmanagement@seattle.gov](mailto:riskmanagement@seattle.gov) or faxed to (206) 470-1270.

## **9. Termination.**

### **A. Termination for Default.**

City may terminate this Agreement if Operator has failed to substantially perform its obligations under this Agreement through no fault of the City, the City has provided notice to Operator identifying the obligation that the City has failed to substantially perform, and Operator has failed to remedy such specified failure within the cure period specified herein. The duration of such cure period shall be thirty (30) days after the date of Operator's receipt of the City's notice of failure unless such cure cannot reasonably be accomplished within a period of thirty (30) days, in which case Operator shall not be in default of this Agreement and this Agreement shall not be subject to termination if Operator commences a cure within that thirty (30) day period and thereafter diligently prosecutes such cure until completion. If the City terminates this Agreement pursuant to this Section, Operator shall reimburse the City for all expenses it incurs in connection with such termination.

### **B. Termination for Public Works Purposes.**

If the City determines that the Parking Lots are needed in whole or in part for any public works purpose, the City may terminate this Agreement as to all or any portion of the Parking Lots upon not less than thirty (30) days' prior written notice to Operator. In the event of such termination, the City will encourage the owner of the public works project to compensate Operator for lost revenues occasioned by such termination from the public works project budget, but such compensation is not guaranteed. The City acknowledges that the Parking Lots represent a significant component of the reservoir of parking owned or controlled by the Operator and that such parking is fundamentally important to the ongoing commercial viability of the Pike Place Market. In the event of such termination, the City shall use its good faith best efforts to support the development of replacement parking, by the owner of the public works project, in mitigation for the loss of the Parking Lots, in whole or in part, as a feature of any public works project for which Parking Lots may be needed.

**C. Termination for Convenience.**

Either party may terminate this Agreement for its convenience by giving the other party notice of its intent to so terminate not less than 180 days prior to the effective date of termination.

**D. Effect of Termination.**

Termination of this Agreement shall not terminate any previously incurred obligation of either party to the other for any period of time prior to the effective termination date including, but not limited to, Operator's obligation to deliver any report to the City, or to remit to the City, without offset or reduction, the City's share of parking revenues as contemplated in this Agreement.

**10. City Access to Property.**

The City or its agents or designees shall at all times have the right to enter upon any portion of the described property for the purpose of inspection, repair, alteration and maintenance of the elevated roadway or of any public or private utilities within said property.

**11. Non-Discrimination.**

A. Operator shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Operator shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. Operator shall post in conspicuous places, available to employees and applicants for employment, notices as provided by City setting forth the provisions of this nondiscrimination clause.

B. Operator shall furnish to the Director of Finance (or his/her designee), upon request and on such form as may be provided therefor, a report of the affirmative action taken by Operator in implementing the requirements of this section, and will permit access to Operator's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director of Finance for the purposes of investigation to determine compliance with the requirements of this section.

C. If, upon investigation, the Director of Finance finds probable cause to believe that Operator has failed to comply with any of the requirements of this section, Operator and the Director of Fleets and Facilities shall be so notified in writing. The Director of Fleets and Facilities shall give Operator an opportunity to be heard, after ten calendar days' notice. If the Director of Fleets and Facilities concurs in the findings of the Director of Finance, he/she may suspend the Agreement and/or withhold any funds due or to become due to Operator, pending compliance by Operator with the requirements of this section.

D. City encourages the use of women and minority employees and apprentices on all City contracts and encourages outreach efforts in employment opportunities. Outreach efforts may include use of targeted solicitation lists, advertisements in publications directed to underrepresented communities, providing student internships or apprentice opportunities, noting Operator's Equal Employment Opportunity (EEO) policy in solicitations, emphasizing EEO and outreach policies within the company, and using the services of available minority community and public organizations to perform outreach.

E. Upon request by the Department of Finance, Operator shall submit EEO Reports in the form specified by City, detailing actual employment data for Operator and for any and all subcontractor(s) utilized for the Work.

F. Operator, by executing this Agreement, is affirming that Operator complies with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.44 as incorporated in this Agreement. Any violation of the mandatory requirements of the provisions of this section shall be a material breach of Agreement for which Operator may be subject to damages and sanctions provided for by the Agreement and by applicable law.

G. The foregoing provisions of this section shall be inserted in all subcontracts for the services covered by this Agreement.

## **12. Nondiscrimination in Employee Benefits.**

A. Operator shall comply with the requirements of SMC Ch. 20.45 and the Equal Benefits Program Rules implementing such requirements, under which Operator is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as Operator provides to its employees with spouses. At City's request, Operator shall provide complete information and verification of Operator's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Agreement. The equal benefit provisions of SMC Ch. 20.45 do not apply to subcontractors used under this Agreement.

B. Any violation by Operator of the provisions of SMC Ch. 20.45 shall be a material breach of the Agreement, for which Operator shall be subject to the remedies thereunder, including but not limited to payment of liquidated damages in the amount of \$500 for each calendar day Operator is in violation of SMC Ch. 20.45 during the Term of

the Agreement, termination of the Agreement, disqualification of Operator from bidding on or being awarded a City contract for a period of up to five (5) years, and/or other remedies specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

### **13. Compliance with Seattle's "Fair Contracting Practices Ordinance" Required**

Operator shall 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.

### **14. No Partnership**

Nothing herein shall be construed to create a partnership or joint venture, or to make Operator an agent of the City.

### **15. Survival of Payment and Reporting Obligations**

The obligations of Operator to submit to the City reports regarding Operator's gross receipts during any month in which it manages the Property pursuant to this Agreement and to remit a percentage of the gross receipts generated from use of the Property pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement.

### **16. No Assignment.**

Operator shall not assign its rights or obligations under this Agreement without the City's prior, written consent, which consent may be granted, withheld or conditioned in the City's sole discretion.

### **17. Addresses for Communications & Transmittals**

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

A. If to Operator, to:

Executive Director  
Pike Place Market Preservation  
& Development Authority  
85 Pike Street, Suite 500  
Seattle, WA 98101

B. If to the City,

Send payments to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98214-4689  
206-386-4038

Send reports to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124  
206-386-4038  
206-684-0506 (fax)

With a copy to:

Jen Chan, PDA  
Department of Finance  
City of Seattle  
600 Fourth Avenue, 6<sup>th</sup> Floor  
P.O. Box 94747  
Seattle, WA 98124-4747  
206- 233-0085 (fax)

Myrna L. Frasier, CFM  
Real Property & Facilities Manager  
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206-684-0525 (fax)

or to such other address as shall be furnished in writing with fifteen (15) days' prior written notice by either party to the other. Notices shall be deemed to have been given upon actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

#### **18. Cumulative Remedies.**

All remedies available at law or in equity to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies

#### **19. Captions; Interpretation by Context.**

The titles of the Sections of this Agreement are for convenience only, and do not, and are not to be construed to, define or limit the contents. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

#### **20. Entire Agreement**

This Agreement, together with the HOV Agreement, which is incorporated herein by reference, embodies the entire Agreement of the parties hereto with respect to the operation and maintenance of the Parking Lots as of the execution date. It is the party's intent that this Agreement supersedes and extinguishes any prior agreements between them with respect to the subject Parking Lots, except as to such of Operator's reporting and payment obligations and the City's audit rights as survive under any previous agreements.

In Witness whereof the parties to this Agreement have had their authorized representative execute the same by affixing her signature in the space below:

Pike Place Market Preservation  
and Development Authority

By: 

The City of Seattle

By: 

Fleets & Facilities Department

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this 12<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brenda Bauer, to me known to be the Director of Fleets and Facilities for the City of Seattle, the municipal corporation that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.



Martha M. Bannister-Munjo

Notary Public

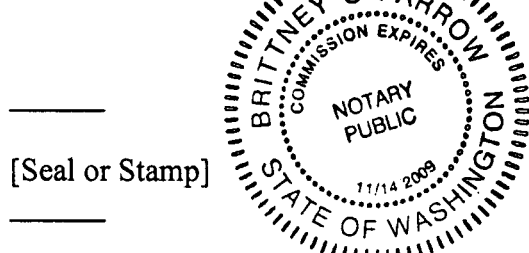
Martha M. Bannister-Munjo

[Printed Name]

My appointment expires 11-19-08

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this 9<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Carol Borden, to me known to be the Executive Director for the Pike Place Market Preservation and Public Development Authority, the public corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said public corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.



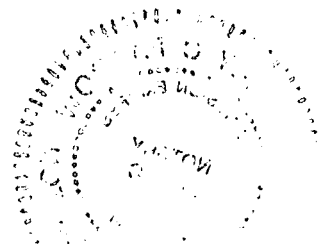
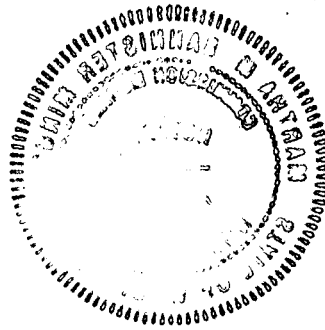
Brittny Farrow

Notary Public

Brittny Farrow

[Printed Name]

My appointment expires 11/14/09



## **2008 BUDGET LEGISLATION FISCAL NOTE**

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Fleets and Facilities	Charlie Heffernan, 233-5069	Jan Oscherwitz 684-8510

Legislation Title: AN ORDINANCE related to parking lot management agreements between The City of Seattle and the Pike Place Market Preservation and Development Authority; authorizing the execution of said agreements; and directing the deposit of revenues into the Cumulative Reserve Subfund, Unrestricted Subaccount.

Summary of the Legislation: This legislation authorizes the Director of the Fleets and Facilities Department to enter into an agreement with the Pike Place Market Preservation and Development Authority (PDA) for management and operation of certain parking lots at City-owned properties in the vicinity of the Pike Place Market, commonly known as the "Desimone/PC-1 North Lot" and the "Blanchard and Lenora Lots." The term of the agreement is three years. The legislation also directs the City's portion of revenues from the agreement to be deposited into the Cumulative Reserve Subfund, Unrestricted Subaccount. Per the agreement, the City will forgo its share of revenues in 2008 to support planning for the renovation of the Pike Place Market.

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

Since the 1980s, the City has entered into successive agreements with the Market PDA for management and operation of parking lots at several City-owned properties near the Pike Place Market, and has shared a portion of the revenues with the Market PDA. The most recent agreement was entered into in 2001, and was due to expire at the end of 2008. In 2007, the lots are expected to generate about \$400,000 of which the City's share is about \$185,000.

Earlier this year, the City received a request from the Market PDA to allow it to retain the City's share of 2008 revenues from the parking lots to fund the Market PDA's upcoming renovation planning and feasibility efforts in support of a potential levy in 2008. In considering this request, the Executive determined it was in the City's and the Market PDA's best interests to renegotiate, rather than amend, the existing agreements in light of the anticipated safety and mobility improvements to the Alaskan Way Viaduct, which would require the City to use portions or all of the parking lots beginning as early as October 2008. On July 3, 2007, the City sent the Market PDA a termination notice and established a working group of staff from DOF, FFD, Law, and the Market PDA to negotiate a new agreement.



The new agreement has a term of three years and obligates the Market PDA to remit to the City the same percentage of revenues generated from the parking lots as required in the 2001 agreement (35% of the revenues from Desimone/PC-1 North and 45% of the revenues from the Blanchard and Lenora lots), except for 2008 only, when the Market PDA will retain the City's portion of anticipated revenue to pay planning costs incurred for anticipated renovations to the Pike Place Market. The agreement also states the City's intent to seek compensation from the Alaskan Way Viaduct project should the Market PDA lose revenues due to the use of the lots by the project. Finally, the agreement states that should the City need to terminate the agreement in whole or in part due to the Alaskan Way Viaduct project, the City will support the development of replacement parking for the Market, to mitigate the loss of use of the parking lots.

- *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.)*

#### Summary of Changes to Revenue Generated Resulting From This Legislation

Fee Type	2007 Adopted	2008 Proposed	Total of New Revenue Proposed
Concession Agreement	\$185,000	\$0	(\$191,000)
<b>Total Fees and Charges Resulting From Passage of This Ordinance</b>	<b>\$185,000</b>	<b>0</b>	<b>(\$191,000)</b>

**NOTE:** At the time the 2007 Adopted and 2008 Endorsed Budget was approved by Council, the City anticipated \$191,000 in revenues from the Market PDA parking lots in 2008, which was assumed in the CRF-Unrestricted Subaccount. The Mayor's 2008 Proposed Budget does not assume these revenues. Notwithstanding impacts from the Alaskan Way Viaduct project, City revenues in 2009 and 2010 are assumed to be approximately \$196,000 and \$202,000 respectively.



What is the financial cost of not implementing this legislation?

- The City terminated the existing parking agreements with the Market PDA as of December 31, 2007. If this legislation is not implemented, the City would need to establish a different agreement with the Market PDA for 2008 and beyond or find another operator to manage the parking lots. If the City were to continue its parking agreement with the Market PDA under the same terms as the existing agreement, the City would receive approximately \$191,000 in revenue in 2008; however, it would not be providing support to the Market for renovation planning.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

- The City could provide direct support to the Market PDA for levy planning in 2008 through the General Fund.
- Is the legislation subject to public hearing requirements? *(If yes, what public hearings have been held to date)* No.
- Other Issues *(including long-term implications of the legislation):* N/A.





# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

September 24, 2007

Honorable Nick Licata  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill, which authorizes the City to enter into a three-year agreement with the Pike Place Market Preservation and Development Authority (Market PDA) to operate three city-owned parking lots near the Market, commonly known as the "Desimone/ PC-1 North Lot" and the "Blanchard and Lenora Lots," from 2008 through 2010. Revenue from these lots will be shared, except in 2008, when the Market PDA will keep the City's share and apply the proceeds to its planning efforts for a potential levy in 2008 to renovate the 100 year old Market.

The Market PDA has operated these lots since the 1980s through successive agreements with the City. While the most recent agreement would have expired at the end of 2008, I directed my staff to terminate that agreement one year early to establish a new agreement allowing the Market PDA to keep the City's share of the 2008 parking revenue for levy planning purposes, and to address impacts anticipated to result from the Alaskan Way Viaduct Replacement project's potential need to use the lots. The new agreement states the City will seek to have the Viaduct project provide financial compensation to the Market PDA in the event the agreement being authorized by this Bill has to be terminated early, causing the Market PDA to experience a loss of parking revenue. Finally, the new agreement reflects the City's support of the Market PDA's efforts to replace lost parking should the Desimone/ PC-1 North Lot and the Blanchard and Lenora Lots be needed in whole, or in part, by the Viaduct project. The Fleets and Facilities Department will execute and enforce this agreement.

The Market PDA's continued management and operation of the subject lots serves an important public function by maintaining a supply of parking spaces near the Market for customers and suppliers, as well as providing a revenue source to both the Market PDA and the City. Dedication of the City's share of parking revenues to the Market PDA in 2008 will support important planning work to develop a levy proposal to renovate the Market. Thank you for your consideration of this legislation. Should you have questions, please contact Jan Oscherwitz at 684-8510.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a large, stylized, looping flourish.

GREG NICKELS  
Mayor of Seattle

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



## PARKING OPERATION AND MANAGEMENT AGREEMENT

This Agreement is entered into by and between THE CITY OF SEATTLE ("City"), a municipal corporation of the State of Washington, acting through the City's Director of Fleets & Facilities and the Pike Place Market Preservation and Development Authority ("Operator"), a Washington public corporation.

WHEREAS, the City owns certain properties in the vicinity of the Pike Place Market that it acquired as right-of-way for the Alaskan Way Viaduct and for urban renewal purposes; and

WHEREAS, for many years, the City has contracted with Operator to use, operate and maintain such properties for controlled public parking to the extent not required for other municipal purposes; and

WHEREAS, Operator has successfully operated and maintained the properties, commonly known as the "Desimone/PC-1 North Lot" and the "Blanchard and Lenora Lots," and has shared the revenue therefrom with the City; and

WHEREAS, beginning in 2008, the City will require use of portions or all of the properties from time to time in connection with anticipated safety and mobility improvements to the Alaskan Way Viaduct; and

WHEREAS, the City has terminated Operator's rights to continue using and operating the properties under the existing agreements, effective January 1, 2008; and

WHEREAS, the City and Operator now desire to enter into a new Parking Operation and Management Agreement to allow the properties to remain in parking service, in whole or in part, until such time as construction activities require their removal from service; and

WHEREAS, the City supports Operator's planning for an anticipated levy to renovate the electrical, mechanical and HVAC systems for the Pike Place Market and the new agreement contemplates the use of a portion of the revenues from the properties for such purposes;

NOW, THEREFORE, the City and Operator agree as follows:

### **1. Property Description.**

The properties that are subject to this Parking Operation and Management Agreement ("Agreement") are the Desimone/PC-1 North Lot, located at 1615 Western Avenue, Seattle, WA, and the Blanchard and Lenora Lots, located at 50 Blanchard Street and 50 Lenora Street, Seattle, WA, respectively. In this Agreement, the properties are referred to collectively as "the Parking Lots" and are legally described as follows:



A. Desimone/PC-1 North Lot

Those portions of Lots 5, 6, 7, 8, 9, 10, 11, and 12, Block 36, and that certain unnumbered tract or lot lying generally southeast of Block 36, delineated on an Addition to the town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 6th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 99, Records of King County, Washington, and those portions of the vacated alley in said Block 36 and vacated Pine and Stewart streets more particularly described as follows:

Beginning at the most northerly corner of Lot 5, Block 36, of said Plat of A. A. Denny's Sixth Addition to the City of Seattle, thence southwesterly along the northwesterly margin of said Lot 5 to its intersection with the northeasterly line of Armory Way, as established by Seattle Condemnation Ordinance No. 66339, as amended by Seattle Ordinance No. 67125; thence southeasterly along said northeasterly line of Armory Way to a point on a line parallel with and 30 feet northwest of the northwesterly line of Block H, Addition to the Town of Seattle as laid out by A. A. Denny (commonly known as A. A. Denny's 4th Addition to the City of Seattle), as recorded in Volume 1 of Plats, page 69, Records of King County; thence northeasterly along said parallel line to the southwesterly line of Western Avenue as widened under the provisions of Ordinance Nos. 11704 and 18109 of the City of Seattle; thence northwesterly along said southwesterly line of Western Avenue to its intersection with the northwesterly line of Lot 6, Block 36, said Plat of A. A. Denny's 6th Addition to the City of Seattle; thence southwesterly along the northwesterly line of said Lot 6 to the most westerly corner thereof; thence southwesterly along the southwesterly projection of the northwesterly line of said Lot 6 to the point of beginning.

Also known as Parcel B of Seattle Lot Boundary Adjustment #8800103 recorded under King County Recording No. 8807250812 and as amended under Recording No. 8811290942, Records of King County, Washington.

B. Blanchard and Lenora Lots

All those ground surface level portions of the street right-of-way under the Alaskan Way Viaduct which lie between the south margin of Bell Street and a line 60 feet south of and parallel with the centerline of Lenora Street; EXCEPTING therefrom any developed surface street areas within the right-of-way.

**2. Term of Agreement.**

Unless terminated earlier as provided in Section 9, below, the Term of this Agreement shall be three (3) years, commencing January 1, 2008, and terminating December 31, 2010.



### 3. Permitted Use.

Operator shall use the Parking Lots solely for the operation of surface public parking lots, for pay. Consistent with the parties 1986 High Occupancy Vehicle Parking Program Memorandum of Agreement (the "HOV Agreement"), the portion of the Blanchard and Lenora Lots commonly known as the "Blanchard Parking Lot" shall contain not less than eight (8) nor more than twenty (20) parking spaces designated for high-occupancy vehicles. Operator shall not impose a parking charge on either the City or any person whom the City certifies to be a participant (whether driver or passenger) in the City's high-occupancy vehicle ("HOV") parking program. The City shall have the right to determine the terms and conditions for parking in any of the HOV parking spaces including but not limited to which HOV parking program participants shall have the right to use such spaces, for how long any such use may last each day, whether any charge shall be associated with such use, what use shall be made of any revenue derived from such HOV parking, and when (and if) such specialized use shall be available. If the City determines that some or all of the HOV parking spaces should be treated like the remaining parking spaces in the lot (and thus be available for use by any person for the then-current charge), the City shall notify Operator of that decision and the effective date on which such treatment shall commence. From and after that date until the effective date of a City decision to again restrict some or all of such parking spaces for use by HOV parking program participants, Operator may treat such spaces just like other spaces in the lot. All such operational changes may be implemented without having to amend this Agreement and shall not become effective upon less than thirty (30) days' notice to Operator. Operator shall keep said property free from any and all liens or encumbrances.

### 4. Accounting and Allocation of Revenues.

A. Allocation of Revenues & Expenses. The allocation of revenues and expenses associated with activity on the Parking Lots shall be as follows:

(1) Out of the aggregate gross receipts from any and all activities on the Parking Lots, Operator shall pay all taxes arising out of the operation of the Parking Lots, including the City of Seattle parking tax required by Chapter 5.35 of the Seattle Municipal Code (Ordinance 122192); the remainder shall constitute the "Effective Gross Receipts."

(2) For calendar year 2008 or any portion thereof during which this Agreement is in effect, Operator shall retain 100% of the Effective Gross Receipts from the Parking Lots. Operator agrees that it shall use so much of the 2008 Effective Gross Receipts as would have been payable to the City were the revenue-sharing percentages described in Subsection 4.A (3) in effect, solely to pay costs and expenses incurred in planning for anticipated renovations to the Pike Place Market.

(3) For calendar year 2009 and each subsequent year or portion thereof until this Agreement expires or is terminated, in whole or in part, for the Desimone/PC-1 North Lot, Operator shall retain 65% of the Effective Gross



Receipts and shall pay the City the remaining 35% of the Effective Gross Receipts. For the Blanchard and Lenora Lots, Operator shall retain 55% of the Effective Gross Receipts and shall pay the City the remaining 45% of the Effective Gross Receipts. Operator shall pay the City its share of the Effective Gross Receipts monthly, at the same time the monthly accounting report is to be transmitted to the City pursuant to Subsection 4.B. The first payment to be made pursuant to this Agreement shall include all accumulated amounts due but not paid to the City under this Agreement for months in which Operator operated and managed the Parking Lots prior to full execution of this Agreement, and shall be remitted to the City with the first monthly report due after full execution of this Agreement.

(4) From Operator's share of the Effective Gross Receipts, Operator shall pay all costs of operating the Parking Lots including, but not limited to, labor, maintenance, insurance, licenses, permits and fees.

B. Records and Reports. Operator shall keep a daily record of all gross receipts generated and expenses (direct and indirect) incurred from operation of the Parking Lots. Operator shall deliver to the City at the address specified in Section 17, for each month during the Term hereof, an accurate accounting report of all revenues and expenses associated with operation of the Parking Lots. For 2008, such reports shall, in addition, contain an itemization of all costs Operator incurs in developing the renovation plans described in Subsection 4.A (2). Each accounting report shall be provided to the City within thirty (30) days after the end of each month throughout the Term; provided, that the first delivery after full execution of this Agreement shall, in addition, include a monthly report for each month during which the Operator operated and managed the Parking Lots prior to full execution of this Agreement. Each report shall state, for each lot, separately, the gross receipts generated from activity on the lot; as deductions, the aggregate amount of taxes collected as a consequence of that activity, stated separately by type of tax; and out of the remainder, the respective amount of Operator's fee and compensation under this Agreement and the amount payable to the City. Any monies due and payable to the City hereunder shall be submitted in the form of a check made payable to The City of Seattle, with each monthly report. Financial records and reporting shall be on forms subject to the City's approval.

C. Audit. Operator shall permit the City, from time to time as the City Auditor or the Director of City's Fleets and Facilities Department deems necessary (including up to six years after the expiration or termination of this Agreement), to inspect and audit at any and all reasonable times in King County, Washington, or at such other reasonable location as such auditor selects, all of Operator's pertinent books and records maintained in connection with the performance of this Agreement, and shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof, upon such auditor's request.



## **5. Maintenance of Parking Lots.**

During the Term of this Agreement, or any extension thereof, Operator shall, at its sole expense, clean, maintain and repair the Parking Lots, including the lighting systems, paving, fences and pay boxes installed therein, to maintain these improvements in a condition as good as at the time of original installation, reasonable wear excepted. Operator shall not make any improvements to any of the Parking Lots costing more than \$5,000.00, without the City's prior, written approval, which approval the City shall not unreasonably condition, withhold or delay.

## **6. Indemnification of City.**

Operator agrees to indemnify, save harmless and defend the City and the City's officers, employees and agents from any and all losses, claims, actions or damages suffered by any person or entity (including but not limited to Operator's agents, employees, officers, contractors and their successors and assigns as well as the City's officers, employees, and agents, and all third persons) by reason of or resulting from any act or omission of Operator or any of its officers, agents, employee, or invitees in connection with actions of Operator arising out of or in any manner connected with this Agreement or property damage of any kind, whether tangible or intangible, including consequential damages or loss of use resulting therefrom, suffered by any such person and arising out of or in any manner connected with this Agreement or the operation of the Parking Lots, or caused or occasioned, in whole or in part, by reason of the presence of Operator or any of its officers, employees, agents or contractors, or the property of any of the same upon or in proximity to the City's property. In addition, Operator waives, with respect to the City only, Operator's immunity under RCW Title 51 (the Industrial Insurance Act). The indemnification obligation set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **7. Indemnification of Operator.**

The City agrees to indemnify, save harmless and defend the Operator from any and all losses, claims, actions or damages suffered by any person or entity by reason of or resulting from any act or omission of the City or any of its officers, agents, employees, or invitees in connection with actions of the City arising out of or in any manner connected with this Agreement or the City's role as owner of the Parking Lots, but only to the extent such claims, actions, costs, damages or expenses are caused by the negligence of the City, its authorized officers, agents, employees or invitees. The indemnification set forth in this section shall survive the expiration or earlier termination of this Agreement.

## **8. Insurance.**

### **A. Operator Furnished Insurance.**

Operator shall, at all times during the Term of this Agreement, maintain continuously, at its own expense, insurance covering each of the Parking Lots, with minimum levels of coverage and limits of liability as specified below:



(1) Commercial General Liability ("CGL") insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap/Employers Liability ("E.L.")

with a limit of liability of not less than \$1,000,000 each occurrence bodily injury and property damage combined single limit ("CSL") except:

- \$1,000,000 each Offense as respects Personal/Advertising Injury
- \$1,000,000 each Accident/Employee/Disease Stop Gap/E.L.

(2) Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles, with a limit of liability of not less than \$1,000,000 CSL.

(3) Garage Keeper's Legal Liability ("GKLL") insurance covering physical damage (including loss of use arising therefrom) to non-owned automobiles with a minimum limit of liability of not less than \$500,000 each occurrence.

(4) In lieu of CGL, Automobile Liability and GKLL insurance, Garage Liability insurance with a limit of liability of not less than \$1,000,000 CSL, including GKLL insurance with a minimum limit of liability of not less than \$500,000 each occurrence.

(5) Statutory Worker's Compensation ("WC") insurance under which Operator shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington ("RCW"); provided, that if Operator is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Operator shall certify that qualification by a letter that is signed by an authorized representative of Operator and delivered to the City indicating that Operator is a qualified self insured, and setting forth the limits of any excess insurance covering its employees.

(6) An Employee Dishonesty and Forgery or Alteration Policy in the principal amount of \$200,000.00.

#### B. City Furnished Insurance.

If any new construction or substantial structural modification is being performed upon the Property or any portion thereof by either Operator or the City, the City shall place and maintain Builder's Risk Property insurance on an "All Risks" basis (including the perils of earthquake and flood) with a limit of liability equivalent to the replacement cost of the Property plus the total hard and soft costs of the new construction





or substantial structural modification. The premium cost for such insurance shall be borne by Operator. Such insurance shall remain in force between the beginning of construction until substantial completion of the new construction or substantial structural modification. The City shall provide an insurer's waiver of subrogation in favor of Operator.

C. General Requirements Regarding Operator's Insurance and Bond;  
Adjustments (Not Applicable to Statutory Workers Compensation).

(1) As respects CGL and Automobile Liability insurance, the City of Seattle shall be an additional insured for primary and non-contributory limits of liability.

(2) Coverage and/or limits may be altered or increased as necessary, to reflect type of or exposure to risk. City shall have the right to annually review the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such limits upon ninety (90) days' prior written notice.

(3) Insurers must maintain a minimum A. M. Best's ratings of A- with Financial Size category (FSC) VII unless procured as surplus lines under the provisions of chapter 48.15 RCW and insurance policy and endorsement language is subject to the City's approval.

(4) The Fidelity Bond shall be subject to approval by the City Attorney as to company, form, and coverage and the surety shall be included in the current U.S. Department of the Treasury's Listing of Approved Sureties (TC Circular 570).

(5) Insurance coverage shall not be cancelled unless not less than thirty (30) days notice of Cancellation, except ten (10) days with respect to cancellation for non-payment of premium, has been actually mailed or delivered to notice address specified in Subsection 8.C (2), or as may otherwise be required by RCW 48.18.290.

D. Evidence of Insurance. Operator shall deliver, or cause to be delivered, prior to the effective date of this Renewal and Amendment Agreement, and thereafter, on or before the expiration date of any such policy or bond, or as otherwise provided herein, the following documents as evidence of Operator's insurance coverage:

(1) An Acord certificate or other certificate form stating coverages, minimum limits of liability and terms and condition in conformance with the requirements specified in this Section 8.

(2) A copy of the policy provision documenting that the City of Seattle is an additional insured under CGL or Garage Liability insurance for primary and



non-contributory limits of liability endorsement. In addition, at any time Builder's Risk Property insurance is placed, a copy of the policy provisions documenting that the City of Seattle is an insured subject to a standard mortgagee clause and a waiver of subrogation.

(3) Within thirty (30) days after Operator's receipt of a request therefrom, a complete, true and certified copy of any Operator's insurance policy so requested.

E. Insurance Notice Address. Evidence of insurance as specified in Subsection 8.C. above shall be issued to "The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669" and shall be delivered electronically to the City either as an email attachment to [riskmanagement@seattle.gov](mailto:riskmanagement@seattle.gov) or faxed to (206) 470-1270.

## **9. Termination.**

### **A. Termination for Default.**

City may terminate this Agreement if Operator has failed to substantially perform its obligations under this Agreement through no fault of the City, the City has provided notice to Operator identifying the obligation that the City has failed to substantially perform, and Operator has failed to remedy such specified failure within the cure period specified herein. The duration of such cure period shall be thirty (30) days after the date of Operator's receipt of the City's notice of failure unless such cure cannot reasonably be accomplished within a period of thirty (30) days, in which case Operator shall not be in default of this Agreement and this Agreement shall not be subject to termination if Operator commences a cure within that thirty (30) day period and thereafter diligently prosecutes such cure until completion. If the City terminates this Agreement pursuant to this Section, Operator shall reimburse the City for all expenses it incurs in connection with such termination.

### **B. Termination for Public Works Purposes.**

If the City determines that the Parking Lots are needed in whole or in part for any public works purpose, the City may terminate this Agreement as to all or any portion of the Parking Lots upon not less than thirty (30) days' prior written notice to Operator. In the event of such termination, the City will endeavor to compensate Operator for lost revenues occasioned by such termination from the public works project budget, but such compensation is not guaranteed. The City acknowledges that the Parking Lots represent a significant component of the reservoir of parking owned or controlled by the Operator and that such parking is fundamentally important to the ongoing commercial viability of the Pike Place Market. In the event of such termination, the City shall use its good faith best efforts to support the development of replacement parking in mitigation for the loss of the Parking Lots, in whole or in part, as a feature of any public works project for which Parking Lots may be needed.



**C. Termination for Convenience.**

Either party may terminate this Agreement for its convenience by giving the other party notice of its intent to so terminate not less than 180 days prior to the effective date of termination.

**D. Effect of Termination.**

Termination of this Agreement shall not terminate any previously incurred obligation of either party to the other for any period of time prior to the effective termination date including, but not limited to, Operator's obligation to deliver any report to the City, or to remit to the City, without offset or reduction, the City's share of parking revenues as contemplated in this Agreement.

**10. City Access to Property.**

The City or its agents or designees shall at all times have the right to enter upon any portion of the described property for the purpose of inspection, repair, alteration and maintenance of the elevated roadway, or of any public or private utilities within said property.

**11. Non-Discrimination.**

A. Operator shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Operator shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. Operator shall post in conspicuous places, available to employees and applicants for employment, notices as provided by City setting forth the provisions of this nondiscrimination clause.

B. Operator shall furnish to the Director of Finance (or his/her designee), upon request and on such form as may be provided therefor, a report of the affirmative action taken by Operator in implementing the requirements of this section, and will permit access to Operator's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director of Finance for the purposes of investigation to determine compliance with the requirements of this section.



C. If, upon investigation, the Director of Finance finds probable cause to believe that Operator has failed to comply with any of the requirements of this section, Operator and the Director of Fleets and Facilities shall be so notified in writing. The Director of Fleets and Facilities shall give Operator an opportunity to be heard, after ten calendar days' notice. If the Director of Fleets and Facilities concurs in the findings of the Director of Finance, he/she may suspend the Agreement and/or withhold any funds due or to become due to Operator, pending compliance by Operator with the requirements of this section.

D. City encourages the use of women and minority employees and apprentices on all City contracts and encourages outreach efforts in employment opportunities. Outreach efforts may include use of targeted solicitation lists, advertisements in publications directed to underrepresented communities, providing student internships or apprentice opportunities, noting Operator's Equal Employment Opportunity (EEO) policy in solicitations, emphasizing EEO and outreach policies within the company, and using the services of available minority community and public organizations to perform outreach.

E. Upon request by the Department of Finance, Operator shall submit EEO Reports in the form specified by City, detailing actual employment data for Operator and for any and all subcontractor(s) utilized for the Work.

F. Operator, by executing this Agreement, is affirming that Operator complies with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.44 as incorporated in this Agreement. Any violation of the mandatory requirements of the provisions of this section shall be a material breach of Agreement for which Operator may be subject to damages and sanctions provided for by the Agreement and by applicable law.

G. The foregoing provisions of this section shall be inserted in all subcontracts for the services covered by this Agreement.

## **12. Nondiscrimination in Employee Benefits.**

A. Operator shall comply with the requirements of SMC Ch. 20.45 and the Equal Benefits Program Rules implementing such requirements, under which Operator is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as Operator provides to its employees with spouses. At City's request, Operator shall provide complete information and verification of Operator's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Agreement. The equal benefit provisions of SMC Ch. 20.45 do not apply to subcontractors used under this Agreement.

B. Any violation by Operator of the provisions of SMC Ch. 20.45 shall be a material breach of the Agreement, for which Operator shall be subject to the remedies thereunder, including but not limited to payment of liquidated damages in the amount of \$500 for each calendar day Operator is in violation of SMC Ch. 20.45 during the Term of



the Agreement, termination of the Agreement, disqualification of Operator from bidding on or being awarded a City contract for a period of up to five (5) years, and/or other remedies specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

### **13. Compliance with Seattle's "Fair Contracting Practices Ordinance" Required**

Operator shall 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.

### **14. No Partnership**

Nothing herein shall be construed to create a partnership or joint venture, or to make Operator an agent of the City.

### **15. Survival of Payment and Reporting Obligations**

The obligations of Operator to submit to the City reports regarding Operator's gross receipts during any month in which it manages the Property pursuant to this Agreement and to remit a percentage of the gross receipts generated from use of the Property pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement.

### **16. No Assignment.**

Operator shall not assign its rights or obligations under this Agreement without the City's prior, written consent, which consent may be granted, withheld or conditioned in the City's sole discretion.

### **17. Addresses for Communications & Transmittals**

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

A. If to Operator, to:

Executive Director  
Pike Place Market Preservation  
& Development Authority  
85 Pike Street, Suite 500  
Seattle, WA 98101



B. If to the City,

Send payments to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98214-4689  
206-386-4038

Send reports to:

Precy Tugublimas  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124  
206-386-4038  
206-684-0506 (fax)

With a copy to:

Jen Chan, PDA  
Department of Finance  
City of Seattle  
600 Fourth Avenue, 6<sup>th</sup> Floor  
P.O. Box 94747  
Seattle, WA 98124-4747  
206- 233-0085 (fax)

Myrna L. Frasier, CFM  
Real Property & Facilities Manager  
Facility Operations Division  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124-4689  
206-233-7094 (work)  
206-615-0585 (fax)



Ted Maslin, CFM  
Director, Real Estate Services  
Fleets & Facilities Department  
City of Seattle  
700 5<sup>th</sup> Avenue, Suite 5200  
P.O. Box 94689  
Seattle, WA 98124-4689  
206-684-8396 (work)  
206-684-0525 (fax)

or to such other address as shall be furnished in writing with fifteen (15) days' prior written notice by either party to the other. Notices shall be deemed to have been given upon actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

#### **18. Cumulative Remedies.**

All remedies available at law or in equity to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies

#### **19. Captions; Interpretation by Context.**

The titles of the Sections of this Agreement are for convenience only, and do not, and are not to be construed to, define or limit the contents. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

#### **20. Entire Agreement**

This Agreement, together with the HOV Agreement, which is incorporated herein by reference, embodies the entire Agreement of the parties hereto with respect to the operation and maintenance of the Parking Lots as of the execution date. It is the party's intent that this Agreement supersedes and extinguishes any prior agreements between them with respect to the subject Parking Lots, except as to such of Operator's reporting and payment obligations and the City's audit rights as survive under any previous agreements.



In Witness whereof the parties to this Agreement have had their authorized representative execute the same by affixing his signature in the space below:

Pike Place Market Preservation  
and Development Authority

By: \_\_\_\_\_

The City of Seattle

By: \_\_\_\_\_

Fleets & Facilities Department





STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brenda Bauer, to me known to be the Director of Fleets and Facilities for the City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

\_\_\_\_\_  
[Seal or Stamp]  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_

[Printed Name]

My appointment expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ for the Pike Place Market Preservation and Public Development Authority, the public corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said public corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

\_\_\_\_\_  
[Seal or Stamp]  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_

[Printed Name]

My appointment expires \_\_\_\_\_

K:\2022437\88001\20126\_BGJ\20126025F0



STATE OF WASHINGTON – KING COUNTY

--SS.

217864  
CITY OF SEATTLE, CLERKS OFFICE

No.

**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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

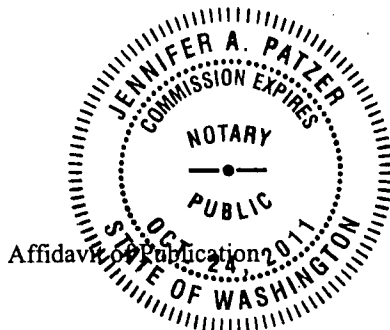
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLEONLY ORD ~~122572~~ 122562

was published on

11/28/07

The amount of the fee charged for the foregoing publication is the sum of \$ 153.45, which amount has been paid in full.



*Samuel Oglesky*  
Subscribed and sworn to before me on  
11/28/07 *[Signature]*  
Notary public for the State of Washington,  
residing in Seattle

## State of Washington, King County

### City of Seattle

#### TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on November 19, 2007, and published here by title only, will be mailed, at no cost, on request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8844.

#### ORDINANCE NO. 122572

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

#### ORDINANCE NO. 122570

AN ORDINANCE amending the 2007 Adopted Budget, including the 2007-2012 Capital Improvement Program (CIP), changing appropriations to various departments and from various funds in the Budget, creating an exempt position, and establishing a Capital Improvement Project, all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 122569

AN ORDINANCE relating to compensation for certain City officers and employees not covered by collective bargaining agreements and providing salary increases effective December 26, 2007; January 7, 2009; and January 8, 2010; and providing payment therefor.

#### ORDINANCE NO. 122568

AN ORDINANCE relating to indigent public defense services; authorizing the Director of Executive Administration to negotiate and execute amendments to the terms of the agreements with Associated Counsel for the Accused and The Defender Association for indigent public defense services for a period of six months.

#### ORDINANCE NO. 122566

AN ORDINANCE amending the 2007 Adopted Budget, changing appropriations to various departments and budget control levels, and from various funds in the Budget, all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 122565

AN ORDINANCE implementing a court order regarding the City Light Department's funding of a greenhouse gas offset program, transferring cash from the General Subfund to reimburse the Light Fund for expenditures under the offset program.

#### ORDINANCE NO. 122562

AN ORDINANCE related to parking lot management agreements between the City of Seattle and the Pike Place Market Preservation and Development Authority; authorizing the execution of said agreements; and directing the deposit of revenues into the Cumulative Reserve Subfund, Unrestricted Subaccount.

#### ORDINANCE NO. 122560

AN ORDINANCE adopting a budget, including a capital improvement program and position modifications, for the City of Seattle for fiscal year 2008.

#### ORDINANCE NO. 122559

AN ORDINANCE eliminating the Engineering Services Fund; providing for the disposition of its assets and liabilities; amending Ordinance 116441 as amended by Ordinance 120537; and amending Chapter 5.76 of the Municipal Code in connection therewith.

#### ORDINANCE NO. 122558

AN ORDINANCE relating to the Joint Training Facility Project; amending Ordinance 121179, as previously amended by Ordinances 121363, 121980, and 122289 to extend the term of an interfund loan.

#### ORDINANCE NO. 122557

AN ORDINANCE relating to the Revenue Stabilization Account of the Cumulative Reserve Subfund; authorizing an increase in the maximum balance allowed in the Revenue Stabilization Account; and amending Seattle Municipal Code Subsection 5.80.020.B in connection therewith.

#### ORDINANCE NO. 122555

AN ORDINANCE authorizing the Director of Finance, or the Director's designee, to execute a Second Amendment to the Lease and Concession Agreement between the City of Seattle and BH Music Center.

Joe J. Marquez, Information Specialist,  
Seattle City Clerk's Office

(206) 233-6039

The Office of the City Clerk supports open government and the democratic process by preserving and maximizing public access to the City's official and historical records, promoting City-wide compliance with records retention law, and facilitating the legislative process.

Date of publication in the Seattle Daily Journal of Commerce, November 28, 2007.

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