

Ordinance No. 122606

Council Bill No. 116109

AN ORDINANCE relating to the Seattle Center Department authorizing the execution of a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the circus dinner theater on an adjacent property.

CF No. _____

Date Introduced:	<u>Dec 10, 2007</u>		
Date 1st Referred:		To: (committee)	<u>Parks, Education, Libraries</u>
Date Re - Referred:		To: (committee)	<u>And Urban</u>
Date Re - Referred:		To: (committee)	
Date of Final Passage:	<u>12-17-07</u>	Full Council Vote:	<u>8-5</u>
Date Presented to Mayor:	<u>12-18-07</u>	Date Approved:	<u>12-20-07</u>
Date Returned to City Clerk:	<u>12-20-07</u>	Date Published:	<u>2</u>
Date Vetoes by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

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

Councilmember

Committee Action:

12/13/07 DD, PC = yes
0 = nay
JD not present
12-17-07 Passed 8-0 (Absent: Rasmussen)

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

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

November 27, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill authorizing a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the Teatro ZinZanni dinner theatre facility on an adjacent property. The license remains in effect until January 31, 2012 or until Teatro ZinZanni's leasehold interest in the adjacent property is terminated, whichever comes first.

Teatro ZinZanni is in the process of relocating its theater to an area along Mercer Street across from Seattle Center. The property, which is also the location where Teatro began operations in 1998, is owned by Seattle Opera. However, the City owns a small strip of adjacent land along Mercer Street that provides direct access to the Opera's property. Teatro would like to make landscape and access improvements to this property.

Under the agreement authorized by this legislation, Teatro will fund both landscape improvements to the property and ongoing maintenance costs. In exchange, the City is allowing Teatro to modify an existing path through the property to make it ADA compliant, and to install an additional path with stairs leading from Mercer Street to the Teatro ZinZanni entrance. These landscape and access improvements will support Teatro ZinZanni attendance, which will in turn support Seattle Center parking revenues in the Mercer Garage.

Teatro will enliven the Theatre District while also providing additional parking revenue opportunities for the Center. Thank you for your consideration of this legislation. Should you have questions, please contact Margaret Wetter at 684-7203

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Nickels', written over the printed name and title.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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ORDINANCE 122606

AN ORDINANCE relating to the Seattle Center Department authorizing the execution of a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the circus dinner theater on an adjacent property.

WHEREAS, the City owns certain real property generally situated at Mercer Street between 2nd Ave. N. and 3rd Ave. N. in Seattle, King County, Washington, referred to herein as "the City Property" and legally described in the Quitclaim Deed (the "Deed") attached as Exhibit A to Attachment 1 hereto; and

WHEREAS, the grantor of the City Property reserved an easement for ingress and egress to adjacent property currently leased by Teatro Zinzanni, and the granting deed restricts the grantor or its successors or assigns from altering the City Property pursuant to any exercise of right based upon the easement unless by agreement between the City and the grantor or grantor's successor; and

WHEREAS, Teatro Zinzanni is constructing certain improvements on its leasehold property for the purpose of operating a dinner theater, and in conjunction with the improvements on its leasehold property, Teatro Zinzanni wishes to obtain the City's permission to make certain improvements and use the City Property on a non-exclusive basis for the purpose of public access from Mercer Street to Teatro Zinzanni's theater; and

WHEREAS, the grantor of the City Property placed certain conditions in the Deed, including the condition that the administrative control and management of the City Property be vested in the Seattle Center Department and used for the purpose of open space improvements to enhance the Seattle Center Theater District along Mercer Street and for development consistent with the Seattle Center 2000 Master Plan, as amended from time to time; and

WHEREAS, the Director or the Seattle Center has determined that the improvements proposed by Teatro Zinzanni will include improvements to the landscaping and open space at Teatro Zinzanni's cost, and has further determined that the proposed improvements and use will enhance the Seattle Center Theater District fronting Mercer Street; and

WHEREAS, the Director has concluded that it will benefit the Seattle Center and the City to permit Teatro Zinzanni to construct certain improvements on the City Property in order to ensure Teatro Zinzanni will front the entrance to its theater on Mercer Street, which benefits are likely to include additional parking revenue to the City;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:




Section 1. The Seattle Center Director is hereby authorized to execute a non-exclusive revocable license agreement with Teatro Zinzanni substantially in the form attached hereto and identified as "REVOCABLE LICENSE AGREEMENT between THE CITY OF SEATTLE and TEATRO ZINZANNI" (Attachment 1).

Section 2. The Seattle Center Director is hereby authorized to manage and administer the license agreement and to make such modifications to the Agreement as the Director deems in the City's best interest.

Section 3. Any act consistent with the terms and conditions of the license agreement attached hereto taken prior to or after the passage of this ordinance is hereby ratified and confirmed.


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

Passed by the City Council the 17th day of December, 2007, and signed by me in open session in authentication of its passage this 17th day of December, 2007.



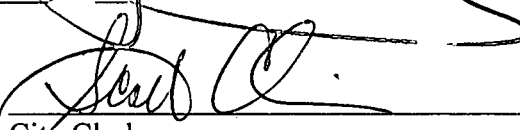
President _____ of the City Council

Approved by me this 20th day of December, 2007



Gregory J. Nickels, Mayor

Filed by me this 20th day of December, 2007

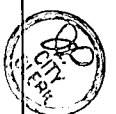


City Clerk

(Seal)



Attachment 1 -- REVOCABLE LICENSE AGREEMENT between THE CITY OF SEATTLE
and TEATRO ZINZANNI



Attachment 1
REVOCABLE LICENSE AGREEMENT
between
THE CITY OF SEATTLE
and
TEATRO ZINZANNI

This revocable license agreement ("License") is entered into by the CITY OF SEATTLE (the "City" or "Licensor"), a first class municipal corporation of the State of Washington, and TEATRO ZINZANNI (also referred to as "Licensee"), a Washington non-profit corporation.

I. RECITALS

1. The City owns certain real property generally situated at Mercer Street between 2nd Ave. N. and 3rd Ave. N. in Seattle, King County, Washington, referred to herein as "the City Property" and legally described in the Quitclaim Deed (the "Deed") attached as Exhibit 1 to this License.

2. The original grantor of the City Property reserved an easement for ingress and egress to adjacent property currently leased by Teatro Zinzanni (the "Leasehold"). The Deed restricts the grantor or its successors or assigns from altering the City Property pursuant to any exercise of right based upon the easement unless by agreement between the City and the grantor or grantor's successor.

3. The City Property is currently partially landscaped and mainly serves the purpose of open green space enhancement to the surrounding area and the Seattle Center.

4. Teatro Zinzanni is constructing certain improvements on its Leasehold property for the purpose of operating a dinner theater, and in conjunction with the improvements on its Leasehold property, Teatro Zinzanni wishes to obtain the City's permission to use the City Property on a non-exclusive basis for the purpose of public access from Mercer Street to Teatro Zinzanni's theater.

5. The City wishes to permit Teatro Zinzanni to construct certain improvements on the City Property in order to ensure that Teatro Zinzanni will front the entrance to its theater on Mercer Street, and the City wishes to permit Teatro Zinzanni and its patrons to use the City Property for access to the Theater on a non-exclusive basis.

Therefore, in consideration of mutual benefits and promises herein, the City and Teatro Zinzanni agree as follows:

II. TERM OF LICENSE



Subject to Section XI, this License will be effective as of the date when signed by both parties after Seattle City Council approval by ordinance, and will remain in effect until January 31, 2012, or until Licensee's leasehold interest in the Adjacent Property is terminated, whichever comes first.

III. PERMITTED USES AND AREAS

The City gives Licensee a revocable, non-exclusive license to construct certain improvements, modify and use portions of the City Property for the purpose of public ingress and egress to Licensee's theater and for no other purpose. The Director of the Seattle Center ("the Director") may impose reasonable rules or regulations on the use of the City Property with respect to hours of access and other similar matters. The use areas, permitted improvements and modifications are further described below:

1. Existing Brick Pathway. As shown on Exhibit 2 to this Agreement, there is an existing brick pathway (the "Easement Path") on the City Property which is used for ingress and egress pursuant to a reserved easement. The City gives Licensee permission to modify the path, but only to the extent necessary for the path to connect with an Americans with Disabilities Act compliant walkway and entrance to the Licensee's theater located on the Leasehold property. In granting this permission, it is the City's intention that the modifications to the path be on a temporary basis for the benefit of Licensee's business operation of a theater, not for the benefit of the Leasehold property. As a result, both parties agree that this License shall not be used by Licensee or any other third party to attempt to expand the scope or area of the easement reserved in the Deed.

2. Connecting Walkway. As shown on Exhibit 2 to this Agreement, the Easement Path will connect to a walkway leading to an ADA entrance to Licensee's theater ("Connecting Walkway"). The Connecting Walkway will primarily be located on the Leasehold Property, but if necessary to meet ADA requirements, the City gives permission for the Connecting Walkway to encroach onto the City Property no more than 24" along the length of the Connecting Walkway.

3. Stairway. The City gives Licensee permission to install one additional walkway and stairway across the City Property for the purpose of providing access to Licensee's main entrance on the Leasehold Property, as shown on Exhibit 2 and marked as "the Stairway." Prior to commencing construction or installation of the Stairway, Licensee shall submit construction drawings to the Director for approval.

IV. PROHIBITED ACTIVITIES

1. Licensee may not construct or install fixtures or improvements or otherwise modify the City Property except as expressly allowed in this License.



2. Licensee may not exclude or attempt to exclude third parties from appropriate, lawful and reasonable use of the City Property or the areas covered by this License.

V. LICENSE FEES AND COSTS

1. At its own cost and expense, Licensee has obtained plans for improving the landscaping on the City Property, which plans are attached as Exhibit 3 hereto. The City has determined that the landscaping improvements are of value to the City and will enhance the City Property and its use as an open space enhancement of the Seattle Center Theatre District. Licensee's conveyance of the plans to the City and payment for the installation of the landscaping as provided for in this section shall be the License Fee for Licensee's use hereunder.

2. The City will install, complete and maintain the landscaping improvements according to the plans, which may be revised by mutual agreement of the Parties. Once the work on the landscaping Improvements has commenced, the City shall complete all work in a reasonable time. Licensee shall pay the City for all costs incurred by City for the installation and completion of the landscaping improvements, and the City will not be responsible for any costs associated with the landscaping installation and maintenance for the effective term of this License. On a quarterly basis, City will bill Licensee at standard rates, including hourly rates for labor, materials, and any applicable taxes. All standard rates for labor are subject to cost of living increases.

3. Licensee is responsible for payment of all costs associated with its use as permitted hereunder, including but not limited to any applicable taxes, and shall hold the City free and harmless from any costs arising as a result of Licensee's use of the City Property.

VI. CONSTRUCTION REQUIREMENTS

The following terms and conditions apply to the modification of the Easement Path and the construction of the Connecting Walkway and Stairway (collectively referred to as the "Improvements").

1. Prior to commencing work on any of the Improvements, Licensee will submit detailed construction plans to the Director, and will obtain Director's written approval of the plans before the work begins. Once the work on the Improvements has commenced, the Licensee shall complete all work in a reasonable time.

2. Licensee shall complete all Improvements at its own cost and expense, and the City will not be responsible for any expenses associated with the Improvements.

3. Licensee shall keep the City Property free of any liens.



4. All work shall be completed according to first class workmanship standards.
5. Licensee shall only use contractors licensed to work in the state of Washington.
6. Licensee shall obtain all necessary construction permits and shall perform all work in compliance with applicable law and regulations, whether federal, state, or local.
7. Licensee shall require its contractors to comply with the insurance requirements in Section IX.
8. The Director of the Seattle Center may impose reasonable rules and guidelines for construction on the City Property and Licensee shall abide by the same.

VII. MAINTENANCE

Licensee is responsible for keeping the Easement Path, the Connecting Walkway and the Stairway in good condition and repair. The City will have no maintenance responsibilities with respect to the Easement Path, the Walkway and the Stairway. Additionally, Licensee shall be responsible for any damage to the City Property beyond normal wear and tear that is caused by the ingress and egress of Licensee's theater patrons.

After each of its theater events for which Licensee's patrons use the City Property for access to the theater, Licensee shall remove trash and refuse from the Easement Path, the Connecting Walkway, the Stairway, and adjacent areas.

VIII. INDEMNIFICATION

Licensee shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, judgments, losses and expenses (including reasonable attorney's fees and costs) suffered by any person or entity arising from any act or omission of Licensee or any of its employees or agents related to Licensee's construction and maintenance of Improvements and walkways and the public's use of the same or arising from any use of the City Property by Licensee or its employees, agents, and invitees; provided that in compliance with RCW 4.24.115 as in effect on the date of this License, all provisions of this contract pursuant to which Licensee agrees to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to the City Property, (i) shall not apply to damages caused by or resulting from the sole negligence of the City, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of the City or the City's agents or employees and Licensee's agents or employees, the indemnification obligation shall apply only to the extent of Licensee's negligence. The Licensee waives any immunity under industrial insurance RCW Title 51 that it may have,



but only with respect to the City and to the extent necessary to fulfill Licensee's indemnification duties hereunder. This indemnification obligation shall survive termination of this Agreement.

BY SIGNING BELOW, THE PARTIES ACKNOWLEDGE THAT THE FOREGOING PROVISION WAS MUTUALLY NEGOTIATED.

IX. INSURANCE

Before beginning any alterations and prior to any use of the City Property use areas and thereafter throughout the term of this License, Licensee shall obtain and maintain, at its own cost and expense, insurance as described in Exhibit 4, and shall otherwise fully comply with requirements of Exhibit 4. The City reserves the right to adjust or otherwise modify the insurance requirements in Exhibit 4 during the Term of this Agreement and with reasonable notice to Licensee.

Additionally, prior to beginning any construction or work on the City Property, Licensee shall ensure that its contractors comply with the insurance requirements as described in Exhibit 4.

X. HOLD HARMLESS AND WAIVER OF SUBROGATION

1. Licensee agrees to hold the City, its officers, agents and employees harmless from any damage or destruction to Licensee's Improvements on City Property and any damage or destruction to Licensee's adjacent Leasehold property occurring as a result of the use of City Property by Licensee, its agents, employees, invitees or the general public.

2. To the extent a loss is covered by insurance, the Licensee and the City hereby mutually release each other from liability and waive all right of recovery against each other from any loss from perils insured against under their respective insurance policies, including any extended coverage endorsements thereto; provided, that this release and waiver shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or the Licensee, and provided further that the City reserves the right to recover its deductible from Licensee in the event that Licensee's negligence causes the loss or damage.

XI. TERMINATION

1. This License is permissive in nature, and as such the City reserves the right to terminate this License. This License shall terminate automatically in the event that any legal proceeding is initiated based upon the assertion that this License violates the conditions of the Deed or any other provision of law. Additionally, this License may terminate upon the violation of any term of this License by Licensee, including, but not



limited to, exceeding the scope of use or area of occupation, or failure to submit any sum of money when due.

2. Upon termination of this License, Licensee shall surrender the property to the City without need for further action. In the discretion of the Director of the Seattle Center, Licensee may be required to remove the Improvements and restore the City Property to its original condition at Licensee's cost and expense. Alternatively, the Director may require the Improvements to be left in place, in which case the Improvements shall be deemed donated to the City by Licensee.

XII. TIME AND MANNER FOR PAYMENT OF FEES

Licensee shall pay the City all sums due in lawful U. S. money within thirty (30) days of receipt of an invoice from the City. Payment shall be made to the account and address specified by the City in the invoice.

XIII. NOTICE

Any notice required herein shall be made in writing and shall be delivered in person or via first class mail to the attention of the person and at the address below:

For City:

Director
Attention: Margaret Wetter
Seattle Center
305 Harrison Street
Seattle, WA 98109

For Licensee:

Chief Operating Officer
Teatro ZinZanni
P.O. Box 9750
Seattle, WA 98109

Or, to other such designee(s) as either party may, from time to time, designate in writing.

XIV. LATE FEES

Licensee shall pay City 12% interest per month on any outstanding balance for which Licensee has been invoiced and, for each monthly invoice that is prepared for such delinquency, such invoicing fee as is established by ordinance to cover the City's additional accounting and administrative costs therefore.

XV. AUDIT

Licensee shall maintain accurate accounting books and records and shall permit the State Auditor or the City, from time to time during regular City working hours, as the State Auditor, Director or City Auditor deems necessary, to inspect and audit in King County, Washington, all books and records of Licensee pertaining to the activities



permitted hereunder. Licensee shall supply the State Auditor or City with, or shall permit the State Auditor or the City to make, copies of any such books and records and any portion thereof, upon the State Auditor's or the City's request.

XVI. MISCELLANEOUS

1. Compliance with Law. Licensee shall comply with all laws of the United States and the State of Washington; the Charter and Municipal Code of the City of Seattle; and rules, regulations, orders and directives of their administrative agencies and the officers thereof, as such enactments now exist or are hereafter enacted or promulgated and are applicable to Licensee's use of the City Property. Licensee shall comply with equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code (SMC), as they may be amended, and rules, regulations, orders, and directives of the associated administrative agencies and their officers. Licensee shall comply with all requirements of the Americans With Disabilities Act applicable to Licensee's use or occupancy of the City Property areas covered in this License, as now or hereafter amended, and all rules and regulations implementing the same.

2. Governing Law, Venue. This License shall be construed under the laws of the State of Washington. Venue for any litigation arising from this License shall be in King County Superior Court.

3. Non-Transferable without City Approval. The City's willingness to grant this License is in part conditioned upon the reputation of Licensee, and the benefits to the Seattle Center Mercer Street corridor resulting from the Licensee's unique business operations. As a result, this License is not assignable or transferable without the City's express approval in writing and the grant or denial of such approval shall be in the sole discretion of the Director of the Seattle Center.

4. No Partnership or Joint Venture. The City does not by this License, in any way or for any purpose, become a partner or participant in a joint venture with Licensee in the conduct of its business or otherwise.

5. No Waivers. No action other than a written document from the Director specifically so stating shall constitute a waiver by the City of any particular breach or default by Licensee, nor shall such a document waive any failure by Licensee to fully comply with any other term or condition of this Agreement, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. The City's failure to insist upon full performance of any provision of this License shall not be deemed to constitute consent to or acceptance of such incomplete performance in the future.

6. Force Majeure. Whenever a party's performance under this Agreement is prevented by an act of nature; war-like operations; civil commotion; riot; labor dispute including a strike or walkout, but not a lockout; sabotage; Federal or State regulation or control; or other unforeseeable conditions beyond reasonable control of such party,



performance of such affected obligation shall be suspended for the duration of such condition but shall not be excused except by agreement of the parties.

7. Execution in Counterparts. This License may be executed in counterparts.

XVII. INCORPORATION OF EXHIBITS

The following exhibits are incorporated and made a part of this License:

Exhibit 1 Quitclaim Deed from Grantor Kreielsheimer Foundation to
the City of Seattle, Recording No. 2000 121 9000321

Exhibit 2 Site Plan showing Licensed Use Areas

Exhibit 3 Landscaping Plans

Exhibit 4 Insurance Requirements

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement.

TEATRO ZINZANNI

SEATTLE CENTER as representative of
the City of Seattle

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

Date: _____



Helaine Honig
Seattle Law Department
600 Fourth Avenue, 10th Floor
Seattle, WA 98104-1877



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12/18/2006 09:46
KING COUNTY, WA

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12/18/2006 09:17
KING COUNTY, WA
TAX
SALE

PAGE 001 OF 002

This cover page is attached for recording purposes and is not a part of the instrument.

F4+LO 513466-3

Title: QUIT CLAIM DEED

Reference number of related documents: NOT APPLICABLE

Grantor: KREIELSHEIMER FOUNDATION

Grantee: THE CITY OF SEATTLE

Legal description:

1. Abbreviated form: Portions of Lots 1 and 8, Block 24, Mercer's 2nd Add., Vol. 2, pg. 7.
2. Additional legal description is on page 1 of document.

Assessor's Tax Parcel Number: 545780-0260-05

2000 121 9000321

Post-It® Fax Note	7671	Date	07/18/07	# of Pages	6
To	REBECCA KEITH	From	D. NEURTEL		
Co./Dept.		Co.	S.C.		
Phone #		Phone #			
Fax #	684-8284	Fax #			

QUIT CLAIM DEED

The Kreiselheimer Foundation (hereinafter "Grantor"), without consideration and as a gift (WAC 458-61-410) to the people of The City of Seattle, hereby conveys and quit claims to The City of Seattle, a municipal corporation of the State of Washington (hereinafter "Grantee"), all of Grantor's right, title and interest, together with all after-acquired title of the Grantor therein, in and to the following described real property located in Seattle, King County, Washington

The South 38 6 feet of Lot 1, together with the South 38 6 feet of the East 28 feet of Lot 8, all in Block 24, Mercer's 2nd Addition to North Seattle, as recorded in Volume 2 of Plats, page 7, Records of King County, Washington.

Reserving unto Grantor and its successors and assigns two easements to be located over, under and upon two separate portions of the real property conveyed herein, which easements shall be exclusive and shall solely benefit the adjacent real property owned by Grantor as of the date of this deed

1. An easement, for ingress and egress for pedestrian and non-motorized vehicle purposes provided by a simple path through the landscaping, and
2. An easement for utility distribution and connections for development of the adjacent real property owned by Grantor as of the date of this Deed

provided, however, that this deed and the reserved easements are subject to the following conditions

- A. Administrative control and management of the real property shall be vested in the Seattle Center Department or its successor and the chief administrator thereof for the purpose of open space improvements to enhance the Seattle Center Theatre District along Mercer Street and such development as is consistent with the Seattle Center 2000 Master Plan, as the same may be amended from time to time,
- B. The Grantee shall negotiate in good faith with the Grantor or any of its successors or assigns as owner of the benefited property regarding the location of such easements whenever the Grantor or any its successors or assigns desires to erect a structure on any portion of the remainder of said Block 24 or engage in any other activity that may result in the exercise of such easement rights or a change in the manner in which such rights are exercised, and

2000 121 9000321



C

The property conveyed shall be not physically altered in any respect by the Grantor or its successor(s) or assigns pursuant to the exercise of any right based upon the easement for ingress and egress or utilities referenced herein until an agreement has been executed by the Grantee and the Grantor or its successor(s) or assigns identifying the specific location of such easement. In the case of the utility easement, such agreement shall obligate the Grantor or its successor(s) and assigns to restore whatever portion of the property is to be physically altered pursuant to an exercise of any right based upon either such easement, to the condition that property was in immediately prior to the commencement of such physical alteration work or to a condition that is otherwise reasonably acceptable to the Grantee.

Dated this 14th day of September, 2007

Kretelshamer Foundation

By [Signature]

Donald E. Johnson

Its Co-Trustee

By Bank of America, N.A.

Its Co-Trustee

By [Signature]

James E. Strook

Its Vice President

By [Signature]

John T. Margeson

Its Vice President

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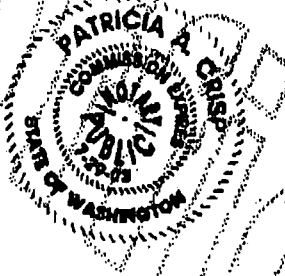


STATE OF WASHINGTON)

) ss

COUNTY OF KING)

On this 14th day of September, 2000, before me, the undersigned notary, Donald L. Johnson, personally appeared and being the duly authorized Co-Trustee of the Kreielsheimer Foundation, known to me to be the same person described herein and who executed the foregoing deed in his capacity as Co-Trustee of the Kreielsheimer Foundation for the purposes and uses therein described



Witness my hand and official seal

Patricia A. Crisp
NOTARY PUBLIC

(Name legibly printed or stamped)

(Seal or stamp)

Notary public in and for the State

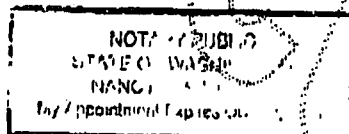
of Washington, residing at SeattleMy appointment expires 7-25-03

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

On this 14th day of September, 2000, personally appeared before me, the undersigned notary, James B. Strock known to me to be the Vice President of Bank of America, N A, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation in its capacity as Co-Trustee of the Kreielsheimer Foundation for the purposes and uses therein described



Witness my hand and official seal

Nancy H. Simmons
NOTARY PUBLIC

(Name legibly printed or stamped)

(Seal or stamp)

Notary public in and for the State

of Washington, residing at SeattleMy appointment expires 12-2-01

2006 121 9000321



ACCEPTANCE

Contingent upon the enactment of an ordinance accepting the gift made by the deed set forth above and authorizing execution of this acceptance, the foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements therein contained

The City of Seattle, Washington

By Virginia Anderson
Virginia Anderson, Director
Seattle Center

Date 11/2/00

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

On this 2nd day of November, 2000, before me, the undersigned notary, the subscriber, Virginia Anderson, personally appeared and as the duly authorized official of The City of Seattle, Washington and known to me to be the same person described herein, acknowledged that she executed the foregoing acceptance of said on behalf of The City of Seattle, Washington, for the purposes and uses therein described

Witness my hand and official seal

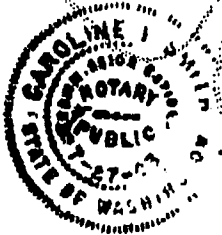
Caroline I. Smith
NOTARY PUBLIC

Caroline I Smith
(Name legibly printed or stamped)

(Seal or stamp)

Notary public in and for the State
of Washington, residing at Seattle
My appointment expires 7/27/03

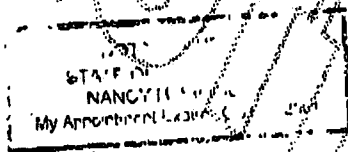
2000 121 9000321



STATE OF WASHINGTON)

COUNTY OF KING) ss

On this 14th day of September, 2000, personally appeared before me, the undersigned notary, John T. Margeson, known to me to be the Vice President of Bank of America, N A, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation in its capacity as Co-Trustee of the Kreicshemer Foundation for the purposes and uses therein described



Witness my hand and official seal

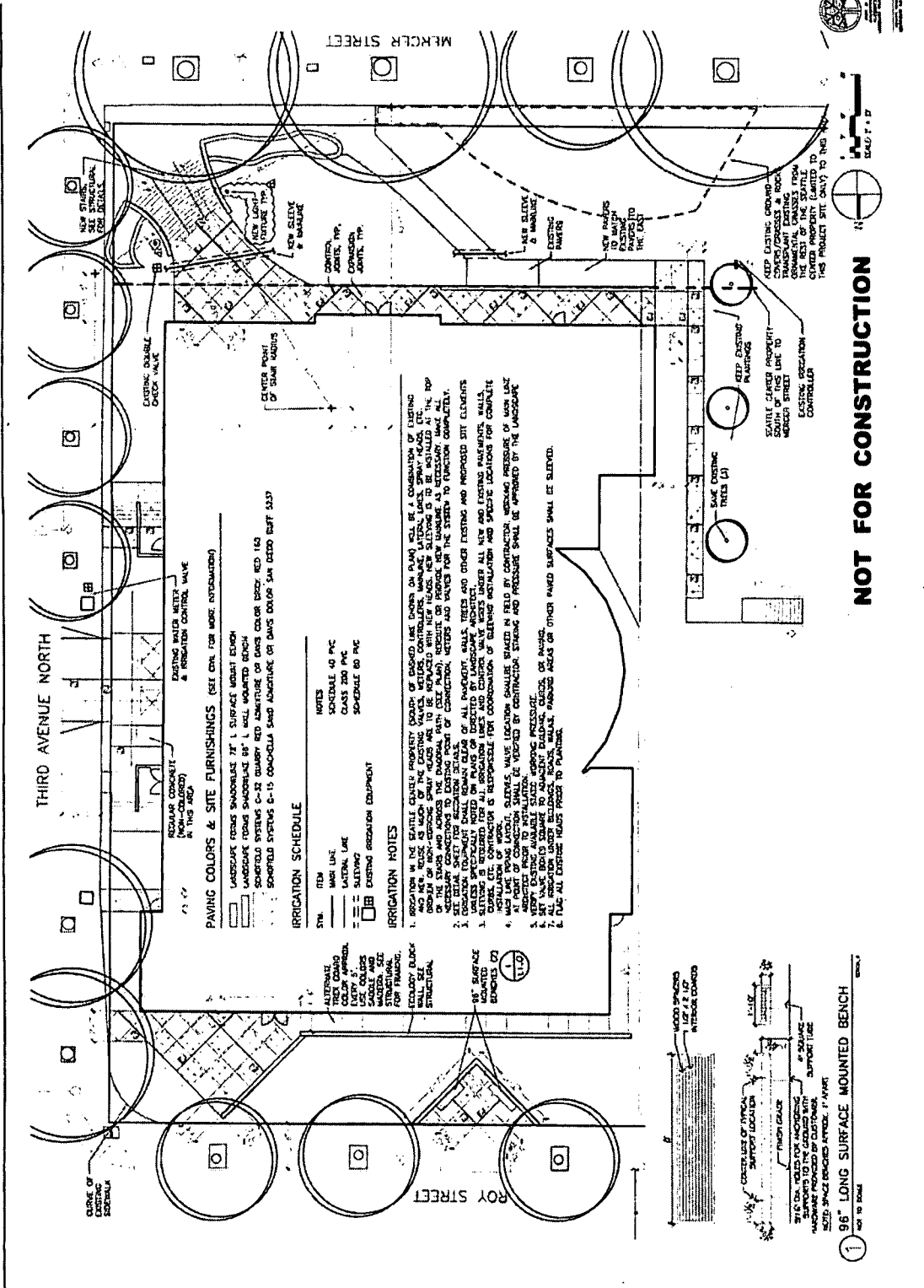
Nancy H. Simmons
NOTARY PUBLIC
Nancy H. Simmons
(Name legibly printed or stamped)

(Seal or stamp)

Notary public in and for the State
of Washington, residing at Seattle
My appointment expires 10-2-00

2000 121 9000321







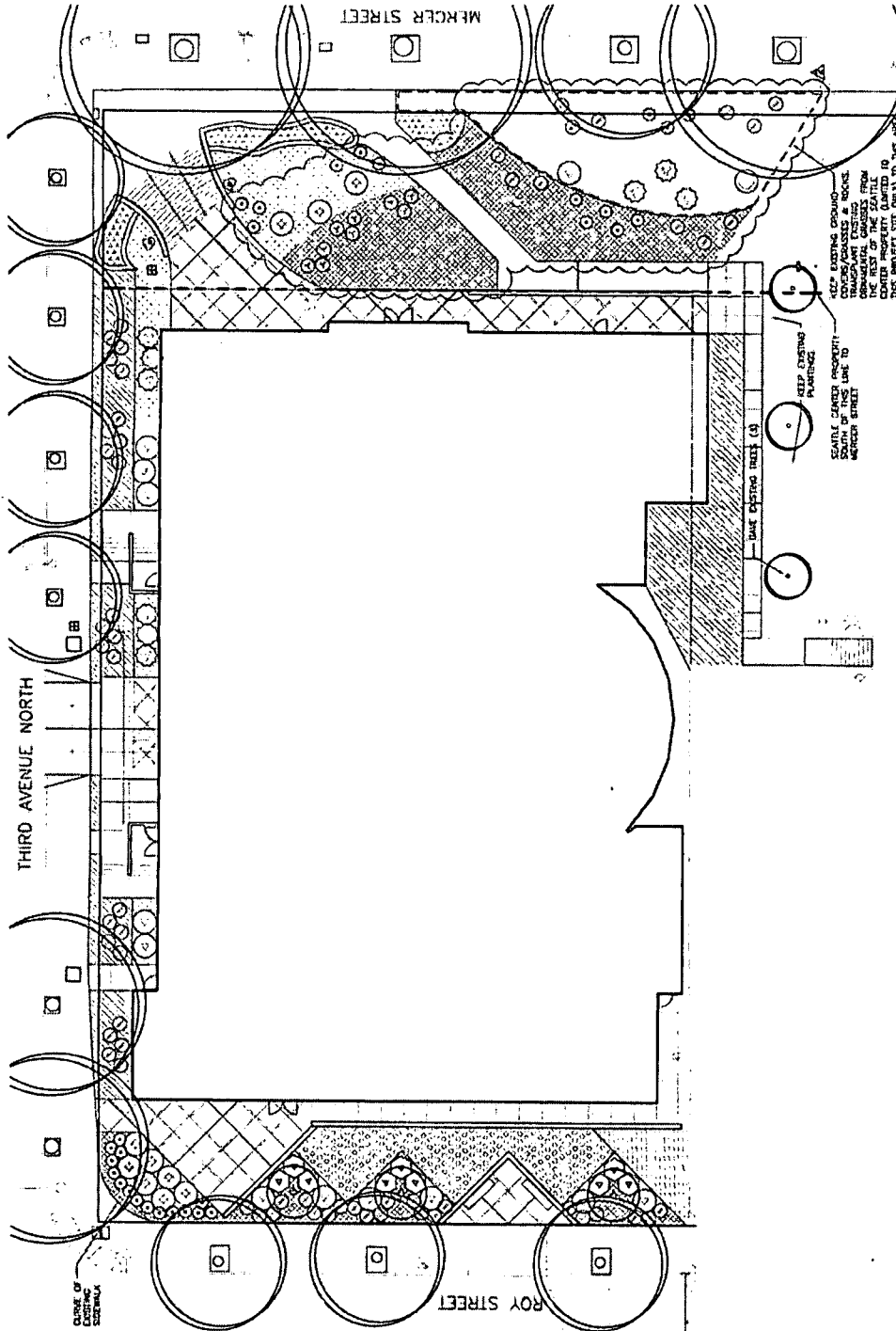
PERMIT SET

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DATE: 11/07/07
BY: [Signature]
CHECKED: [Signature]
APPROVED: [Signature]

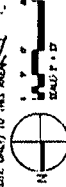
Planting Plan

NO.	DATE	DESCRIPTION
1	11/07/07	Initial Design
2	11/07/07	Final Design
3	11/07/07	Final Design
4	11/07/07	Final Design
5	11/07/07	Final Design
6	11/07/07	Final Design
7	11/07/07	Final Design
8	11/07/07	Final Design
9	11/07/07	Final Design
10	11/07/07	Final Design

L2.0



NOT FOR CONSTRUCTION

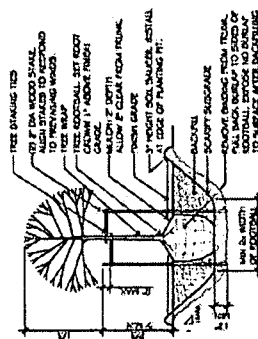


PLANTING SCHEDULE

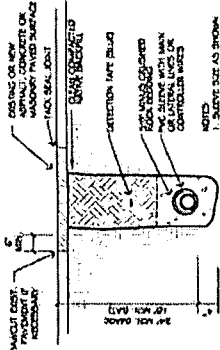
NO.	QTY.	ETHANOL/COMMON NAME	SIZE
		EXTINGUISH TREES	
		SMALL, REDDISH, JUICY	
		MACHOLA STELLATA/ STAR MACHOLA	3" HT., 6 OR MORE BRANCHES
		LARGE, LINDEN-LEAF, SCANDS	
		OSMANTHUS BURMENSIS/ COMMANUS	15" HT., 10" SPREAD, 15 CONTAINER
		REDS. JAPANESE/ 11.5'-10" HIGH-VALLEY	15" HT., 12" SPREAD, 15 CONTAINER
		LARGE, REDDISH, SCANDS	
		HYDRAE GLEUTIFOLIA/ GARDEN MYRTLE	18" HT., 4 CANES, 15 CONTAINER
		YEDRA JAPONICA/ YEDRA	2" HT., 5 CANES, 15 CONTAINER
		VERGILIA GALLIE/ CORNUS SPEC. VERGILIA	18" HT., 4 CANES, 15 CONTAINER
		SMALL, LINDEN-LEAF, SCANDS	
		MAHONIA KENTIANA/ LINDLEY MAHONIA	18" HT., 3" SPREAD, 15 CONTAINER
		SMALL, REDDISH, SCANDS	
		LEUCOMER ALATA COMPACTA/	12" HT., 3 CANES, 12 CONTAINER
		ROSE/ LINDEN-LEAF	
		ROSE/ DE. CORAL/ MOHA	12" HT., 15 CONTAINER
		ETHANOL/COMMON NAME	
		ETHANOL/COMMON NAME	
		WICKA WIKER/ PETTICHELL	15" HT., 15 CONTAINER
		EMULGIA GRACILOSTYLIS/ EMULGIA	15" HT., 15 CONTAINER
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PLANTING NOTES

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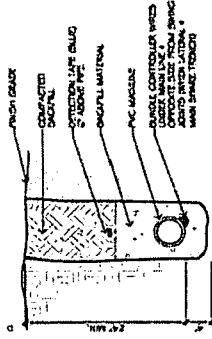


4 DECIDUOUS TREE PLANTING & STAKING



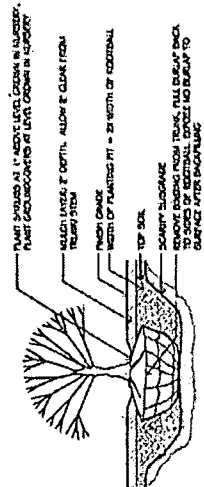
SECTION

1. THIS DETAIL IS APPLICABLE TO ALL NEW PLANTED AREAS.
2. FINISH GRADE IS TOP OF CURB & SIDEWALK.
3. COMPOST SUBGRADE & TOPSOIL TO A MAINTAIN DENSITY OF 85% IN ALL PLANTED AREAS. IF COMPACTION EXCEEDED 80%, CONTRACTOR SHALL REWORK SUBGRADE TO A 12" DEPTH.
4. FOR SEATTLE CENTER PROPERTY, AND TOPSOIL & MULCH AS NECESSARY TO MEET FINAL CENTER AUTHORITY AS REQUIRED.

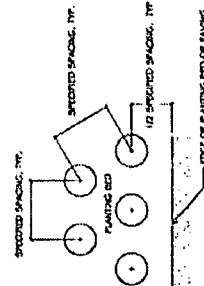


CONCLUSIONS AND FUTURE RESEARCH

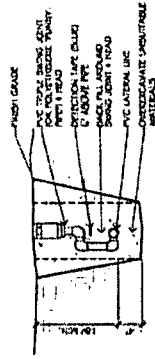
TRENCHING FOR MAIN & LATERAL LINES



(E) TYPICAL SHRUB & GROUND COVER PLANTING



NOT FOR CONSTRUCTION



LATERAL SECTION

TRENCHING FOR MAIN & LATERAL LINES

LICENSEE: SEND THIS FORM TO YOUR INSURANCE BROKER

INSURANCE COVERAGES AND LIMITS

Licensee shall cause to be maintained continuously throughout the term of this Agreement, at no expense to the City, minimum coverages and limits of insurance as described below and to submit satisfactory evidence of such insurance not less than ten (10) days prior to the event:

1. COMMERCIAL GENERAL LIABILITY (CGL) insurance including:
 - Premises/Operations
 - Contractual
 - Host Liquor (if alcoholic beverages are served)
 - Personal/Advertising Injury
 - Stop Gap/Employers Liability (if applicable)

Such insurance must provide a minimum limit of liability of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage (CSL) except:

\$1,000,000 each Offense Personal and Advertising Injury

\$1,000,000 each Accident/Disease Stop Gap/Employers Liability (if applicable)

2. AUTOMOBILE LIABILITY insurance for owned, non-owned, leased or hired vehicles (as applicable) with a minimum limit of liability of \$1,000,000 CSL.
3. WORKER'S COMPENSATION insurance as respects the state of Washington securing liability for industrial injury to employees if required by Title 51 of the Revised Code of Washington (RCW).
4. PYROTECHNIC LIABILITY insurance with a minimum limit of liability of \$2,000,000 each Occurrence if pyrotechnics are used for an Event as required by the permit required from the Seattle Fire Marshall.

TERMS AND CONDITIONS

1. The insurance policy or policies, endorsements thereto, and subsequent renewals be subject to approval by the City as to company, form and coverage. The insurer shall be:
 - a. Licensed to do business in the State of Washington and Rated A- VII or higher in the A.M. Best's Key Rating Guide, or
 - b. Procured under chapter 48.15 RCW by a Washington State licensed surplus line broker.
2. Such insurance as is provided under items 1, 2, 4 and 5 above shall include "The City of Seattle" as an additional insured for primary and noncontributory limits of liability subject to a separation of insureds clause. The limits of liability are minimum limits of liability only and shall not limit the liability of Licensee or any of its insurers; the City shall be an additional insured for all available limits of liability available to Licensee, whether primary, excess, contingent or otherwise.
3. Coverage shall not be cancelled without at least thirty (30) days prior written notice to the City, except ten (10) days notice with respect to cancellation for nonpayment of premium.
4. Self-insured Workers Compensation or self-insured retentions in excess of \$25,000 shall be disclosed in writing and are subject to the approval of the City's Risk Management Division. Approved self-insurance may be partially or wholly substituted for required commercial liability insurance coverages.
5. Failure of Licensee to fully comply with these insurance requirements shall constitute a material breach of this Agreement.



EVIDENCE OF INSURANCE

1. Licensee's insurance broker shall issue a certificate of insurance that meets the minimum coverages and limits requirements herein and Licensee or its authorized representative shall issue self-insurance certification.
2. CERTIFICATION SHALL HAVE ATTACHED A COPY OF AN ADDITIONAL INSURED ENDORSEMENT OR BLANKET ADDITIONAL INSURED POLICY WORDING THAT DOCUMENTS THAT "THE CITY OF SEATTLE" IS AN ADDITIONAL INSURED FOR PRIMARY AND NON-CONTRIBUTORY LIMITS OF LIABILITY UNDER CGL INSURANCE.
3. If the CGL insurance is partly or wholly self-insured, Licensee shall state in writing that it will protect the City as an additional insured under the self-insured retention as if a commercial CGL insurance policy were in force.
4. Insurance and/or self-insurance certification shall be delivered to **both** of the following:

ORIGINAL TO:
Seattle Center Event Sales
305 Harrison Street
Seattle, WA 98109
Fax: (206) 684-7366
Email: SCBooking@seattle.gov

COPY TO:
The City of Seattle
Risk Management Division
Fax: (206) 470-1270
Email: riskmanagement@seattle.gov

NOTE TO INSURANCE BROKER:

1. ATTACH THIS INSURANCE ADDENDUM TO THE EVIDENCE OF INSURANCE.
2. IF ANY QUESTIONS OR ISSUES, CONTACT CITY RISK MANAGEMENT AT (206) 386-0071



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Center	Margaret Wetter 4-7203	Amy Williams 3-2651

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department authorizing execution of a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the circus dinner theater on an adjacent property.

• Summary of the Legislation:

This legislation authorizes execution of a revocable, non-exclusive license agreement with Teatro ZinZanni (Teatro) to use, construct certain improvements on, and modify portions of City property generally situated at Mercer Street between 2nd Ave. N. and 3rd Ave. N. in Seattle, King County, Washington, for the purpose of public ingress and egress to the Teatro ZinZanni theater.

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

Description

Teatro ZinZanni is a dinner theater offering a blend of European cabaret, performing arts, and vaudeville performed in a Belgian "spiegeltent" (mirror tent). It is produced by One Reel, a non-profit arts and events production organization based in Seattle.

History

Teatro ZinZanni began operating at the Mercer Street location in 1998. In 2000, they relocated to San Francisco during the construction of McCaw Hall, and then returned to Seattle in 2002 to a location in the Belltown area. That property was sold in 2007, and Teatro is in the process of moving its theater back to the Mercer Street location, which is now owned by Seattle Opera.

The Opera was deeded this property in 2000 by the Kreielsheimer Foundation (the grantor). The Kreielsheimer Foundation also gifted to the City a strip of land adjacent to the Opera's property and reserved an easement across the property for ingress and egress purposes. The deed language restricts the grantor or its successors or assignees from altering the City property pursuant to any exercise of right based upon the easement unless by agreement between the City and the grantor (or grantor's successor). The deed also has a condition that the administrative control and management of the City property be vested in the Seattle Center Department and used for the purpose of open space improvements to enhance the



Seattle Center Theater District along Mercer Street and for development consistent with the Seattle Center Master Plan, as amended from time to time.

The current condition of the property includes partial landscaping and a walking path to the Teatro site. To improve public access from Mercer Street to the theater, Teatro would like to design and fund landscape improvements, modify the existing path to make it ADA compliant, and install an additional path with stairs leading from Mercer Street to Teatro's entrance. These plans are attached to the License Agreement as Exhibit 3.

Agreement

The City determined that the proposed access and landscaping improvements are of value to the City and will enhance open space in the Mercer Street/McCaw Hall area. As a result, Seattle Center has agreed to the terms of a license agreement that includes two main components. First, the City will install and complete planned landscaping improvements, and Teatro will reimburse the City for the full installation costs. Second, the City will maintain the landscaping improvements, and Teatro will reimburse the City for all associated costs. It also includes language that restricts the expansion of the existing easement and preserves a substantial portion of the property for open space.

The agreement will run through January of 2012, or until the Teatro's leasehold interest in the Adjacent Property is terminated, whichever comes first

- *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.)*

Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2007 Appropriation	2008 Anticipated Appropriation
TOTAL				

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

Notes:

All Seattle Center expenses pursuant to the license agreement will be fully reimbursed by Teatro. Approximately \$3,000 worth of improvements will be reimbursed during 2007, and approximately \$8,000 worth of annual maintenance costs will be reimbursed in each year of the agreement. Some of this reimbursement for annual maintenance will pay for maintenance work previously funded by Seattle Center.

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

Fund Name and Number	Department	Revenue Source	2007 Revenue	2008 Revenue
TOTAL				

Notes:

Approximately \$3,000 worth of improvements will be reimbursed during 2007, and approximately \$8,000 in annual maintenance costs will be reimbursed during each year of the agreement.



Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE

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

Position Title and Department*	Fund Name	Fund Number	Part-Time/Full Time	2007 Positions	2007 FTE	2008 Positions**	2008 FTE**
TOTAL							

* List each position separately

** 2008 positions and FTE are total 2008 position changes resulting from this legislation, not incremental changes. Therefore, under 2008, please be sure to include any continuing positions from 2007.

Notes:

There are no FTE changes associated with this agreement.

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

Not applicable.

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

Fund Name and Number	Department	Budget Control Level*	2007 Expenditures	2008 Anticipated Expenditures
TOTAL				

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

Notes:

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing



facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

The licensing agreement has two benefits for the City. First, the new landscaping installed along the Mercer Street Theater District corridor will enhance the appearance of the area. Second, Teatro will fully reimburse the City for the costs associated with ongoing maintenance, including those previously performed as a part of routine Seattle Center operations. If the legislation is not implemented, both of these benefits will be forgone.

A potential benefit of working with Teatro ZinZanni to improve access to their facility is the opportunity for additional parking revenue for Seattle Center's Mercer Garage, located directly across the street from the theater site. This revenue opportunity would also be lost if the legislation did not go forward.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

None.

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

No.

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

Please list attachments to the fiscal note below:

None.



STATE OF WASHINGTON – KING COUNTY

--SS.

218880
CITY OF SEATTLE, CLERKS OFFICE

No. 09,10,12,13&16 TITLE

Affidavit of Publication

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

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


CT:122599.00,02-04,06,08

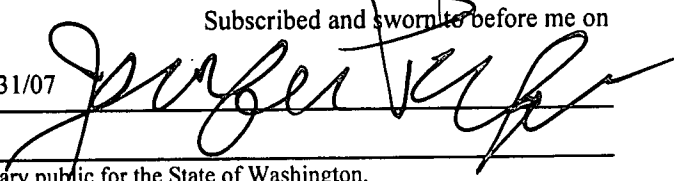
was published on

12/31/07

The amount of the fee charged for the foregoing publication is the sum of \$ 167.40, which amount has been paid in full.





Subscribed and sworn to before me on
12/31/07 

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 December 17, 2007, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122616

AN ORDINANCE relating to the Seattle Municipal Court; authorizing execution pursuant to the Interlocal Cooperation Act of an agreement with the Washington State Department of Social and Health Services regarding the funding of a part-time State of Washington Funding Services Specialist in the Seattle Municipal Court Resource Center to provide screening services to Court defendants and the community and declaring an emergency requiring a 3/4 vote of the Seattle

City Council so that the Ordinance may take effect immediately.

ORDINANCE NO. 122613

AN ORDINANCE authorizing the Mayor to sign an agreement between the City of Seattle and the King County Rural Library District for the transfer of the White Center and Boulevard Park libraries to the City of Seattle in the event of certain annexations in the unincorporated North Highline area.

ORDINANCE NO. 122612

AN ORDINANCE related to the sale and redevelopment of the former Public Safety Building block; authorizing the execution of a Purchase and Sale Agreement, Project Agreement and other related documents necessary to implement the sale and redevelopment of such property; and exempting the sale of such property from the requirements of Resolution 29799 as amended by Resolution 30882.

ORDINANCE NO. 122610

AN ORDINANCE amending the Seattle Comprehensive Plan to incorporate changes proposed as part of the 2007 Comprehensive Plan annual amendment process.

ORDINANCE NO. 122609

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

ORDINANCE NO. 122608

AN ORDINANCE authorizing the Mayor to sign and/or execute a collective bargaining agreement by and between the City of Seattle and the Public Service & Industrial Employees, Local 1239 Recreation Unit to be effective through December 31, 2010.

ORDINANCE NO. 122606

AN ORDINANCE relating to the Seattle Center Department authorizing the execution of a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the circus dinner theater on an adjacent property.

ORDINANCE NO. 122604

AN ORDINANCE relating to the Filipino Community Center; removing a budget provision restricting expenditure of an appropriation in the 2007 Budget; and authorizing the expenditure of the funds for purchase and acceptance of an easement with restrictive covenants from Filipino Community of Seattle to provide for City and public access uses and the provision of social services on the property at 6740 M.L. King Jr. Way South, Seattle, Washington.

ORDINANCE NO. 122603

AN ORDINANCE relating to the financing of the South Lake Union Streetcar Project; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Transportation Master Fund; and providing for the repayment thereof.

ORDINANCE NO. 122602

AN ORDINANCE concerning indigent public defense services; establishing a process for selecting providers of those services; creating a proposal review panel; setting out standards for those services; establishing contractual requirements for agreements between the City and public defense service providers; requesting the Seattle City Auditor to audit compliance; repealing Ordinance 122493 and Ordinance 121501; and ratifying and confirming certain prior acts.

ORDINANCE NO. 122600

AN ORDINANCE amending the Seattle Comprehensive Plan to incorporate a change proposed as part of the 2007 Comprehensive Plan annual amendment process for a new policy governing expansion of major employers located in manufacturing/industrial centers.

ORDINANCE NO. 122599

AN ORDINANCE authorizing the Director of Seattle Public Utilities to execute a contract with the City of North Bend to provide North Bend with a supply of mitigation water.

Publication ordered by JUDITH PIPPIN, City Clerk.
Date of publication in the Seattle Daily Journal of Commerce, December 31, 2007.
12/31(218880)