

Ordinance No. 123205

Council Bill No. 116739

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to enter into an agreement with The Seattle Aquarium Society for operation and management of the Seattle Aquarium.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Tom Roemer
Councilmember

Committee Action:

12-8-09 pass w/ sub. 4-0 TR, RC, JD, TB

(E)

12-14-09 Passed 9-0

As

Amended

(E)

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

CF No. _____

Date Introduced:	<u>11.23.09</u>	
Date 1st Referred:	To: (committee) <u>Parks + Seattle Center</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>12.21.09</u>	
Date Returned to City Clerk:	Date Published:	T.O. _____ F.T. _____
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

ORDINANCE 123205

1
2 AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the
3 Superintendent of Parks and Recreation to enter into an agreement with The Seattle
4 Aquarium Society for operation and management of the Seattle Aquarium.

5 WHEREAS, the City of Seattle owns and operates the Seattle Aquarium, located on Piers 59/
6 60, and widely recognized as a world-class aquarium and a regional marine
7 conservation resource; and

8 WHEREAS, the Aquarium, under the management of the Department of Parks and Recreation, is
9 primarily self-sustaining in its operations, through admissions and other revenues; and

10 WHEREAS, since 1982, The Seattle Aquarium Society ("SEAS") has supported the City in this
11 endeavor, and since 2006, has managed the Aquarium food and merchandise
12 concessions under a Master Concession Agreement with the City, authorized by
13 Ordinance 122211; and

14 WHEREAS, in 2000, a Central Waterfront Citizens Advisory Committee recommended that the
15 Aquarium be redeveloped at its current location at Piers 59/60 and the City accepted
16 that recommendation; and

17 WHEREAS, deterioration of Pier 59 required a major capital investment to repair that structure;
18 and

19 WHEREAS, pursuant to Resolution 30737, the City and SEAS entered into a Memorandum of
20 Agreement ("MOA"), which, among other things, contained guidelines for a Phase One
21 redevelopment of the Aquarium at Pier 59; and

22 WHEREAS, pursuant to the terms of the MOA, the City and SEAS commenced the Phase One
23 redevelopment for which the City undertook a significant pier-support replacement
24 project and SEAS completed a private capital fundraising campaign of \$17.2 million
25 and then successfully managed the construction of two new exhibits and substantial
26 other capital improvements to the facility; and

27 WHEREAS, Resolution 30737 also contemplated that upon successful completion of the
28 fundraising campaign and Phase One capital improvements and the satisfaction of other
conditions SEAS would assume additional responsibilities with respect to the long-term
management and operations of the Aquarium; and



1 WHEREAS, SEAS has demonstrated the capacity to administer large, complex business efforts
2 through the completion of Phase One improvements, a related private fundraising
3 campaign and the management of Aquarium concessions, reflected in the Seattle
4 Aquarium Society Phase One Completion Report, dated February 1, 2008; and

5 WHEREAS, Resolution 30737 also required SEAS to employ a competent and reputable Chief
6 Executive Officer to manage the Aquarium; prepare a sound business plan for the
7 operation of the Aquarium; and successfully manage any phase of operations assigned
8 to it; and

9 WHEREAS, SEAS has complied with the above conditions and has participated with the City in
10 a study which, using nationally recognized standards, concluded that the Aquarium's
11 structures and systems are in fair condition and identified a program of ongoing major
12 maintenance; and

13 WHEREAS, Resolution 31080 required the Executive to undertake a due diligence investigation
14 to evaluate the prospects for successful long-term transition of the management and
15 operations of the Aquarium from the City to SEAS and established principles to guide
16 the development of such an agreement; and

17 WHEREAS, the Executive has completed the due diligence investigation and determined that
18 the transfer of Aquarium operation to SEAS is in the best interests of the City and has
19 negotiated an agreement with SEAS for the long-term operation of the Aquarium that
20 is consistent with the principles contained in Resolution 31080; and

21 WHEREAS, it is an established best practice nationally to maintain public ownership of
22 aquariums while contracting for management with non-profit aquarium-specific
23 organizations and seeking increasing private-sector support and contributions; NOW,
24 THEREFORE,

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

26 Section 1. The Superintendent of Parks and Recreation ("Superintendent") or his
27 designee is authorized to execute an Operations and Management Agreement substantially in the
28 form of Attachment 1 hereto, that will allow The Seattle Aquarium Society to operate the Seattle
Aquarium for a term of twenty years.


Section 2. The Superintendent, or his designee, is further authorized and directed, for
and on behalf of the City, to make technical, conforming or otherwise nonmaterial changes to the



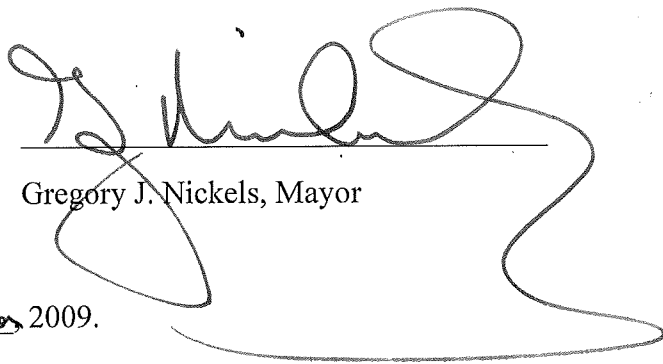
1 Agreement, and to execute, deliver, record, administer and perform such ancillary agreements or
2 documents or to take such other actions as in his or her judgment may be necessary, appropriate
3 or desirable in order to carry out the terms and provisions of, and complete the transactions
4 contemplated by, this ordinance.

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


9
10 Passed by the City Council the 14th day of December, 2009, and signed by me in open
11 session in authentication of its passage this 14th day of December, 2009.

12
13
14 
15 President _____ of the City Council

16 Approved by me this 21st day of December, 2009.

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19 
20 Gregory J. Nickels, Mayor

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22 Filed by me this 22nd day of December, 2009.

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24 
25 City Clerk

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27 (Seal)



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Attachment 1: SEATTLE AQUARIUM OPERATIONS AND MANAGEMENT AGREEMENT.

Exhibits to Attachment 1:

- Exhibit 1 General Premises Diagram
- Exhibit 2 Detailed Premises Diagram
- Exhibit 3 City's Capital Obligations
- Exhibit 4 SEAS' Capital Obligations
- Exhibit 5 Personal Property Inventory
- Exhibit 6 Debt Service Reimbursement Schedule
- Exhibit 7 Insurance Requirements



SEATTLE AQUARIUM OPERATIONS AND MANAGEMENT AGREEMENT

This Seattle Aquarium Operations and Management Agreement ("**Agreement**") is made and entered into this ____ day of _____, 20__, by and between the CITY OF SEATTLE, a Washington first class city (the "**City**"), acting through its DEPARTMENT OF PARKS AND RECREATION (the "**Parks Department**"), and The SEATTLE AQUARIUM SOCIETY, a Washington non-profit corporation ("**SEAS**") (collectively, the "**Parties**").

RECITALS

WHEREAS, the City currently owns and operates the public aquarium located in the City of Seattle commonly known as the Seattle Aquarium; and

WHEREAS, The Seattle Aquarium Society is a non-profit corporation organized in 1982 for charitable, scientific and educational purposes for the study and promotion of marine life and conservation and for the education and recreation of the public; and

WHEREAS, in 2000, the Washington State Legislature adopted Chapter 35.64 of the Revised Code of Washington to authorize certain cities, including the City of Seattle, to enter into contracts with non-profit corporations or other public organizations to manage and operate their zoos and aquariums; and

WHEREAS, The City of Seattle and The Seattle Aquarium Society believe that the proposed Agreement will provide the greatest opportunity for success of the Aquarium in fulfilling its mission in education, conservation and recreation, providing benefits to the citizens of Seattle, and developing the Aquarium as an important civic asset, cultural resource and attraction;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:



AGREEMENT

1. Definitions. As used in this Agreement, the following terms have the meanings ascribed:

1.1 **"Animals"** means all living creatures residing at the Premises as part of the Aquarium Exhibits or other activities.

1.2 **"AZA"** means the Association of Zoos and Aquariums.

1.3 **"Business Day"** means any day on which banks in the State of Washington are open for business, excluding Saturdays.

1.4 **"CEO"** means the chief executive officer of SEAS.

1.5 **"Capital Improvements"** means improvements to the Premises performed by SEAS that increase the useful life of the Premises or enhance their use as an aquarium.

1.6 **"Capital Maintenance"** means the sorts of Aquarium planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement projects and activities that could be funded under RCW 82.46.010.

1.7 **"City's Capital Obligations"** means those items listed on Exhibit 3.

1.8 **"City Employees"** means those persons who are employed as of January 1, 2010, in part-time or full-time jobs at the Aquarium.

1.9 **"Concession Agreement"** means that Pier 59 Master Concession Agreement between the City and SEAS dated October 9, 2006.

1.10 **"Debt Service Reimbursement"** means the amounts shown on Exhibit 6 that SEAS owes to the City for debt service for previous Aquarium improvements.

1.11 **"Effective Date"** means the first day of the seventh calendar month following the month in which this Agreement is authorized by the Seattle City Council.

1.12 **"Exhibits"** means all areas of the Premises that have been constructed, arranged, or displayed for members of the public to view or interact with during their visit to the Aquarium.

1.13 **"Favorable Ruling"** is defined in Section 15.1.



1.14 **"Fiscal Year"** means a 12-month period beginning on January 1 of each calendar year and ending on December 31 of the same calendar year.

1.15 **"Force Majeure"** is defined in Article 19.

1.16 **"Parks Board"** means the Board of Park Commissioners established by City Charter.

1.17 **"Personal Property"** is defined in Section 5.1.

1.18 **"Property,"** when used without a modifier, means the Premises and the Personal Property, collectively.

1.19 **"Premises"** is defined in Section 2.1.

1.20 **"Reimbursement Schedule"** is defined in Section 6.1.

1.21 **"Retirement Board"** means the Board of Administration of the Seattle City Employees' Retirement System established under Chapter 4.36 of the Seattle Municipal Code.

1.22 **"SEAS Board"** means the Board of Directors of the Seattle Aquarium Society.

1.23 **"SEAS Property"** is defined in Article 14.

1.24 **"SEAS' Capital Obligations"** means those items listed on Exhibit 4.

1.25 **"Term"** is defined in Section 3.1.

1.26 **"Termination Date"** means June 30, 2030, unless terminated earlier as provided herein.

1.27 **"Transferring Employees"** is defined in Section 15.3.

1.28 **"Visitor Amenities"** means improvements to the public areas of the Premises directly related to visitor experience, excluding concession areas, food service areas, and restrooms, for the purpose of enriching the visitor experience.

2. Management and Operation Rights; Use of Premises.

2.1 Grant of Rights. Beginning on the Effective Date, SEAS shall exclusively manage and operate the Aquarium in accordance with all of the terms and conditions contained in this Agreement. The Aquarium is comprised of the Exhibits and all related



facilities located on Piers 59 and 60 over Elliott Bay in Seattle, Washington, on which the Aquarium is currently operated. The Aquarium Exhibits and facilities are shown as a diagram in Exhibit 1 and described in greater detail in Exhibit 2 hereto, and are referred to collectively herein as the "**Premises.**"

2.2 Permitted Use. Throughout the Term, SEAS shall use and continuously occupy the Premises for the operation of a public Aquarium and for purposes and programs related or incidental thereto, focusing on conservation, education, enterprise operations, and visitor services, and for no other purpose. SEAS shall not use or occupy any portion of the Premises, and shall not permit the use or occupancy thereof, in any unlawful manner or for any illegal purpose, and shall not permit any activity to be carried on that would constitute an actionable nuisance under the laws of the State of Washington. The Permitted Use shall not include the sale or the promotion of the sale or use of tobacco, weapons or alcoholic beverages (provided that alcoholic beverages may be served at catered events and in the restaurant area) and SEAS agrees to adopt and implement a policy prohibiting any person, except for law enforcement officers and on-duty security personnel, from possessing firearms on the Premises.

2.3 Continuous Operation; Staffing. SEAS shall keep the Premises open and use them to transact business with the public 364 days per year during such hours as SEAS may determine (but a minimum of 45 hours per week), except that SEAS may, upon posting a written and website notice to the public of not less than one (1) week in duration prior to any closure, close the Premises or a portion thereof for a reasonable period for repairs, approved remodeling, taking inventory and accommodating construction activities related to the Alaskan Way Viaduct replacement and related work. SEAS may also close the Premises to the public upon posting prompt actual and website notice, for such periods of time as are necessary to deal with: force majeure events; emergent situations threatening health and safety of the general public or the Animals; emergent situations threatening security of the Premises; and for not more than five (5) days per year for extraordinary and compelling economic or personnel conditions. SEAS shall ensure that an adequate number of personnel qualified to operate the Aquarium are present at the facility 24 hours per day.

3. Term of Agreement.

3.1 Term. The term of this Agreement ("**Term**") shall commence on the Effective Date and expire on June 30, 2030 (the "**Termination Date**"), unless this Agreement is terminated earlier as provided herein.

3.2 Option to Terminate. If the Superintendent of the Department of Parks and Recreation (the "**Superintendent**") determines that there is no reasonable likelihood of SEAS' expending at least \$5,000,000 on new or updated Exhibits prior to June 30, 2020, as further described in Section 4.2 below, the City may terminate this Agreement upon 12 months' prior written notice to SEAS, which notice shall be



delivered to SEAS between January 1, 2019, and June 30, 2019. During the 12-month notice period, SEAS and the City shall cooperate to provide for an efficient and coordinated transition of operations and management from SEAS to the City or to a City-designated successor operator.

4. Undertakings of the Parties.

4.1 City's Obligations. In addition to any other obligations imposed on the City under this Agreement, the City's obligations include (a) transfer of the Personal Property, defined in Section 5.1 below, to SEAS; (b) funding of \$8,000,000 of agreed Capital Maintenance projects by December 31, 2015, as further described in Section 7.2.1, together with such other Capital Maintenance as may be required to keep the Aquarium open and operating, specifically including the City's Capital Obligations described in Exhibit 3 but excluding the SEAS' Capital Obligations described in Exhibit 4.

4.2 SEAS' Obligations. Except and as further provided elsewhere in this Agreement, and in addition to SEAS' other obligations contained herein, SEAS shall be responsible, at its sole cost and expense for: (a) the daily management and operation of the Aquarium; (b) maintaining the Personal Property located at the Premises and in SEAS' possession and control; (c) maintaining the needs of all Aquarium Animals by providing them with food, housing, medical care, and any other provisions necessary for their basic health, safety, and comfort; (d) providing compensation and benefits, if applicable, for all Aquarium employees and SEAS contractors; (e) providing all supplies and equipment necessary for a reasonably safe and functional work environment for all employees, contractors, and volunteers; (f) providing routine maintenance and janitorial services for the Premises, as described in Section 7.1.1; (g) repairing and maintaining Exhibits and creating any new Exhibits and Visitor Amenities; (h) performing the SEAS' Capital Obligations described in Exhibit 4; (i) paying the Debt Service Reimbursement to the City as described in Section 6.1; (j) developing a strategic plan within 18 months of the effective date to help guide capital investments in the following five years and a Master Plan to guide the development of the Aquarium through the Term, as described in Section 16.1; (k) funding a minimum of \$10,000,000 of new or refurbished Exhibits and Visitor Amenities by June 30, 2030, with at least \$5,000,000 of expenditures occurring on or before June 30, 2020; and (l) such other maintenance, repairs and improvements as the Parties may hereafter agree. In operating the Aquarium, SEAS should endeavor to partner with local entities with experience or expertise in marine conservation and education, including the National Oceanic and Atmospheric Administration, the University of Washington, Puget Sound Partnership, National Science Foundation, NASA, and local and regional educational institutions, and pay particular attention to exhibits and conservation education focusing on Puget Sound, the Salish Sea, and the waters of the Pacific Northwest.



5. Transfer and Use of Personal Property.

5.1 Transfer of Personal Property. In order that SEAS may carry out its obligations under this Agreement, the City hereby transfers the Personal Property to SEAS, as of the Effective Date. "**Personal Property**" is all property possessed by the City (including without limitation vehicles, boats, computers and software) that is necessary to and exclusively used in the operation and maintenance of the Aquarium that is not: (a) real property; (b) Premises facilities or improvements described in Section 2.1, or (c) art that is in the City's collection. By December 31, 2010, the Parties shall agree on an inventory of the Personal Property as of the Effective Date and shall include that inventory as Exhibit 5 to this Agreement. SEAS shall maintain all such transferred Personal Property in good condition and repair, and shall replace with items of good quality any of the Personal Property that becomes inoperable or unusable if such item is necessary for the operation of the Aquarium, in SEAS' reasonable discretion. The Personal Property (including any replacement Personal Property) shall become the property of the City when this Agreement is terminated. Notwithstanding anything herein to the contrary, the City shall remove the telephone and switching equipment located at the Premises and operated by the City Department of Information Technology ("DoIT") unless SEAS and DoIT prior to the Effective Date enter an agreement for SEAS to purchase such equipment and an agreement for the ongoing operation of the equipment; regardless, SEAS will reimburse DoIT for its budgeted costs for providing telephone service to the Aquarium for 2010 and the costs of any equipment removal.

5.2 Animals, Generally. Personal Property includes all Animals, but if the general terms of this Agreement relating to Personal Property conflict with this Section 5.2, the provisions of this section shall control.

5.2.1 Rights to Animals. All Animals currently owned by the City and all rights to Animals owned by the City shall be transferred to and held by SEAS throughout the Term. The Animals shall be the sole property of SEAS, which shall also assume all obligations the City may have with respect to Animals exhibited, housed, or otherwise kept or cared for at the Aquarium during the Term of this Agreement. The Animals shall become the property of the City when this Agreement is terminated.

5.2.2 Care of Animals. SEAS shall care for all Animals in accordance with all federal, state and local laws and regulations, including the Marine Mammal Protection Act, and in accordance with the policies and guidelines adopted by the AZA.

5.2.3 Sale and Purchase of Animals. SEAS shall have the authority to acquire or sell or otherwise dispose of Animals in the course of



SEAS' operation of the Aquarium. The acquisition, sale or other disposition of Animals shall be made in strict accordance with (a) all applicable federal, state or local laws, regulations and policies, (b) the guidelines and policies of the AZA, and (c) existing and any adopted acquisition and disposition policies approved by the City.

5.3 City Documents. In this Agreement, "**City Documents**" means records pertaining to the operation and management of the Aquarium (including personnel files), but excluding any documents or records in SEAS' custody relating to Aquarium management, personnel, donors, or to the internal operations of SEAS, prior to the Effective Date. Unless and until agreed otherwise between the Superintendent and SEAS, the City will retain custody of all City Documents in its possession on the Effective Date. To the extent necessary to allow SEAS to operate and manage the Aquarium and to the extent permitted by law, the City will provide SEAS access to City Documents in the City's possession. SEAS shall make City Documents in SEAS' possession available to the Superintendent and other City designees promptly upon request and shall follow the Superintendent's instructions for disclosing City Documents in SEAS' possession in response to public records disclosure requests. SEAS will also comply with the records retention schedule for City Documents in its possession and make those City Documents available for purposes of compliance audits. SEAS shall return the City Documents to the City when this Agreement is terminated.

5.4 Aquarium Subaccount. Presently the Aquarium receives no direct operating subsidy from the City. Positive net income from Aquarium operations in any given year is contributed to the Aquarium Subaccount and operating losses are absorbed by it. As of the Effective Date, the City estimates there will be approximately \$350,000 in the Aquarium Subaccount. The 2010 City Budget assumes that the Aquarium continues under City management for the entire year and that this transaction will not impact the City's General Fund. Therefore, the City agrees to transfer the funds in the Aquarium Subaccount to SEAS on the Effective Date. Any 2010 revenues earned but not received prior to the Effective Date shall be transferred to SEAS when received. Any 2010 expenses incurred but not paid prior to the Effective Date shall be paid by SEAS when due. From January 1, 2010, through the Effective Date, the City, acting through the Aquarium director, will consult with SEAS regarding anticipated charges to the Aquarium Subaccount that are in excess of ordinary charges for day-to-day operations. The City will provide SEAS with an accounting of its profits and losses with respect to the Aquarium for 2010 by February 28, 2011.

6. Fiscal Matters.

6.1 Debt Service Reimbursement. SEAS shall pay the City the Debt Service Reimbursement amounts in accordance with the schedule shown on Exhibit 6 (the "**Reimbursement Schedule**") by electronic funds transfer to the City's bank. The City will not provide invoices to SEAS. SEAS' payment obligation is absolute and



unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. SEAS may prepay all or any part of the principal amounts shown on the Reimbursement Schedule at any time so long as SEAS agrees to fully compensate the City for its costs incurred in connection therewith, including the costs of defeasing bonds issued to finance the underlying work. In the event of any prepayment of the Debt Service Reimbursement, the City shall prepare an updated Reimbursement Schedule to reflect the revised reimbursement amounts and SEAS shall thereafter pay such revised amounts to the City. SEAS shall not undertake any Capital Improvements or design or create any new or refurbished Exhibits if its payment of the Debt Service Reimbursement is in arrears.

6.2 SEAS Revenue. SEAS shall collect and retain all admission proceeds and other revenue derived from operation of the Aquarium including, without limitation, fees and receipts from concessions, souvenirs and other services offered by SEAS to the public at or in association with the Aquarium, and all contributions collected by SEAS from any other source. SEAS shall expend or invest such revenue exclusively for Aquarium Purposes.

6.3 Fees and Prices. Subject to Article 13 of this Agreement, SEAS shall have the authority to set the amount of all prices and fees for admissions, services rendered or sales made to the public or otherwise at the Aquarium, including without limitation, food and drink concessions, membership passes, souvenirs, special exhibits and other special events.

6.4 Solicitation of Private and Public Funding. SEAS shall: (a) solicit private support for SEAS through membership fees and charitable contributions and solicit federal, state or local grants or other funds to support the operation and purposes of the Aquarium; and (b) apply all funds contributed to it as membership fees, charitable donations, public grants or loans, or any other sources, to the operating expenses, exhibits, Capital Improvements, and other Aquarium purposes in accordance with this Agreement, and to the administrative and operating expenses of SEAS. Without limiting the generality of the foregoing, SEAS agrees to use its best efforts to fundraise a minimum of \$15,000,000 by June 30, 2020, and future City capital contributions to Aquarium improvements will be evaluated in part against SEAS' success in achieving this goal. The City hereby agrees to use its reasonable efforts to assist SEAS in the solicitation of federal, state and county grants or other sources of non-City public funding to support the operation of the Aquarium or the financing of any work performed to bring any building, structure or service within the Premises into compliance with any applicable local, state or federal law or regulation, including without limitation the Americans With Disabilities Act of 1990. SEAS may apply for grants in the City's name subject to the Superintendent's prior approval or if the Superintendent instructs, by the Seattle City Council. The City Council retains the right to accept or not accept grant funds so applied for. All grants to the City received for the Aquarium shall be



transferred to SEAS within thirty (30) days of the receipt of the grant funds, if permitted by the terms of the grant.

6.5 Naming Rights.

6.5.1 Name. Under no circumstances may the Aquarium's name be changed from "Seattle Aquarium" without formal action by the Parks Board and the City Council.

6.5.2 Donation Acknowledgement. The City expressly permits SEAS to recognize donors for their contributions to specific exhibits and discrete capital improvements by naming such exhibits or improvements and displaying recognition names as agreed between SEAS and its donors, provided that all donor recognition at the Aquarium is subject to the approval of the Superintendent or his or her designee, not to be unreasonably withheld.

6.6 City Financing. If requested by SEAS, the City will consider issuing debt for Aquarium capital purposes. Responsibility for funding debt service on such debt shall be agreed to by the Parties.

6.7 City Approval of SEAS Debt. SEAS shall not incur aggregate debt in excess of \$1 Million without the approval of the City's Finance Director, which approval shall not be unreasonably withheld, conditioned or delayed.

7. Maintenance and Operations.

7.1 Routine Maintenance and Janitorial Services.

7.1.1 SEAS' Obligation. SEAS shall provide all routine maintenance and janitorial services required to maintain the Aquarium in a clean, safe and sanitary condition, and as necessary to maintain all necessary licenses and accreditations. Without limiting the generality of the foregoing, SEAS shall be solely responsible for items such as ductwork cleaning, interior and exterior window washing and repairs, gutter cleaning, caulking, tenant improvements and interior painting. SEAS shall employ sufficient personnel, or show evidence satisfactory to the City of personal service contracts which provide such personnel, to perform the routine maintenance and janitorial work in a prompt and efficient manner. While they remain City employees, the Aquarium's maintenance staff represented by Local 1239, will perform the janitorial and routine maintenance services for the Aquarium.

7.1.2 Routine Maintenance by Parks Department Forces. At SEAS' request, the Parks Department will provide routine maintenance at the



Aquarium using City forces in substantially the same manner that the City currently provides such maintenance. The City will document the actual and direct labor hours, overhead, and any materials provided as a part of any such maintenance and submit such documentation to SEAS together with the City's invoice, on a monthly basis. SEAS shall pay such invoice within ten (10) Business Days of receiving it.

7.2 Capital Maintenance and Repair.

7.2.1 City Financial Commitment. The Parties acknowledge that the Aquarium was constructed in 1977, and although the facility has been improved from time to time throughout the years, a substantial amount of Capital Maintenance has been deferred. The Parties further acknowledge that the Aquarium competes with other City facilities for limited financial resources and the City makes no promise that City funds will be available to finance discretionary Capital Maintenance beyond the \$8,000,000 provided for herein and the City obligations stated in Section 4.1. The \$8,000,000 amount includes hard and soft project costs such as design and permitting, and cost overruns. Notwithstanding the foregoing or anything in this Agreement to the contrary, SEAS, rather than the City, shall be responsible for all maintenance and repairs of any nature whatsoever occasioned by any negligent, reckless or intentional act or omission of SEAS or its officers, agents, employees or contractors.

7.2.2 SEAS Financial Commitment. Prior to June 30, 2030, SEAS shall expend at least \$10,000,000 of SEAS' funds on new or refurbished Exhibits, \$5,000,000 of which must be expended or be reasonably anticipated to be expended by June 30, 2020, or the Superintendent may terminate this Agreement as provided in Section 3.2. SEAS' obligations to fund such new Exhibits shall expire upon expiration or earlier termination of the Term.

7.2.3 Process for Approving Capital Improvements and New Exhibits. The Parties agree that the Aquarium Pier 60 Filter Replacement Project (\$300,000), the Aquarium Pier 60 Piling and Corrosion Renovation Project (\$657,000) and the Aquarium Saltwater Pump Replacement Project (\$500,000) in the City's 2010-2015 Capital Improvement Program will be undertaken and the amounts budgeted in the City's 2010 Adopted Budget will be credited toward the City's \$8,000,000 Capital Maintenance obligation. By March 1, 2010, and by each March 1st thereafter throughout the Term, the Superintendent and representatives from SEAS shall meet and agree on the items of Capital Maintenance and any new or refurbished Exhibits that the Parties wish to undertake during the upcoming year, including any SEAS-initiated Capital Improvements as provided in Section 7.2.4. Proposals for the expenditure of City funds shall be subject to the approval of the Mayor and of the City Council through an appropriation of funds in the City's adopted budget for the upcoming



year that reflects the Parties' estimated cost to perform the agreed City-funded Capital Maintenance for that year. The City will not be responsible for SEAS-initiated Capital Improvements.

7.2.4 Capital Improvements. SEAS may make Capital Improvements or alterations to the Aquarium facilities, at its own expense, subject to the following:

(a) Any Capital Improvement that would modify the structure of the Premises or that would materially add to the City's maintenance costs under Section 7.2.1, requires the prior approval of the Superintendent, which approval may be granted, withheld or conditioned in that official's sole discretion; and

(b) Any Capital Improvement projected to cost more than three million dollars (\$3,000,000), measured in 2008 dollars, shall require the City's approval, by ordinance; and

(c) If the Capital Improvement is of a nature for which plans and specifications are typically prepared and the cost of the improvement is \$500,000 or more, then the plans and specifications for the improvement shall be subject to the Superintendent's review and approval before any construction occurs.

7.2.5 New Facilities Operating and Maintenance Costs. As SEAS funds and builds Capital Improvements and new Exhibits, or expands its support and visitor facilities, the corresponding increases in operating, program and maintenance costs will be the responsibility of SEAS.

8. Conditions for Construction of Improvements.

8.1 General. Subject to the separate agreements between the City and SEAS which shall address scope, schedule, cost, allocation of risk, and other matters, any work under Section 4.1 funded by the City may be managed and performed by SEAS in compliance with any and all applicable state laws, rules and regulations. All construction or repair work, including maintenance performed under contract, undertaken by SEAS using public funds shall be subject to prevailing wage requirements under RCW 39.12.020 and to the requirements of Seattle Municipal Code Chapters 20.32 (Art in Public Works Construction) and 20.45 (Nondiscrimination in Benefits) and the Seattle Parks Department standards for LEED construction.

8.2 Contractor Insurance. Each party hereto shall provide, upon request, evidence acceptable to the other that every contractor engaged by a party to perform work on the Premises maintains insurance in such amounts with such coverages



offered by such companies as shall be satisfactory to the City and SEAS, including but not limited to Worker's Compensation Insurance (including Employers' Liability Insurance) and insurance against liability for injury to persons and property arising out of all such contractor's operations, and the use of owned, non-owned or hired automotive equipment in the pursuit of all such operations.

8.3 Title to Improvements. Except as otherwise provided in this Agreement, all appurtenances, fixtures, improvements, equipment, additions and other property attached to or installed in the Premises by the City during the Term shall be and remain the property of the City and shall not be removed by SEAS without the Superintendent's approval. The City also shall own all SEAS-funded Capital Improvements, new Exhibits, or expanded support and visitor facilities upon their completion.

9. Signage. SEAS shall design and provide all signage for the Premises. SEAS will not maintain signage or advertisements on the Premises to which the Superintendent objects. City ownership of the Premises shall be noted where appropriate in SEAS public relations materials, on SEAS' website, and on Premises signage.

10. Utilities. The City shall provide heating and ventilation, water and sewer and electricity to the Premises to the extent reasonably necessary for the operation of the Premises for the Permitted Use. SEAS shall pay when due, directly to the appropriate company or to the City based on metered readings and prevailing rates, all bills for water, sewer, electricity, data and telecommunications services for the Premises. SEAS and its sub-concessionaires shall comply with commercially reasonable sorting and recycling standards adopted by the City. Except in the event of the City's gross negligence or intentional misconduct, the City shall not be liable for any loss, injury or damage to personal property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements that were due to accident, strike or conditions or events beyond the City's reasonable control shall be deemed an eviction of SEAS or to release SEAS from any of SEAS' obligations hereunder or to give SEAS a right of action against the City for damages. SEAS acknowledges its understanding that there may be City-planned utility outages affecting the Premises and that such outages may interfere, from time to time with SEAS' use of the Premises. The City shall provide SEAS with not less than 48 hours' prior written notice of any City-planned electricity outage affecting the Premises. The City has no obligation to provide emergency or backup power to SEAS. SEAS shall develop and implement protocols and procedures for dealing with power outages.

11. Fees and Taxes. From and after the Effective Date, SEAS shall be liable for, and shall pay prior to delinquency, all taxes, license fees and excise fees covering the business and activities conducted on and the occupation of the Premises by SEAS.



SEAS shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to SEAS' use and occupancy of the Premises, and shall pay all taxes on any leasehold interest created by this Agreement (e.g., leasehold excise taxes). SEAS shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving SEAS of its covenant to pay any such taxes. The City shall not be subjected to any liability nor required to pay any costs or expenses in connection with any such proceeding brought by SEAS and SEAS hereby covenants to indemnify and hold City harmless from any such costs or expenses. SEAS agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that SEAS, if so desiring, may have reasonable opportunity to contest the validity of the same. If SEAS intends to contest or to fail to pay when due any tax or fee referred to in the preceding sentence, SEAS shall provide the City with at least 30 days' notice of that intention before the tax is due, explaining its reasons. The City may choose to pay the tax on behalf of SEAS, and if it is later determined the tax or some portion of it validly owed, SEAS shall reimburse the City.

12. Permits, Licensing and Accreditation.

12.1 Required Permits, Licenses and Accreditation. Throughout the Term, SEAS shall cause both itself and the Aquarium to be at all times (a) accredited by the AZA; (b) licensed with the United States Department of Agriculture; and (c) licensed by the Seattle-King County Health Department.

12.2 Other Licenses and Permits. SEAS and the City shall use their best efforts to have all licenses and permits currently held by the City in connection with the operation of the Aquarium legally transferred to SEAS or to have them canceled upon SEAS' obtaining replacement permits or licenses in its name if transfer is not possible. If any licenses or permits are required to be held by a governmental entity and/or owner of the Premises, or if the Parties agree otherwise with respect to any particular permit or license, then those licenses and permits shall remain in the possession of the City and under the City's name, and SEAS shall hereby be authorized as the agent of the City to perform such services under such licenses and permits as are required in the operation of the Aquarium to the extent permitted by applicable law. Upon any termination of this Agreement for any reason, SEAS shall transfer all licenses and permits back to the City and SEAS shall use its best efforts to assist the City with the documentation of any such transfer or reapplication for any such permit or license to be held in City's name after such termination.

13. Admissions.

13.1 SEAS' Responsibilities. Subject to Section 13.2 below, SEAS shall have the authority to set Aquarium admissions charges. The City and SEAS intend that the



Aquarium remain affordable to individuals from all economic circumstances and particularly, to families with children.

13.2 Public Access. SEAS intends to operate the Aquarium with the goal of providing wide access to Seattle residents at an affordable cost. In furtherance of that goal, SEAS will (a) provide reduced admission costs for school groups; (b) make at least 30,000 free passes available annually to human services agencies having a primary purpose of serving low-income Seattle residents; and (c) pursue other options for ease of access to the Aquarium and special services at the Aquarium for children, seniors, the disabled and low-income individuals. Subject to expansion of the Premises in accordance with a City-approved Aquarium Master Plan, SEAS shall provide public access to the west end of the Aquarium pier during Aquarium business hours to the extent such access can be reasonably and safely accommodated and SEAS shall comply with all provisions of the lease between the City and State Department of Natural Resources, including any provisions related to public access, and any access requirements of any City law or regulation, as the same may be enacted, amended, altered or modified, from time to time.

13.3 Admissions Tax. No City admission taxes are currently charged on Aquarium admission. The City agrees that it will not impose admission taxes on Aquarium admissions so long as similar facilities (such as the Woodland Park Zoo and Pacific Science Center) are exempt from such taxes.

14. SEAS' Personal Property. All furniture, furnishings and articles of movable personal property installed in the Premises by or for the account of SEAS, without expense to the City, and which can be removed without structural or other material damage to the Premises (all of which are herein called "**SEAS Property**") shall be and remain the property of SEAS and may be removed by it subject to the provisions of Article 22.

15. Staffing and Employees.

15.1 Generally. The Parties anticipate that as of January 1, 2010, there will be seventy-five (75) City Employees at the Aquarium. It is the intention of the Parties that all City Employees who wish to continue employment at the Aquarium become employees of SEAS. The City is currently pursuing an option whereby City employees who transfer to SEAS employment might remain in the City retirement plan (a "**Favorable Ruling**"). The City will support this option if it is available under state and federal law and approved by the Retirement Board. SEAS will offer employment to all City Employees for similar employment at the Aquarium to the extent similar positions are available. City Employees will have the shorter of two (2) years from the date of a Favorable Ruling or five (5) years from January 1, 2010, to determine whether they wish to transfer to SEAS employment. The City will use its best efforts to find other City employment for those City Employees who wish to remain in City employment but



makes no representation that there will be comparable, vacant positions within the City at the time of the transfer.

15.2 SEAS Supervision of Employees. Pursuant to RCW 35.64.010(4) and commencing on the Effective Date until the transition of City Employees to SEAS employment is complete, SEAS, acting through its CEO, who shall replace the City's Aquarium Director, shall manage, supervise, and direct all City employees employed at the Aquarium and may, subject to the provisions of the City Charter, Seattle Municipal Code, City rules, state legislation and any applicable collective bargaining agreements, hire and, after consultation with the Superintendent, fire and otherwise discipline the City employees. The CEO shall be the ultimate appointing authority as provided for by City Charter and by City Ordinance. SEAS shall, in cooperation with the City's Personnel Director and the Superintendent, develop procedures for implementing this authority with regard to City Employees.

15.3 Employees. SEAS shall comply with all applicable federal, state and local laws, ordinances and regulations pertaining to all current and future employees at the Aquarium during and after their transition from City employment to SEAS employment. In addition, SEAS shall be an equal opportunity employer and make reasonable efforts to maintain a diverse work force. SEAS will use its best efforts during the Term to offer City Employees who transfer to SEAS employment (the "**Transferring Employees**") opportunities for professional advancement and a package of employee benefits that are generally consistent with the opportunities and benefits available to such City Employees as of the Effective Date.

15.4 City Employees Subject To Collective Bargaining Agreements. The City has previously negotiated collective bargaining agreements with collective bargaining representatives representing certain City Employees and anticipates that it will negotiate other such agreements that will affect City Employees working at the Aquarium. The Parties recognize that the terms of these collective bargaining agreements are binding on the City unless altered by mutual agreement between the City and the collective bargaining agents and consistent with all applicable state, federal and local laws. SEAS agrees to supervise City Employees consistent with applicable agreements and to bargain collectively with represented employees in the future.

15.5 City Transfer of Certain Balances. The City will calculate the vacation and sick leave balances for all Transferring Employees as of the transfer date and SEAS will credit the Transferring Employees with the full amount of those hours. The City will pay SEAS the value of the Transferring Employees' balances as follows:

15.5.1 Vacation. The vacation balances will be calculated based on the pay rate in effect on each employee's transfer date. The City will pay SEAS the value of each Transferring Employee's vacation leave in eight (8) equal quarterly payments (12.5% per quarter) beginning with the end of the first quarter



in which the employee transfers to SEAS employment, such that the liability for vacation for each transferring employee will be paid out to SEAS over a two-year period.

15.5.2 Sick Leave. The City shall pay SEAS one-half of the value of the unused sick leave for each Transferring Employee in equal annual installments over five (5) years commencing the January following the year in which the employee's transfer date occurred (10% per year).

15.5.3 Pensions. SEAS has established and will maintain and manage a private defined contribution retirement plan for Transferring Employees. If the City obtains a Favorable Ruling as described in Section 15.1 above, and the Transferring Employees are permitted to remain in the City retirement system, then SEAS shall cooperate with the City and promptly execute such documents as the City may require in order to amend its retirement plan to allow for the Transferring Employees' continued participation in the City retirement plan. Thereafter, SEAS shall comply with all requirements of such documents and shall promptly pay when due the employer's share of all retirement system contributions for the Transferring Employees who remain in the City retirement plan.

15.6 Payroll and Taxation.

15.6.1 City Payroll until Transition. Each City Employee will remain on the City payroll until each such employee either transitions to SEAS employment or otherwise leaves City employment. Until such transition or separation, or transfer to other City employment, the City Employees will continue to receive City compensation and benefits, and City employee status and payment of taxes and reporting, although the CEO will supervise them. SEAS shall reimburse the City monthly for all compensation and benefits, including taxes and employer retirement contributions, for each City Employee from the Effective Date until the employee no longer works at the Aquarium. SEAS shall include a staffing plan and budget in its Annual Plan to the Superintendent and shall endeavor to schedule City Employees' hours so as to remain within the budget. If SEAS anticipates the need for any increase in the staffing budget, it shall so inform the Superintendent no later than September 1st of each year.

15.6.2 SEAS Payroll after Transition. From and after the date each City Employee commences employment with SEAS, SEAS shall make or cause to be made for each such employee all necessary payroll deductions for disability and unemployment insurance, social security, withholding taxes and other applicable taxes, and prepare, maintain and file or cause to be filed all necessary



reports with respect to such taxes or deductions, and all other necessary statements and reports.

15.7 No Third Party Beneficiary Status. Employees affected by this Agreement are not intended to be third-party beneficiaries to this Agreement and cannot sue to enforce its terms.

16. Planning and Reporting Obligations; Public Involvement.

16.1 Master Plan. Within 18 months after the Effective Date, SEAS shall prepare for submittal to the Superintendent a strategic plan to help guide investments in the physical development of the Aquarium over the following five years. SEAS shall coordinate its planning and development of a future Master Plan with the Committee on Central Waterfront Partnerships, and the Waterfront Planning parameters subsequently developed by the City Council. The SEAS Master Plan shall be subject to City Council approval, by resolution, and shall be consistent with the adopted City Alaskan Way and Seawall Replacement Program, especially as concerns the seawall replacement component of the program and the redesign of adjacent public spaces at Waterfront Park and Piers 62/63. The Aquarium Master Plan should include, among other elements:

(a) A description of planned or potential physical development, including any planned infrastructure improvements and the timing of those improvements, including development priorities, the probable sequence for such planned development and estimated dates of construction and occupancy;

(b) A statement explaining the purpose of the development proposed in the master plan, including the public benefits resulting from the proposed new development and the way in which the proposed development will serve the public purpose mission of the Aquarium;

(c) A strategy for preservation of currently designated historic structures in connection with any future development;

(d) A strategy for preservation of view corridors in connection with any future development; and

(e) Consideration of pedestrian access to and circulation around the pier, including improved connections to existing and proposed public spaces, including Waterfront Park, Piers 62/63, the Pike Place Hillclimb and new public space immediately east of the Aquarium; and strategies to activate and program spaces adjacent to the Aquarium and support public access to the water's edge.

16.2 Annual Report to City Council Parks Committee. SEAS shall, at its sole expense, prepare an Annual Report that provides, for the preceding Fiscal Year, (a) a



general summary of the Aquarium's operations; (b) a financial accounting for all funds received by SEAS for the continued operation and management of the Aquarium from all sources, by category, and lists all expenditures, including any capital investments, made at the Aquarium; (c) an analysis of the affordability of Aquarium admission fees and membership rates on middle-income families; (d) a description of the public benefits provided; and (e) an updated business plan, if any material assumptions have changed. On or before July 1st of each year throughout the Term, SEAS will provide a briefing on its Annual Report for the prior Fiscal Year to the City Council's Parks Committee or its successor committee.

16.3 Monthly Report to Superintendent. Beginning one month after the Effective Date and each month thereafter throughout the Term, SEAS shall provide the Superintendent with a report of the attendance and revenue totals for the Aquarium for the preceding month, by source.

16.4 Annual Plan to Parks Board and Superintendent. On or before December 1st of each year throughout the Term, SEAS shall, at its sole expense, prepare and deliver an Annual Plan for the next Fiscal Year to the Parks Board and to the Superintendent, for that official's approval. The Annual Plan shall cover, at a minimum, any Capital Improvement and Exhibit expansion or refurbishment plans and a description of any planned major programmatic changes. The Superintendent and the CEO shall meet each year to discuss the contents of the Annual Plan.

16.5 Annual Independent Audit. Within sixty (60) days after the end of each Fiscal Year, SEAS shall arrange for an audit of its books and records by an independent, certified public accountant. This audit shall be conducted at SEAS' sole cost and expense and shall cover the previous Fiscal Year. SEAS shall deliver to the Superintendent an original, signed copy of each such annual audit by the earlier of (a) thirty (30) days after the completion of such audit or (b) 180 days after the end of the Fiscal Year covered by such audit.

16.6 Financial Records. SEAS shall establish and maintain books, records and systems of account relating to the Aquarium's gross revenue and operating expenses in accordance with generally accepted accounting practices for non-profit organizations. These records shall, to the extent necessary to meet requirements for audits under Section 16.5 of this Agreement, be retained by SEAS and made available to the City upon request.

16.7 City Audit Participation. If requested by the City, SEAS shall make available all information reasonably necessary for the City and, to the extent required by applicable law, for the State Auditor to perform audits of the use and application of all public revenues, grants, fees and City funds received by SEAS during the current and preceding year.





16.8 Public Involvement.

16.8.1 Involvement on SEAS Board. Subject to the provision that all SEAS Board appointees shall be subject to qualification requirements and approval based upon the criteria generally recognized for membership on SEAS' Board, the Mayor and the Chair of the City Council committee with oversight of the Aquarium will each be entitled to appoint one person to SEAS' Board. The Superintendent shall also be appointed to SEAS' board. All City appointees shall have full voting rights. Following the initial appointments to the Board positions authorized under this Subsection, succeeding new appointments to these two positions by the appointing authorities may only be made effective upon the occurrence of a vacancy or expiration of the preceding term.

16.8.2 Public Involvement Process for Major Capital Projects. Except for those projects identified in the approved Master Plan, the City and SEAS agree that the development process for any Capital Improvement projects costing more than \$3,000,000 must include reasonable opportunities for public involvement. For each such capital project, the Superintendent and SEAS will develop such a process for public involvement that is consistent with the Parks Department's Public Involvement Policy.

16.8.3 Open Meetings. The City and SEAS intend that to the extent practicable, decision-making with respect to Aquarium operations policies shall occur openly and with due consideration of public input and in a manner consistent with the spirit of the Washington State Open Public Meetings Act, RCW 42.30. SEAS therefore agrees that (a) all regular, annual and special meetings of the SEAS Board of Directors (the "**Board**") shall be open and public; (b) members of the public shall be permitted to attend any such meeting without being required, as a condition to attendance, to register his or her name or otherwise to fulfill any condition precedent to his or her attendance; (c) SEAS will not adopt any policies or resolutions materially affecting Aquarium operations policies outside of a public meeting; and (d) no Board meeting voting shall be by secret ballot.

Approximately one week in advance of any regularly-scheduled or annual meeting of the Board (or immediately upon the noticing of any special meeting of the Board), the Board shall provide notice of the Board meeting time, location and proposed agenda items as of the date of the notice to any member of the public who submits a written request for such notice. Any written request for such notice shall state whether the requesting party wishes to receive such notice by electronic or regular mail. The Board shall also post contemporaneously such notice on the Aquarium internet web page(s). The proposed agenda identified in the notice shall be subject to change.



Nothing contained herein shall be construed as prohibiting the Board from convening an executive session during any regular or special meeting in situations where such session would be authorized under the provisions of the Washington Open Public Meetings Act, RCW 42.30.

16.9 SEAS Code of Ethics. SEAS shall maintain a code of ethics governing its Board members, employees and activities consistent with applicable requirements of State and federal laws and AZA standards. The City may request from SEAS those documents necessary for the City to confirm the existence of an ethics and conflict of interest policy. SEAS will report on compliance with the ethics and conflict of interest policy and any issues that have arisen as a result, in the Annual Report.

17. Insurance. The Parties will provide insurance and abide by the insurance provisions of this Agreement contained in Exhibit 7 to this Agreement.

18. Representations and Warranties.

18.1 SEAS hereby represents and warrants to the City and covenants as follows:

18.1.1 Experience. SEAS is experienced in aspects related to the operation and management of the Aquarium and hereby agrees to apply its best efforts and most efficient methods in the full operation and management of the Aquarium.

18.1.2 Mission. SEAS is committed to its fulfilling its mission: Inspiring conservation of our marine environment. Marine conservation, research, and education, with an emphasis on Pacific Northwest or Puget Sound aquatic ecosystems, will continue to be the primary focus of the Aquarium for the duration of this Agreement and any extension thereof.

18.1.3 Formation. SEAS is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Washington. SEAS shall at all times during the Term of this Agreement maintain its tax-exempt status under Section 501(c) (3) of the Internal Revenue Code.

18.1.4 Authority. SEAS has full power and authority (corporate or otherwise) to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary action on the part of SEAS and no other corporate or other action on the part of SEAS is necessary to authorize the execution and delivery of this Agreement. The individual executing this Agreement for SEAS has full authority to do so and thereby to bind SEAS to its terms.



18.1.5 Conflicts and Consents. The execution and delivery by SEAS of this Agreement and the performance by SEAS of the transactions contemplated in it will not violate any federal, state or local law, rule or regulation, or conflict with or result in any breach or violation of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or constitute an event or condition that would permit termination or acceleration of the maturity of, the Articles of Incorporation, bylaws or partnership agreement of SEAS (as applicable) or any indenture, mortgage, lease, agreement or other instrument or obligation to which SEAS is a party or by which it may be bound whose termination or acceleration would materially adversely affect the ability of SEAS to perform its obligations under this Agreement. No approval, authorization, consent or other order or action of, or filing or registration with, any person, entity or governmental authority is required for the execution and delivery by SEAS of this Agreement.

18.1.6 Conflict with Orders, etc. The execution and delivery by SEAS of this Agreement will not conflict with any order, judgment or decree of any court, government, government agency or instrumentality, whether entered pursuant to consent or otherwise, by which SEAS may be bound or affected.

18.2 The City hereby represents and warrants to SEAS and covenants as follows:

18.2.1 Authority. The City has full power and authority to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary action on the part of the City and no other action on the part of the City is necessary to authorize the execution and delivery of this Agreement. The individual executing this Agreement for the City has full authority to do so and thereby to bind the City to its terms.

18.2.2 Conflicts and Consents. The execution and delivery by the City of this Agreement and the performance by the City of the transactions contemplated in it will not violate any federal, state or local law, rule or regulation. No approval, authorization, consent or other order or action of, or filing a registration with, a person, entity or governmental authority is required for the execution and delivery by the City of this Agreement.

18.2.3 Conflict with Orders, etc. The Execution and delivery by the City of this Agreement will not conflict with any order, judgment or decree of any court, government, government agency or instrumentality, whether entered pursuant to consent or otherwise, by which the City may be bound or affected.

18.3 Litigation. There is no litigation, action, arbitration, grievance, administrative proceeding, suit or claim filed and pending, nor is there any investigation by a governmental agency of SEAS or any of its affiliates that, if adversely decided,



could have a material adverse impact on SEAS' ability to perform its obligations under this Agreement.

19. Force Majeure. As used herein, the term "Force Majeure" with respect to a delay in performance shall mean any delay that is attributable to (a) any strike, lockout or other labor or industrial disturbance (whether or not on the part of the employees of either party hereto), civil disturbance, future order claiming jurisdiction, act of the public enemy, war, riot, sabotage, blockade, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body; (b) any changes in any applicable laws or the interpretation thereof; or (c) any lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion, or any other cause beyond the reasonable control of the party from whom performance is required and of its contractors or other representatives. Any prevention, delay or stoppage in a party's performance hereunder due to Force Majeure shall excuse the performance of the party affected for a period of time equal to any such prevention, delay or stoppage; provided, however, that during the period of any such delay or stoppage, the party whose performance hereunder is excused shall take all reasonable steps to minimize the length of such delay or stoppage.

20. Indemnities.

20.1 City's Indemnity. The City hereby agrees to indemnify, save harmless and defend SEAS from any and all losses, claims, actions or damage suffered by any person or entity (including SEAS) 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: (a) the City's use or occupancy of the Property, including trademark, patent, and copyright infringement; (b) the City's maintenance, repair or improvement obligations arising under this Agreement; (c) the City's employment of any Aquarium employees prior to the Effective Date; and (d) the City's pension plan for City Employees; but as to subclauses (a) and (b) above, only to the extent such claims, actions, costs, damages or expenses are caused by the willful misconduct or negligence of the City, its authorized officers, agents, employees or invitees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. Notwithstanding anything herein to the contrary, if (and only if) the provisions of RCW 4.24.115 apply to the foregoing indemnification and any injuries or damage on which a claim is based are caused by or result from the concurrent negligence of the City or its agents or employees, and SEAS or its agents or employees, the City's indemnification applies only to the extent of the negligence of the City, its agents or employees. The City specifically assumes potential liability for actions brought by City's own employees against SEAS and for that purpose only the City specifically waives any immunity against claims by SEAS under the Workers Compensation Act, RCW Title 51; AND THE CITY ACKNOWLEDGES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO PURSUANT TO THE PROVISIONS OF RCW 4.24.115 AND WAS THE SUBJECT OF MUTUAL NEGOTIATION.



20.2 SEAS' Indemnity. SEAS hereby agrees to indemnify, save harmless and defend the City 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 SEAS or any of its officers, agents, employees, or invitees in connection with: (a) SEAS' use or occupancy of the Property, including trademark, patent, and copyright infringement; (b) SEAS' maintenance, repair or improvement obligations arising under this Agreement; (c) SEAS' management of any Aquarium employee while such employee remains employed by the City, but only to the extent such claims, actions, costs, damages or expenses are caused by the willful misconduct or negligence of SEAS, its authorized officers, agents, employees or invitees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. Notwithstanding anything herein to the contrary, if (and only if) the provisions of RCW 4.24.115 apply to the foregoing indemnification and any injuries or damage on which a claim is based are caused by or result from the concurrent negligence of SEAS or its agents or employees, and the City or its agents or employees, the SEAS indemnification applies only to the extent of the negligence of SEAS, its agents or employees. SEAS specifically assumes potential liability for actions brought by SEAS own employees against the CITY and for that purpose only SEAS specifically waives any immunity against claims the City under the Workers Compensation Act, RCW Title 51; AND SEAS ACKNOWLEDGES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO PURSUANT TO THE PROVISIONS OF RCW 4.24.115 AND WAS THE SUBJECT OF MUTUAL NEGOTIATION.

20.3 Relationship to Insurance Obligations. Nothing contained in this Article 20 shall be construed to affect the allocation of responsibilities between the Parties or the insurance coverages required under Article 17 and Exhibit 7 of this Agreement.

21. Default; Termination of Agreement; Remedies.

21.1 Termination by City. The City shall have the right to terminate this Agreement following an Event of Default. The following shall constitute "**Events of Default**" under this Agreement:

(a) failure of SEAS to perform or comply with any covenant or condition made under this Agreement, or failure of any representation or warranty made by SEAS in this Agreement to have been or to continue to be true and correct. In the event of a monetary default, the City may terminate this Agreement after ten (10) days' prior written notice to SEAS; for all other defaults SEAS shall have a period of sixty (60) days from the date of written notice from the City within which to cure such default or, if such default is not legally capable of cure within such 60-day period, SEAS shall have a reasonable period to complete such cure if SEAS promptly undertakes action to cure such default within such 60-day period and thereafter diligently prosecutes the same to completion;



(b) abandonment, assignment, encumbrance, or transfer of this Agreement or of the Property by SEAS without the prior written consent of City; and

(c) the appointment of a receiver to take possession of all or substantially all of the assets of SEAS, or an assignment by SEAS for the benefit of creditors, or any action taken or suffered by SEAS under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

The foregoing Events of Default are in addition to any other right to terminate explicitly given to the City elsewhere in this Agreement.

If SEAS is in default of its obligations under Section 6.1 of this Agreement, then SEAS agrees that during the period that such default remains uncured, all rents, issues, income and profits due and to become due from any lease, license or other use of any room or space in the Premises or from any concession therein shall be deemed to have been assigned to the City effective as of the date of default, without the need for further action by either party, and SEAS shall immediately instruct its tenants and licensees to thereafter remit their payments to the City. The City shall apply all assigned revenues it receives to amounts in default and owed by SEAS.

21.2 Termination by SEAS. In the event the City fails to timely perform any obligation required to be performed by the City hereunder, and such failure is not cured within thirty (30) days after written notice of such failure has been delivered to the City by SEAS, SEAS shall have the right to terminate this Agreement; provided that if such default is not legally capable of cure within such 30-day period, the City shall have a reasonable period to complete such cure if the City promptly undertakes action to cure such default within such 30-day period and thereafter diligently prosecutes the same to completion. The foregoing is in addition to any other right to terminate explicitly given to SEAS elsewhere in this Agreement.

22. Surrender of Premises; Transition. Upon the Termination Date or other termination of this Agreement, SEAS shall (a) promptly remit to the City all Debt Service Reimbursement owed and unpaid through the date of termination in accordance with the payment schedule shown on Exhibit 6, and (b) peaceably quit and surrender to the City the Premises and Personal Property together with all permanent improvements approved by the City, in good order and condition, normal wear and tear and damage caused by casualty or condemnation excepted. The Premises and Personal Property shall be surrendered free and clear of all liens and encumbrances other than encumbrances created or approved in writing by City. SEAS shall, immediately before the Termination Date or other termination of this Agreement, remove all of SEAS' Property as provided in this Agreement, and repair any damage resulting from the



removal. SEAS' obligations under this section shall survive the Termination Date or other termination of this Agreement. Any items of SEAS' Property which shall remain in the Premises after the Termination Date of this Agreement may, at the option of the City, be deemed abandoned and in such case may be disposed of by City in any manner allowed by law.

Upon the termination of this Agreement for any reason, SEAS and the City shall cooperate to the fullest reasonable extent in effecting an orderly and efficient transfer of the operation and management of the Aquarium from SEAS to the City or its designee. Such cooperation shall include without limitation the entry into such agreement, the execution of such documents and the convention of such meetings as may be reasonably required to effect such transfer.

23. Hazardous Materials.

23.1 Definitions. As used herein, the following terms shall have the meanings set forth below:

23.1.1 "Environmental Laws" means any applicable federal, state and local laws (whether under common law, statute, ordinance, rule, regulation, code or otherwise), permits, orders, decrees, and other requirements of governmental authorities relating to the protection of human health or the environment, whether existing as of the date hereof, previously enforced, or subsequently enacted.

23.1.2 "Hazardous Material" means any element, compound, chemical, chemical mixture, or other substance that is identified as, or determined to be, a hazardous, toxic or dangerous substance, pollutant, contaminant, waste or material under, or is otherwise regulated under, any Environmental Law or other law relating to chemical management, environmental contamination, environmental cleanup or nuisances, including, without limitation, petroleum and petroleum products, asbestos, radon and other radioactive materials, bio-hazards and lead-based paint.

23.1.3 "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about any other part of the Premises.

23.2 No Hazardous Materials. SEAS covenants and agrees that neither SEAS nor any of its agents or invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises, or transported to or from the Premises, provided that SEAS may use such substances in such limited amounts as are customarily used in the operation and maintenance of aquariums so long as such use is in compliance with all applicable



Environmental Laws. Each party hereto shall immediately notify the other party if and when such party learns or has reason to believe there has been any Release of Hazardous Material on or about the Premises.

23.3 SEAS' Environmental Indemnity. If SEAS breaches any of its obligations contained in this Article 23, or, if any act, omission or negligence of SEAS or any of its agents or invitees, contractors or consultants results in any contamination of the Premises or in the Release of Hazardous Material from, on, about, in, on or beneath the Premises, then SEAS shall indemnify the City from and against all claims, liabilities, damages, losses, costs and expenses (including, without limitation, the loss or restriction of the use of the Premises and sums paid in settlement of claims, fines, civil penalties, attorneys' fees, consultants' fees and experts' fees and costs) relating to such Release; provided, however, that, except as set forth in Section 23.4, the indemnity contained in this section shall not apply to any losses resulting from a pre-existing condition. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, clean up, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material, and to restore the Premises to their prior condition, all of which shall be deemed to be direct rather than consequential damages. Without limiting the foregoing, if SEAS or any of its agents or invitees, contractors or consultants causes or permits the Release of any Hazardous Materials on, about, in or beneath the Property, SEAS shall, immediately, at no expense to the City, take any and all necessary actions to abate and remediate the Release in accordance with all Environmental Laws. SEAS shall afford the City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

23.4 City's Environmental Indemnity. If any act, omission or negligence of the City or any of its agents (other than SEAS), contractors or consultants results in or has resulted in any contamination of the Premises or in the Release of Hazardous Material from, in, on or beneath the Premises or if any contamination of the Premises or any Release has occurred before the Effective Date and was not caused by SEAS, then the City shall indemnify SEAS from and against all claims, liabilities, damages, losses, costs and expenses (including, without limitation, the loss or restriction of the use of the Premises and sums paid in fines, civil penalties, attorneys' fees, consultants' fees and experts' fees and costs) resulting from any such contamination or Release; provided, however, that the foregoing indemnity shall not include indemnification for any losses resulting from SEAS' aggravation of any pre-existing condition through SEAS' actions or inactions, or the actions or inactions of its agents, officers, employees, contractors or consultants, whether negligent or non-negligent. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material, and to



restore the Premises to their prior condition, all of which shall be deemed to be direct rather than consequential damages. The City shall afford SEAS a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

24. Assignments; Subcontracting. SEAS has been chosen by the City to operate and manage the Aquarium in reliance upon SEAS' stated and unique expertise, skill and experience. SEAS shall not assign, transfer, mortgage or encumber its interest in this Agreement or any other right, privilege or license conferred by this Agreement, or the Property, either in whole or in part. Any assignment or encumbrance shall be voidable and, at the City's election, shall constitute a material default under this Agreement. Without limiting the obligations of SEAS under this Agreement, the Parties specifically acknowledge that there are existing leases, agreements, and arrangements between SEAS and third parties regarding Aquarium operations that the City approved under the Concession Agreement. SEAS shall have the right and the authority to renew such leases, agreements, and arrangements that expire during the Term and to enter into new and additional contracting arrangements with any other person or entity (including without limitation the Parks Department or other City agency) for the provision of any service required or allowed to be performed by SEAS under this Agreement, including food concessions, gift shop concessions and other concessions, attractions and operations consistent with the Permitted Use, subject to the following:

24.1 All third-party concession agreements with terms in excess of twelve months and generating revenue in excess of \$25,000 per year shall be subject to, and shall incorporate by reference, the terms and conditions of this Agreement.

24.2 Each such concession agreement shall provide that in the event of termination of this Agreement, at the City's option, the third party agreement shall continue in effect as a direct agreement between the City and the third party, and the third party shall execute such documents as the City shall reasonably request in order to evidence or give effect to the third party's attornment to the City.

24.3 Each such concession agreement shall provide that, upon notice from the City to the third party that SEAS is in default on monetary obligations hereunder and that payments of rent and other amounts owing on the third party agreement should be made to the City, the third party shall make all such payments to the City until otherwise instructed by the City or ordered by a court of competent jurisdiction, and shall further provide that payments so made shall be credited to the third party's obligations under the third party agreement.

25. Prior Contracts between SEAS and the City; Integrated Agreement; Modification. This Agreement supersedes the Concession Agreement and contains all the agreements of the Parties hereto relating to the subject matter addressed herein. No



material provision of this Agreement may be amended or modified except by a written agreement approved by the Seattle City Council and executed by each of the Parties hereto.

26. Notices. All notices required to be given hereunder shall be in writing and either delivered personally or sent by certified mail or express overnight courier service to the appropriate address listed below, or at such other address as shall be provided by written notice. Notice shall be deemed communicated two Business Days from the time of mailing if mailed as provided in this section. For convenience of the Parties, copies of notices may also be given by other means; however, neither party may give official or binding notice except by personal delivery or by certified mail.

If to SEAS:
Seattle Aquarium Society
1483 Alaskan Way
Pier 59
Seattle, Washington 98101
Attn: CEO

If to The City of Seattle:
City of Seattle
Department of Parks and Recreation
100 Dexter Avenue North
Seattle, Washington 98109
Attn: Superintendent of Parks and Recreation

27. Compliance with Laws.

27.1 Generally. At SEAS' sole cost and expense, SEAS shall comply and conform with all laws and all governmental regulations, rules and orders that may from time to time be put into effect relating to, controlling or limiting the use and operation of the Aquarium. SEAS shall secure, or cooperate with the City in its securing, all permits and licenses specifically required for the operation of the Aquarium (copies of which shall be promptly provided to the Parks Department), and shall comply with all applicable laws and regulations relating to labor employed in and relating to the operation of the Aquarium.

27.2 Americans with Disabilities Act. SEAS acknowledges that the Americans with Disabilities Act ("**ADA**") requires that programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. SEAS further acknowledges its obligation to comply with the ADA and any other federal, state or local disability rights legislation. SEAS warrants that it will fulfill that obligation and that it will not discriminate against



disabled persons in the provision of services, benefits or activities pursuant to this Agreement.

27.3 Non-Discrimination Ordinances. SEAS shall comply with all applicable 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. Without limiting the generality of the foregoing, SEAS agrees not to 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. SEAS shall take affirmative action to ensure that applicants are employed, and the 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. SEAS shall post in conspicuous places, available to employees and applicants for employment, notices as provided by the City of Seattle setting forth the provisions of this nondiscrimination clause.

28. Installation of Artwork.

28.1 Prohibition against Installation or Integration of Works of Visual Art on Premises. SEAS shall not permit the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended ("**VARA**"), if the removal of such artwork is reasonably likely to result in its distortion, mutilation, modification or destruction unless SEAS delivers to the City an executed waiver of the creator's right of integrity regarding such art work, for the benefit of the City and its successors and assigns, in a form that satisfies both the City and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified.

28.2 SEAS' Indemnification of the City against Liability under VARA. SEAS shall protect, defend, and hold the City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Section 28.1 of this Agreement; or (d) any violation of VARA by SEAS or any of its officers, employees or agents. This indemnification obligation shall exist regardless of



whether the City or any other person employed by the City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Agreement.

29. Liens. SEAS and City shall keep the Premises and Personal Property free from any liens arising out of any work performed, material furnished or obligations incurred by or for SEAS and the City, respectively.

30. Dispute Resolution. In the event of a dispute between or among SEAS and the City regarding any term of this Agreement, the Parties shall attempt to resolve the matter informally through the following mechanism: the Superintendent and the CEO, or their respective designee(s), shall meet to review and discuss the matter(s) in dispute; if the Superintendent and the CEO are unable to reach a mutual resolution, SEAS' Board Chair(s) shall meet with the Superintendent and other City representatives, as appropriate, to review and discuss the matter(s) in dispute. If such persons are unable to resolve the matter informally, either party may submit the matter to a non-binding, structured mediation procedure fashioned by persons or organizations approved in advance by both Parties and experienced in alternative dispute resolution ("ADR") procedures. The mediation may be requested by either party and shall be initiated within thirty (30) days from the date of the request unless extended by agreement of both Parties. The ADR procedures utilized for the mediation shall include the exchange of written claims and responses, with supporting information, at least seven (7) days prior to the actual mediation. The positions expressed and mediator's recommendations shall not be admissible as evidence in any subsequent ADR or legal proceeding. If the matter is submitted to mediation and the matter is not resolved, an affected party shall be entitled to pursue any legal remedy available.

31. Use of Recycled Materials. Whenever practicable, SEAS shall use reusable products, recycled-content products and recyclable products, including recycled-content paper on all documents submitted to the City. SEAS shall duplex all documents that are prepared for the City under this Agreement, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced.

32. Miscellaneous.

32.1 Interest. If SEAS fails to pay the City any sum when due, such amount shall bear interest at the rate of twelve per cent (12%) per annum from the date due until the date paid.

32.2 Limitations of Liability. The City's obligations to SEAS and SEAS' obligations to the City under this Agreement shall be limited to the terms and conditions set forth herein. Notwithstanding any other provision in this Agreement to the contrary,



in no event shall the City or SEAS be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including without limitation lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

32.3 Parties and Their Agents. As used herein, the term “agents” when used with respect to either party shall include the agents, employees, officers and representatives of such party. All approvals, consents or other determinations permitted or required by the City hereunder shall be made by or through the Superintendent unless otherwise provided in this Agreement or unless the City gives notice otherwise to SEAS. No permission, consent or approval of the Superintendent given pursuant to this Agreement is, or shall be construed as, a representation or assurance that the matter consented to or approved complies with applicable laws, regulations, ordinances or codes, nor shall any such consent or approval be construed to authorize any failure to comply with any of the foregoing.

32.4 No Implied Waiver. No failure by either party hereto to insist upon the strict performance of any obligation of the other party under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues (except in cases where this Agreement expressly limits the time for exercising rights or remedies arising out of a breach), shall constitute a waiver of such breach or of that party’s right to demand strict compliance such term, covenant or condition or operate as a surrender of this Agreement. No waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of either party hereto given in any instance under the terms of this Agreement shall not relieve the other party of any obligation to secure the consent of the other party in any other or future instance under the terms of this Agreement.

32.5 Headings and Subheadings. The captions preceding the Articles, Sections, and Subsections of this Agreement and in the table of contents have been inserted for convenience of reference and such captions in no way define or limit the scope or intent of any provision of this Agreement.

32.6 Successors and Assigns. The terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the City and SEAS and, except as otherwise provided herein, their personal representatives and successors and assigns.

32.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.



32.8 Access to the Aquarium. The City, the Parks Department and their duly authorized agents shall have access to the Premises and Personal Property at all times (a) for the purpose of inspection and to make any repairs, additions or renovations as the City may have the right to do under the provisions of this Agreement, and (b) for use by the City in case of emergency, as determined by City in its sole discretion.

32.9 Relationship of Parties. The services to be rendered by SEAS pursuant to this Agreement are as an independent contractor only and the relationship between SEAS and the City is solely that of owner and contractor. Nothing contained in this Agreement shall be construed to create a partnership, joint venture, or a relationship of employment or agency.

32.10 Agreement Made in Washington. This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Washington. Venue of any action brought by one party against the other to enforce or arising out of this Agreement shall be in King County Superior Court.

32.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

32.12 Non-Liability of Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other agent of the City shall be personally liable to SEAS, its successors and assigns, in the event of any default or breach by the City or for any amount which may become due to SEAS, its successors and assigns under this Agreement, or for any obligation of the City under this Agreement. Likewise, no board member, member, officer, employee or other agent of SEAS shall be personally liable to the City, its successors and assigns under this Agreement, in the event of any default or breach by SEAS or for any amount which may become due to the City, its successors and assigns, or for any obligation of SEAS under this Agreement.

32.13 Time of Essence. Time is of the essence of each provision of this Agreement.

32.14 Survival of Indemnities. Termination of this Agreement shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Agreement, nor shall it affect any provision of this Agreement that expressly states it shall survive termination hereof.

32.15 Partial Invalidity. If any court determines that any provision of this Agreement or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement, or application of such



provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

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

[signatures on next page]



DATED this _____ day of _____, 20__.

THE CITY OF SEATTLE,
a Washington municipal corporation

SEATTLE AQUARIUM SOCIETY,
a Washington non-profit corporation

By _____
Its Superintendent of Parks and
Recreation
By authority of Ordinance No. _____

By _____
Its Executive Director

Exhibits:

Exhibit 1	General Premises Diagram
Exhibit 2	Detailed Premises Diagram
Exhibit 3	City's Capital Obligations
Exhibit 4	SEAS' Capital Obligations
Exhibit 5	Personal Property Inventory
Exhibit 6	Debt Service Reimbursement Schedule
Exhibit 7	Insurance Requirements



Exhibit 1
General Premises Diagram

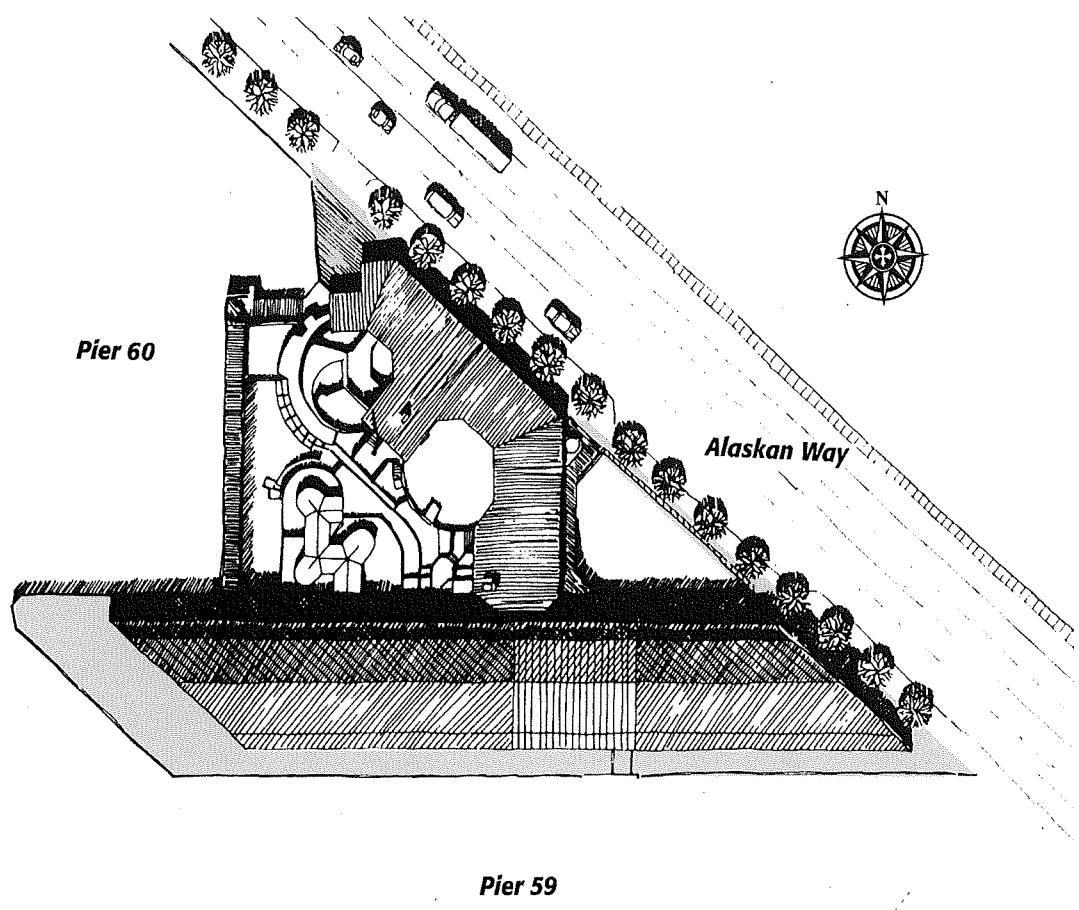


Exhibit 2
Detailed Premises Diagram

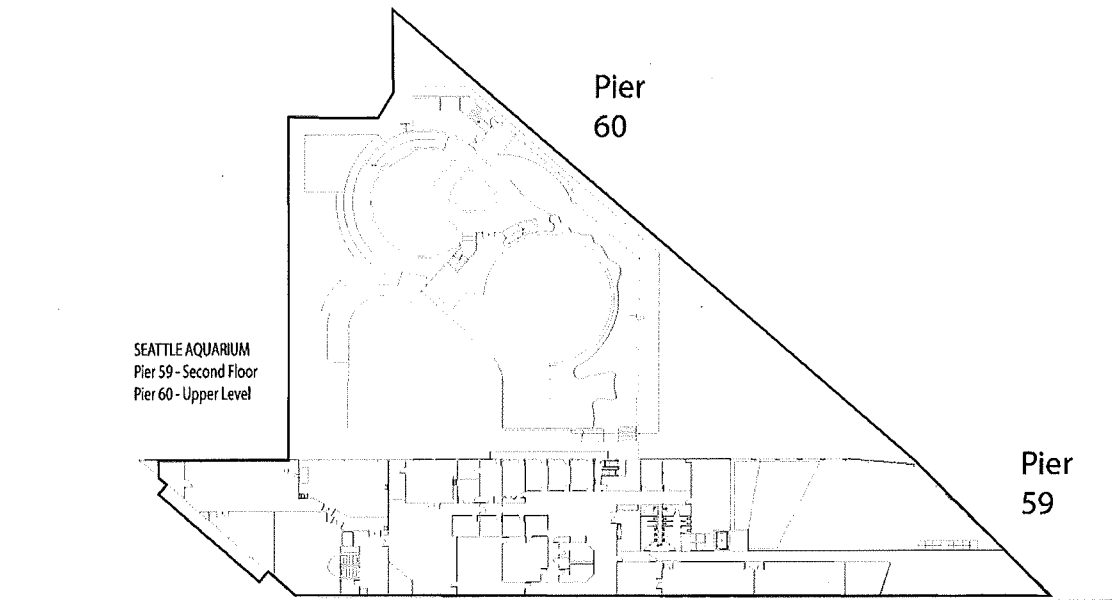
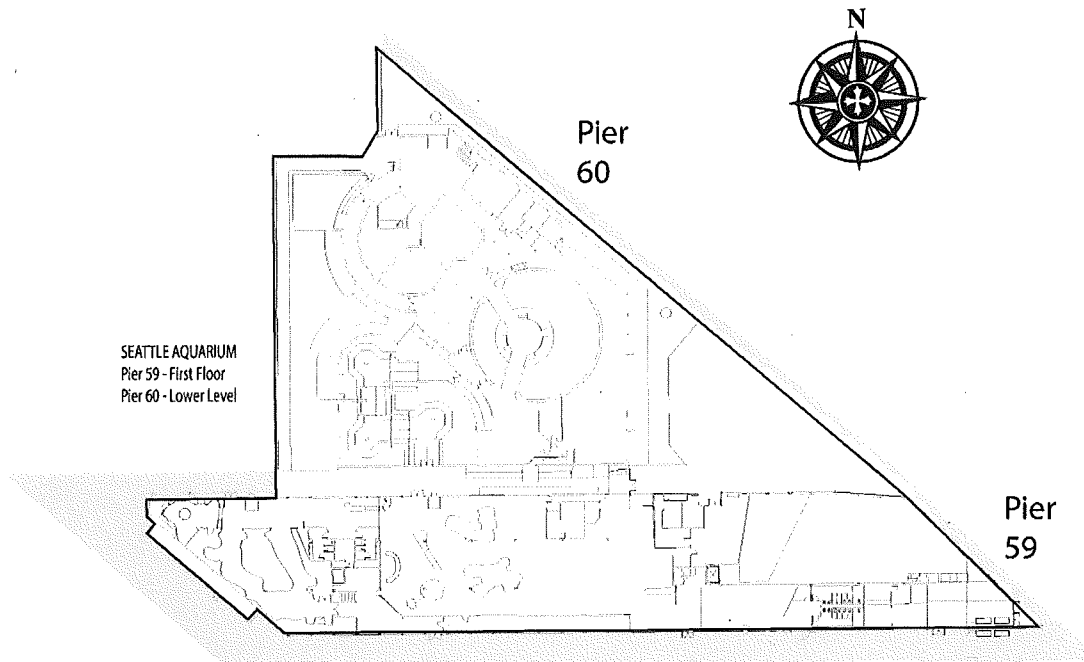


Exhibit 3
City's Capital Obligations

The City shall be responsible for the Capital Maintenance of all Aquarium piers, shell and core, as defined in Section 1.6. Specific responsibilities include, but are not limited to, the following:

Pier supports (pile and posts, pile caps) and under pier foundation elements including corrosion protection and repair (except if damaged in construction of new exhibits).

Building envelope (windows, interior and exterior doors), exterior paint, roof, flashing, and gutters including corrosion protection and repair (except for exhibits incorporated into building envelope).

Exterior concrete deck, interior slab or sub flooring including floor structural elements, wood decking, handrails, and exterior lighting on buildings and along pier apron, including corrosion protection and repair.

Electrical service from utility connection to outlets unless new or relocated.

Salt water delivery system to interior wall of facility and exterior salt water discharge system from wall of facility

Fire alarm and fire suppression systems and emergency lighting.

Fresh water supply from the street to the meter through the double check valve.

Except in restaurant areas, all sewer lines from the exhibits, sink and floor drains, toilets and pipe lines leading to the sewage, force main header collection vaults, sewage lift station pumps and controls and sewage connection lines from the sewage force main header lift stations to the connection with the main sewer lines in the street.

All heating and cooling elements and ductwork through facility, except for systems exclusively serving the gift shop and restaurant.

All elevator systems and stairways.

Structural elements of the exhibits and the corrosion protection necessary to assure the structural systems are protected to include all slab floors for the entire facility.



Exhibit 4
SEAS' Capital Obligations

SEAS shall be responsible for the following items of capital maintenance, repair, replacement and improvements:

Salt water delivery system from interior wall of facility and exterior salt water discharge system to exterior wall of facility.

Fresh water supply from the meter.

All sewer lines and sink and floor drains in the restaurant areas.

All heating and cooling elements and ductwork exclusively serving the gift shop and restaurant.

Exhibits, except for those portions that are integrated into the Aquarium building systems.

Tenant Improvements.



Exhibit 5
Personal Property Inventory

[to be inserted]



Exhibit 6
Debt Service Reimbursement Schedule

Payment Date	2005 Bonds		2007 Bonds		Total
	Principal	Interest	Principal	Interest	
7/1/2010*	21,250	24,351.57	61,250	61,000.00	167,851.57
1/15/2011		46,578.13			46,578.13
3/15/2011				115,875.00	115,875.00
7/15/2011	90,000	46,578.13			136,578.13
9/15/2011			410,000	115,875.00	525,875.00
1/15/2012		44,328.13			44,328.13
3/15/2012				105,625.00	105,625.00
7/15/2012	90,000	44,328.13			134,328.13
9/15/2012			625,000	105,625.00	730,625.00
1/15/2013		42,078.13			42,078.13
3/15/2013				90,000.00	90,000.00
7/15/2013	95,000	42,078.13			137,078.13
9/15/2013			900,000	90,000.00	990,000.00
1/15/2014		39,703.13			39,703.13
3/15/2014				67,500.00	67,500.00
7/15/2014	100,000	39,703.13			139,703.13
9/15/2014			1,245,000	67,500.00	1,312,500.00
1/15/2015		37,203.13			37,203.13
3/15/2015				36,375.00	36,375.00
7/15/2015	105,000	37,203.13			142,203.13
9/15/2015			1,455,000	36,375.00	1,491,375.00
1/15/2016		34,578.13			34,578.13
3/15/2016	110,000	34,578.13			144,578.13
1/15/2017		31,828.13			31,828.13
7/15/2017	115,000	31,828.13			146,828.13
1/15/2018		28,953.13			28,953.13
7/15/2018	125,000	28,953.13			153,953.13
1/15/2019		25,828.13			25,828.13
7/15/2019	130,000	25,828.13			155,828.13
1/15/2020		22,578.13			22,578.13
7/15/2020	135,000	22,578.13			157,578.13
1/15/2021		19,625.00			19,625.00
7/15/2021	140,000	19,625.00			159,625.00
1/15/2022		16,125.00			16,125.00
7/15/2022	150,000	16,125.00			166,125.00
1/15/2023		12,375.00			12,375.00
7/15/2023	155,000	12,375.00			167,375.00
1/15/2024		8,500.00			8,500.00
7/15/2024	165,000	8,500.00			173,500.00
1/15/2025		4,375.00			4,375.00
7/15/2025	175,000	4,375.00			179,375.00
Total	1,901,250	853,664.17	4,696,250	891,750.00	8,342,914.17

* July 1, 2010 payment is final quarterly payment using methodology established in the Pier 59 Master Concession Agreement between the City and SEAS, dated October 9, 2006.



Exhibit 7
Insurance Requirements

1. SEAS Insurance Requirements. SEAS shall maintain (and, if applicable, cause its concessionaires, licensees or subtenants to maintain) in full force and effect throughout the Term, at no expense to City, insurance coverage as specified below:

1.1 Commercial General Liability (CGL) insurance including:

Premises/Operations Liability
Products/Completed Operations Liability
Personal/Advertising Liability
Contractual Liability
Stop Gap/Employers Contingent Liability
Independent Contractors Liability
Host Liquor Liability
Fire/Tenant Legal Liability

Such insurance shall provide the following minimum limits of liability:

- \$5,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage
- \$1,000,000 each Offense Personal and Advertising Injury
- \$250,000 each Occurrence Fire/Tenant Legal Liability
- \$1,000,000 each Accident/ Disease/Employee Stop Gap

The above limits may be provided through primary liability insurance only, or by a combination of primary and excess, or umbrella, liability insurance.

1.2 Business Automobile Liability insurance including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of liability of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage.

1.3 Workers Compensation insurance, securing SEAS' liability for industrial injury to its employees in accordance with the provisions of Title



51 of the Revised Code of Washington. If SEAS is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, SEAS shall deliver a letter to the City so certifying, signed by a corporate officer of SEAS and setting forth the limits of any policy of excess insurance covering its employees. In addition, SEAS shall comply with all Federal maritime workers' compensation statutes.

1.4 Property Insurance under which SEAS' furniture, trade and other fixtures, equipment and inventory (Business Contents) are insured throughout the Term in an amount equal to the replacement costs thereof, against the following hazards: (a) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (b) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (c) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (d) loss from business interruption or extra expense, with sufficient limits of liability to provide for the payment of rent and/or other fixed costs during any interruption of SEAS' business, for at least twelve (12) months.

2. General Requirements Regarding SEAS Insurance (Except Workers Compensation).

2.1 The CGL and Business Automobile liability insurance policies required above shall be endorsed to include The City of Seattle as an additional insured and shall be primary with respect to the City so that any insurance and/or self-insurance maintained by City shall be excess and not contributing insurance with SEAS' insurance. The limits of liability specified herein are minimum limits of liability only and shall not be construed to limit SEAS' liability or that of its liability insurers if SEAS maintains higher limits. The City shall be an additional insured for the total limits of liability maintained by SEAS, whether such limits are primary, excess, contingent or otherwise.

2.2 No insurance policy provided hereunder shall be canceled without actual written notice having been delivered to the City at its address shown below at least thirty (30) days prior to the effective date of cancellation or, in the case of non-payment of premiums, ten (10) days' prior to cancellation.

2.3 Policies shall be issued by insurers rated A--:VII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington or procured under the provisions of chapter 48.15 RCW (surplus lines).



2.4 Any deductible or self-insured retention in excess of \$10,000 must be disclosed to, and shall be subject to reasonable approval of the City's Risk Manager. The cost of any claim payments falling within a deductible or self-insured retention shall be the responsibility of SEAS.

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

3. Evidence of Insurance. For all insurance policies required hereunder except workers' compensation, on or before the Effective Date (and thereafter, no later than five (5) days before the expiration or renewal date of each such policy), SEAS shall deliver proof of insurance coverage acceptable to the City. Such evidence shall be issued to "The City of Seattle, DEA Risk Management Division, P.O. Box 94669, Seattle, WA 98124-4669," but shall be delivered in electronic form as a PDF/XLS file attachment to riskmanagement@seattle.gov, or by facsimile transmission to (206) 470-1279.

Acceptable proof of insurance shall include a certificate of insurance and a copy of the CGL insurance policy provision showing the City as an additional insured for primary and non-contributory limits of liability on ISO Form CG 20 26 or equivalent additional insured or blanket additional insured policy wording.

4. City Insurance Requirements. The City shall insure and/or self-insure the Premises in an amount equal to the replacement cost thereof, against the following: (a) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (b) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; and (c) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises. The City will be responsible for claims falling within the deductible or self-insured retention.

5. Reconstruction Following Loss. In the event of a loss due to casualty then, provided insurance proceeds are sufficient therefor, the City will proceed to rebuild or restore the damaged portions of the facility so as to restore it as nearly as possible to its functionality before the casualty. If the Aquarium is to be restored, then SEAS shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to repair and restore its Business Contents with property that is at least equivalent to, or more suitable than, the Business Contents that were damaged or destroyed. If the Aquarium is not to be restored,



then either party may terminate this Agreement upon written notice to the other and in such event, SEAS shall adjust the loss with its property insurance carrier and promptly pay all insurance proceeds received on account of losses to SEAS' Business Contents to the City.

6. Waiver of Subrogation and Rights of Recovery. Except for losses up to the City's deductible or \$500,000, whichever is less, the City and the City's property insurer(s) shall waive their rights of subrogation and recovery against SEAS for damage to or destruction of the Building and Premises provided such losses result from SEAS' negligence or willful misconduct and only to the extent to which SEAS' Fire/Tenant Legal Liability insurance responds. SEAS and SEAS' insurer(s) shall waive their rights of subrogation and recovery for damage to or destruction of SEAS' Business Contents against the City except with respect to losses falling within the deductible amount and only if such loss is due to the City's negligence or willful misconduct.

7. Assumption of Risk. SEAS' shall bear all risk and responsibility for the placement and storage of its personal property in or around the Premises.



SEATTLE AQUARIUM
OPERATIONS AND MANAGEMENT AGREEMENT

This Seattle Aquarium Operations and Management Agreement ("**Agreement**") is made and entered into this 26th day of January, 2010, by and between the CITY OF SEATTLE, a Washington first class city (the "**City**"), acting through its DEPARTMENT OF PARKS AND RECREATION (the "**Parks Department**"), and The SEATTLE AQUARIUM SOCIETY, a Washington non-profit corporation ("**SEAS**") (collectively, the "**Parties**").

RECITALS

WHEREAS, the City currently owns and operates the public aquarium located in the City of Seattle commonly known as the Seattle Aquarium; and

WHEREAS, The Seattle Aquarium Society is a non-profit corporation organized in 1982 for charitable, scientific and educational purposes for the study and promotion of marine life and conservation and for the education and recreation of the public; and

WHEREAS, in 2000, the Washington State Legislature adopted Chapter 35.64 of the Revised Code of Washington to authorize certain cities, including the City of Seattle, to enter into contracts with non-profit corporations or other public organizations to manage and operate their zoos and aquariums; and

WHEREAS, The City of Seattle and The Seattle Aquarium Society believe that the proposed Agreement will provide the greatest opportunity for success of the Aquarium in fulfilling its mission in education, conservation and recreation, providing benefits to the citizens of Seattle, and developing the Aquarium as an important civic asset, cultural resource and attraction;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

CITY CLERK
10 MAR 19 AM 9:47
CITY OF SEATTLE
FILED

AGREEMENT

1. Definitions. As used in this Agreement, the following terms have the meanings ascribed:

1.1 **"Animals"** means all living creatures residing at the Premises as part of the Aquarium Exhibits or other activities.

1.2 **"AZA"** means the Association of Zoos and Aquariums.

1.3 **"Business Day"** means any day on which banks in the State of Washington are open for business, excluding Saturdays.

1.4 **"CEO"** means the chief executive officer of SEAS.

1.5 **"Capital Improvements"** means improvements to the Premises performed by SEAS that increase the useful life of the Premises or enhance their use as an aquarium.

1.6 **"Capital Maintenance"** means the sorts of Aquarium planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement projects and activities that could be funded under RCW 82.46.010.

1.7 **"City's Capital Obligations"** means those items listed on Exhibit 3.

1.8 **"City Employees"** means those persons who are employed as of January 1, 2010, in part-time or full-time jobs at the Aquarium.

1.9 **"Concession Agreement"** means that Pier 59 Master Concession Agreement between the City and SEAS dated October 9, 2006.

1.10 **"Debt Service Reimbursement"** means the amounts shown on Exhibit 6 that SEAS owes to the City for debt service for previous Aquarium improvements.

1.11 **"Effective Date"** means the first day of the seventh calendar month following the month in which this Agreement is authorized by the Seattle City Council.

1.12 **"Exhibits"** means all areas of the Premises that have been constructed, arranged, or displayed for members of the public to view or interact with during their visit to the Aquarium.

1.13 **"Favorable Ruling"** is defined in Section 15.1.

1.14 "**Fiscal Year**" means a 12-month period beginning on January 1 of each calendar year and ending on December 31 of the same calendar year.

1.15 "**Force Majeure**" is defined in Article 19.

1.16 "**Parks Board**" means the Board of Park Commissioners established by City Charter.

1.17 "**Personal Property**" is defined in Section 5.1.

1.18 "**Property,**" when used without a modifier, means the Premises and the Personal Property, collectively.

1.19 "**Premises**" is defined in Section 2.1.

1.20 "**Reimbursement Schedule**" is defined in Section 6.1.

1.21 "**Retirement Board**" means the Board of Administration of the Seattle City Employees' Retirement System established under Chapter 4.36 of the Seattle Municipal Code.

1.22 "**SEAS Board**" means the Board of Directors of the Seattle Aquarium Society.

1.23 "**SEAS Property**" is defined in Article 14.

1.24 "**SEAS' Capital Obligations**" means those items listed on Exhibit 4.

1.25 "**Term**" is defined in Section 3.1.

1.26 "**Termination Date**" means June 30, 2030, unless terminated earlier as provided herein.

1.27 "**Transferring Employees**" is defined in Section 15.3.

1.28 "**Visitor Amenities**" means improvements to the public areas of the Premises directly related to visitor experience, excluding concession areas, food service areas, and restrooms, for the purpose of enriching the visitor experience.

2. Management and Operation Rights; Use of Premises.

2.1 Grant of Rights. Beginning on the Effective Date, SEAS shall exclusively manage and operate the Aquarium in accordance with all of the terms and conditions contained in this Agreement. The Aquarium is comprised of the Exhibits and all related

facilities located on Piers 59 and 60 over Elliott Bay in Seattle, Washington, on which the Aquarium is currently operated. The Aquarium Exhibits and facilities are shown as a diagram in Exhibit 1 and described in greater detail in Exhibit 2 hereto, and are referred to collectively herein as the "**Premises.**"

2.2 Permitted Use. Throughout the Term, SEAS shall use and continuously occupy the Premises for the operation of a public Aquarium and for purposes and programs related or incidental thereto, focusing on conservation, education, enterprise operations, and visitor services, and for no other purpose. SEAS shall not use or occupy any portion of the Premises, and shall not permit the use or occupancy thereof, in any unlawful manner or for any illegal purpose, and shall not permit any activity to be carried on that would constitute an actionable nuisance under the laws of the State of Washington. The Permitted Use shall not include the sale or the promotion of the sale or use of tobacco, weapons or alcoholic beverages (provided that alcoholic beverages may be served at catered events and in the restaurant area) and SEAS agrees to adopt and implement a policy prohibiting any person, except for law enforcement officers and on-duty security personnel, from possessing firearms on the Premises.

2.3 Continuous Operation; Staffing. SEAS shall keep the Premises open and use them to transact business with the public 364 days per year during such hours as SEAS may determine (but a minimum of 45 hours per week), except that SEAS may, upon posting a written and website notice to the public of not less than one (1) week in duration prior to any closure, close the Premises or a portion thereof for a reasonable period for repairs, approved remodeling, taking inventory and accommodating construction activities related to the Alaskan Way Viaduct replacement and related work. SEAS may also close the Premises to the public upon posting prompt actual and website notice, for such periods of time as are necessary to deal with: force majeure events; emergent situations threatening health and safety of the general public or the Animals; emergent situations threatening security of the Premises; and for not more than five (5) days per year for extraordinary and compelling economic or personnel conditions. SEAS shall ensure that an adequate number of personnel qualified to operate the Aquarium are present at the facility 24 hours per day.

3. Term of Agreement.

3.1 Term. The term of this Agreement ("**Term**") shall commence on the Effective Date and expire on June 30, 2030 (the "**Termination Date**"), unless this Agreement is terminated earlier as provided herein.

3.2 Option to Terminate. If the Superintendent of the Department of Parks and Recreation (the "**Superintendent**") determines that there is no reasonable likelihood of SEAS' expending at least \$5,000,000 on new or updated Exhibits prior to June 30, 2020, as further described in Section 4.2 below, the City may terminate this Agreement upon 12 months' prior written notice to SEAS, which notice shall be

delivered to SEAS between January 1, 2019, and June 30, 2019. During the 12-month notice period, SEAS and the City shall cooperate to provide for an efficient and coordinated transition of operations and management from SEAS to the City or to a City-designated successor operator.

4. Undertakings of the Parties.

4.1 City's Obligations. In addition to any other obligations imposed on the City under this Agreement, the City's obligations include (a) transfer of the Personal Property, defined in Section 5.1 below, to SEAS; (b) funding of \$8,000,000 of agreed Capital Maintenance projects by December 31, 2015, as further described in Section 7.2.1, together with such other Capital Maintenance as may be required to keep the Aquarium open and operating, specifically including the City's Capital Obligations described in Exhibit 3 but excluding the SEAS' Capital Obligations described in Exhibit 4.

4.2 SEAS' Obligations. Except and as further provided elsewhere in this Agreement, and in addition to SEAS' other obligations contained herein, SEAS shall be responsible, at its sole cost and expense for: (a) the daily management and operation of the Aquarium; (b) maintaining the Personal Property located at the Premises and in SEAS' possession and control; (c) maintaining the needs of all Aquarium Animals by providing them with food, housing, medical care, and any other provisions necessary for their basic health, safety, and comfort; (d) providing compensation and benefits, if applicable, for all Aquarium employees and SEAS contractors; (e) providing all supplies and equipment necessary for a reasonably safe and functional work environment for all employees, contractors, and volunteers; (f) providing routine maintenance and janitorial services for the Premises, as described in Section 7.1.1; (g) repairing and maintaining Exhibits and creating any new Exhibits and Visitor Amenities; (h) performing the SEAS' Capital Obligations described in Exhibit 4; (i) paying the Debt Service Reimbursement to the City as described in Section 6.1; (j) developing a strategic plan within 18 months of the effective date to help guide capital investments in the following five years and a Master Plan to guide the development of the Aquarium through the Term, as described in Section 16.1; (k) funding a minimum of \$10,000,000 of new or refurbished Exhibits and Visitor Amenities by June 30, 2030, with at least \$5,000,000 of expenditures occurring on or before June 30, 2020; and (l) such other maintenance, repairs and improvements as the Parties may hereafter agree. In operating the Aquarium, SEAS should endeavor to partner with local entities with experience or expertise in marine conservation and education, including the National Oceanic and Atmospheric Administration, the University of Washington, Puget Sound Partnership, National Science Foundation, NASA, and local and regional educational institutions, and pay particular attention to exhibits and conservation education focusing on Puget Sound, the Salish Sea, and the waters of the Pacific Northwest.

5. Transfer and Use of Personal Property.

5.1 Transfer of Personal Property. In order that SEAS may carry out its obligations under this Agreement, the City hereby transfers the Personal Property to SEAS, as of the Effective Date. "**Personal Property**" is all property possessed by the City (including without limitation vehicles, boats, computers and software) that is necessary to and exclusively used in the operation and maintenance of the Aquarium that is not: (a) real property; (b) Premises facilities or improvements described in Section 2.1, or (c) art that is in the City's collection. By December 31, 2010, the Parties shall agree on an inventory of the Personal Property as of the Effective Date and shall include that inventory as Exhibit 5 to this Agreement. SEAS shall maintain all such transferred Personal Property in good condition and repair, and shall replace with items of good quality any of the Personal Property that becomes inoperable or unusable if such item is necessary for the operation of the Aquarium, in SEAS' reasonable discretion. The Personal Property (including any replacement Personal Property) shall become the property of the City when this Agreement is terminated. Notwithstanding anything herein to the contrary, the City shall remove the telephone and switching equipment located at the Premises and operated by the City Department of Information Technology ("DoIT") unless SEAS and DoIT prior to the Effective Date enter an agreement for SEAS to purchase such equipment and an agreement for the ongoing operation of the equipment; regardless, SEAS will reimburse DoIT for its budgeted costs for providing telephone service to the Aquarium for 2010 and the costs of any equipment removal.

5.2 Animals, Generally. Personal Property includes all Animals, but if the general terms of this Agreement relating to Personal Property conflict with this Section 5.2, the provisions of this section shall control.

5.2.1 Rights to Animals. All Animals currently owned by the City and all rights to Animals owned by the City shall be transferred to and held by SEAS throughout the Term. The Animals shall be the sole property of SEAS, which shall also assume all obligations the City may have with respect to Animals exhibited, housed, or otherwise kept or cared for at the Aquarium during the Term of this Agreement. The Animals shall become the property of the City when this Agreement is terminated.

5.2.2 Care of Animals. SEAS shall care for all Animals in accordance with all federal, state and local laws and regulations, including the Marine Mammal Protection Act, and in accordance with the policies and guidelines adopted by the AZA.

5.2.3 Sale and Purchase of Animals. SEAS shall have the authority to acquire or sell or otherwise dispose of Animals in the course of

SEAS' operation of the Aquarium. The acquisition, sale or other disposition of Animals shall be made in strict accordance with (a) all applicable federal, state or local laws, regulations and policies, (b) the guidelines and policies of the AZA, and (c) existing and any adopted acquisition and disposition policies approved by the City.

5.3 City Documents. In this Agreement, "**City Documents**" means records pertaining to the operation and management of the Aquarium (including personnel files), but excluding any documents or records in SEAS' custody relating to Aquarium management, personnel, donors, or to the internal operations of SEAS, prior to the Effective Date. Unless and until agreed otherwise between the Superintendent and SEAS, the City will retain custody of all City Documents in its possession on the Effective Date. To the extent necessary to allow SEAS to operate and manage the Aquarium and to the extent permitted by law, the City will provide SEAS access to City Documents in the City's possession. SEAS shall make City Documents in SEAS' possession available to the Superintendent and other City designees promptly upon request and shall follow the Superintendent's instructions for disclosing City Documents in SEAS' possession in response to public records disclosure requests. SEAS will also comply with the records retention schedule for City Documents in its possession and make those City Documents available for purposes of compliance audits. SEAS shall return the City Documents to the City when this Agreement is terminated.

5.4 Aquarium Subaccount. Presently the Aquarium receives no direct operating subsidy from the City. Positive net income from Aquarium operations in any given year is contributed to the Aquarium Subaccount and operating losses are absorbed by it. As of the Effective Date, the City estimates there will be approximately \$350,000 in the Aquarium Subaccount. The 2010 City Budget assumes that the Aquarium continues under City management for the entire year and that this transaction will not impact the City's General Fund. Therefore, the City agrees to transfer the funds in the Aquarium Subaccount to SEAS on the Effective Date. Any 2010 revenues earned but not received prior to the Effective Date shall be transferred to SEAS when received. Any 2010 expenses incurred but not paid prior to the Effective Date shall be paid by SEAS when due. From January 1, 2010, through the Effective Date, the City, acting through the Aquarium director, will consult with SEAS regarding anticipated charges to the Aquarium Subaccount that are in excess of ordinary charges for day-to-day operations. The City will provide SEAS with an accounting of its profits and losses with respect to the Aquarium for 2010 by February 28, 2011.

6. Fiscal Matters.

6.1 Debt Service Reimbursement. SEAS shall pay the City the Debt Service Reimbursement amounts in accordance with the schedule shown on Exhibit 6 (the "**Reimbursement Schedule**") by electronic funds transfer to the City's bank. The City will not provide invoices to SEAS. SEAS' payment obligation is absolute and

unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. SEAS may prepay all or any part of the principal amounts shown on the Reimbursement Schedule at any time so long as SEAS agrees to fully compensate the City for its costs incurred in connection therewith, including the costs of defeasing bonds issued to finance the underlying work. In the event of any prepayment of the Debt Service Reimbursement, the City shall prepare an updated Reimbursement Schedule to reflect the revised reimbursement amounts and SEAS shall thereafter pay such revised amounts to the City. SEAS shall not undertake any Capital Improvements or design or create any new or refurbished Exhibits if its payment of the Debt Service Reimbursement is in arrears.

6.2 SEAS Revenue. SEAS shall collect and retain all admission proceeds and other revenue derived from operation of the Aquarium including, without limitation, fees and receipts from concessions, souvenirs and other services offered by SEAS to the public at or in association with the Aquarium, and all contributions collected by SEAS from any other source. SEAS shall expend or invest such revenue exclusively for Aquarium Purposes.

6.3 Fees and Prices. Subject to Article 13 of this Agreement, SEAS shall have the authority to set the amount of all prices and fees for admissions, services rendered or sales made to the public or otherwise at the Aquarium, including without limitation, food and drink concessions, membership passes, souvenirs, special exhibits and other special events.

6.4 Solicitation of Private and Public Funding. SEAS shall: (a) solicit private support for SEAS through membership fees and charitable contributions and solicit federal, state or local grants or other funds to support the operation and purposes of the Aquarium; and (b) apply all funds contributed to it as membership fees, charitable donations, public grants or loans, or any other sources, to the operating expenses, exhibits, Capital Improvements, and other Aquarium purposes in accordance with this Agreement, and to the administrative and operating expenses of SEAS. Without limiting the generality of the foregoing, SEAS agrees to use its best efforts to fundraise a minimum of \$15,000,000 by June 30, 2020, and future City capital contributions to Aquarium improvements will be evaluated in part against SEAS' success in achieving this goal. The City hereby agrees to use its reasonable efforts to assist SEAS in the solicitation of federal, state and county grants or other sources of non-City public funding to support the operation of the Aquarium or the financing of any work performed to bring any building, structure or service within the Premises into compliance with any applicable local, state or federal law or regulation, including without limitation the Americans With Disabilities Act of 1990. SEAS may apply for grants in the City's name subject to the Superintendent's prior approval or if the Superintendent instructs, by the Seattle City Council. The City Council retains the right to accept or not accept grant funds so applied for. All grants to the City received for the Aquarium shall be

transferred to SEAS within thirty (30) days of the receipt of the grant funds, if permitted by the terms of the grant.

6.5 Naming Rights.

6.5.1 Name. Under no circumstances may the Aquarium's name be changed from "Seattle Aquarium" without formal action by the Parks Board and the City Council.

6.5.2 Donation Acknowledgement. The City expressly permits SEAS to recognize donors for their contributions to specific exhibits and discrete capital improvements by naming such exhibits or improvements and displaying recognition names as agreed between SEAS and its donors, provided that all donor recognition at the Aquarium is subject to the approval of the Superintendent or his or her designee, not to be unreasonably withheld.

6.6 City Financing. If requested by SEAS, the City will consider issuing debt for Aquarium capital purposes. Responsibility for funding debt service on such debt shall be agreed to by the Parties.

6.7 City Approval of SEAS Debt. SEAS shall not incur aggregate debt in excess of \$1 Million without the approval of the City's Finance Director, which approval shall not be unreasonably withheld, conditioned or delayed.

7. Maintenance and Operations.

7.1 Routine Maintenance and Janitorial Services.

7.1.1 SEAS' Obligation. SEAS shall provide all routine maintenance and janitorial services required to maintain the Aquarium in a clean, safe and sanitary condition, and as necessary to maintain all necessary licenses and accreditations. Without limiting the generality of the foregoing, SEAS shall be solely responsible for items such as ductwork cleaning, interior and exterior window washing and repairs, gutter cleaning, caulking, tenant improvements and interior painting. SEAS shall employ sufficient personnel, or show evidence satisfactory to the City of personal service contracts which provide such personnel, to perform the routine maintenance and janitorial work in a prompt and efficient manner. While they remain City employees, the Aquarium's maintenance staff represented by Local 1239, will perform the janitorial and routine maintenance services for the Aquarium.

7.1.2 Routine Maintenance by Parks Department Forces. At SEAS' request, the Parks Department will provide routine maintenance at the

Aquarium using City forces in substantially the same manner that the City currently provides such maintenance. The City will document the actual and direct labor hours, overhead, and any materials provided as a part of any such maintenance and submit such documentation to SEAS together with the City's invoice, on a monthly basis. SEAS shall pay such invoice within ten (10) Business Days of receiving it.

7.2 Capital Maintenance and Repair.

7.2.1 City Financial Commitment. The Parties acknowledge that the Aquarium was constructed in 1977, and although the facility has been improved from time to time throughout the years, a substantial amount of Capital Maintenance has been deferred. The Parties further acknowledge that the Aquarium competes with other City facilities for limited financial resources and the City makes no promise that City funds will be available to finance discretionary Capital Maintenance beyond the \$8,000,000 provided for herein and the City obligations stated in Section 4.1. The \$8,000,000 amount includes hard and soft project costs such as design and permitting, and cost overruns. Notwithstanding the foregoing or anything in this Agreement to the contrary, SEAS, rather than the City, shall be responsible for all maintenance and repairs of any nature whatsoever occasioned by any negligent, reckless or intentional act or omission of SEAS or its officers, agents, employees or contractors.

7.2.2 SEAS Financial Commitment. Prior to June 30, 2030, SEAS shall expend at least \$10,000,000 of SEAS' funds on new or refurbished Exhibits, \$5,000,000 of which must be expended or be reasonably anticipated to be expended by June 30, 2020, or the Superintendent may terminate this Agreement as provided in Section 3.2. SEAS' obligations to fund such new Exhibits shall expire upon expiration or earlier termination of the Term.

7.2.3 Process for Approving Capital Improvements and New Exhibits. The Parties agree that the Aquarium Pier 60 Filter Replacement Project (\$300,000), the Aquarium Pier 60 Piling and Corrosion Renovation Project (\$657,000) and the Aquarium Saltwater Pump Replacement Project (\$500,000) in the City's 2010-2015 Capital Improvement Program will be undertaken and the amounts budgeted in the City's 2010 Adopted Budget will be credited toward the City's \$8,000,000 Capital Maintenance obligation. By March 1, 2010, and by each March 1st thereafter throughout the Term, the Superintendent and representatives from SEAS shall meet and agree on the items of Capital Maintenance and any new or refurbished Exhibits that the Parties wish to undertake during the upcoming year, including any SEAS-initiated Capital Improvements as provided in Section 7.2.4. Proposals for the expenditure of City funds shall be subject to the approval of the Mayor and of the City Council through an appropriation of funds in the City's adopted budget for the upcoming

year that reflects the Parties' estimated cost to perform the agreed City-funded Capital Maintenance for that year. The City will not be responsible for SEAS-initiated Capital Improvements.

7.2.4 Capital Improvements. SEAS may make Capital Improvements or alterations to the Aquarium facilities, at its own expense, subject to the following:

(a) Any Capital Improvement that would modify the structure of the Premises or that would materially add to the City's maintenance costs under Section 7.2.1, requires the prior approval of the Superintendent, which approval may be granted, withheld or conditioned in that official's sole discretion; and

(b) Any Capital Improvement projected to cost more than three million dollars (\$3,000,000), measured in 2008 dollars, shall require the City's approval, by ordinance; and

(c) If the Capital Improvement is of a nature for which plans and specifications are typically prepared and the cost of the improvement is \$500,000 or more, then the plans and specifications for the improvement shall be subject to the Superintendent's review and approval before any construction occurs.

7.2.5 New Facilities Operating and Maintenance Costs. As SEAS funds and builds Capital Improvements and new Exhibits, or expands its support and visitor facilities, the corresponding increases in operating, program and maintenance costs will be the responsibility of SEAS.

8. Conditions for Construction of Improvements.

8.1 General. Subject to the separate agreements between the City and SEAS which shall address scope, schedule, cost, allocation of risk, and other matters, any work under Section 4.1 funded by the City may be managed and performed by SEAS in compliance with any and all applicable state laws, rules and regulations. All construction or repair work, including maintenance performed under contract, undertaken by SEAS using public funds shall be subject to prevailing wage requirements under RCW 39.12.020 and to the requirements of Seattle Municipal Code Chapters 20.32 (Art in Public Works Construction) and 20.45 (Nondiscrimination in Benefits) and the Seattle Parks Department standards for LEED construction.

8.2 Contractor Insurance. Each party hereto shall provide, upon request, evidence acceptable to the other that every contractor engaged by a party to perform work on the Premises maintains insurance in such amounts with such coverages

offered by such companies as shall be satisfactory to the City and SEAS, including but not limited to Worker's Compensation Insurance (including Employers' Liability Insurance) and insurance against liability for injury to persons and property arising out of all such contractor's operations, and the use of owned, non-owned or hired automotive equipment in the pursuit of all such operations.

8.3 Title to Improvements. Except as otherwise provided in this Agreement, all appurtenances, fixtures, improvements, equipment, additions and other property attached to or installed in the Premises by the City during the Term shall be and remain the property of the City and shall not be removed by SEAS without the Superintendent's approval. The City also shall own all SEAS-funded Capital Improvements, new Exhibits, or expanded support and visitor facilities upon their completion.

9. Signage. SEAS shall design and provide all signage for the Premises. SEAS will not maintain signage or advertisements on the Premises to which the Superintendent objects. City ownership of the Premises shall be noted where appropriate in SEAS public relations materials, on SEAS' website, and on Premises signage.

10. Utilities. The City shall provide heating and ventilation, water and sewer and electricity to the Premises to the extent reasonably necessary for the operation of the Premises for the Permitted Use. SEAS shall pay when due, directly to the appropriate company or to the City based on metered readings and prevailing rates, all bills for water, sewer, electricity, data and telecommunications services for the Premises. SEAS and its sub-concessionaires shall comply with commercially reasonable sorting and recycling standards adopted by the City. Except in the event of the City's gross negligence or intentional misconduct, the City shall not be liable for any loss, injury or damage to personal property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements that were due to accident, strike or conditions or events beyond the City's reasonable control shall be deemed an eviction of SEAS or to release SEAS from any of SEAS' obligations hereunder or to give SEAS a right of action against the City for damages. SEAS acknowledges its understanding that there may be City-planned utility outages affecting the Premises and that such outages may interfere, from time to time with SEAS' use of the Premises. The City shall provide SEAS with not less than 48 hours' prior written notice of any City-planned electricity outage affecting the Premises. The City has no obligation to provide emergency or backup power to SEAS. SEAS shall develop and implement protocols and procedures for dealing with power outages.

11. Fees and Taxes. From and after the Effective Date, SEAS shall be liable for, and shall pay prior to delinquency, all taxes, license fees and excise fees covering the business and activities conducted on and the occupation of the Premises by SEAS.

SEAS shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to SEAS' use and occupancy of the Premises, and shall pay all taxes on any leasehold interest created by this Agreement (e.g., leasehold excise taxes). SEAS shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving SEAS of its covenant to pay any such taxes. The City shall not be subjected to any liability nor required to pay any costs or expenses in connection with any such proceeding brought by SEAS and SEAS hereby covenants to indemnify and hold City harmless from any such costs or expenses. SEAS agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that SEAS, if so desiring, may have reasonable opportunity to contest the validity of the same. If SEAS intends to contest or to fail to pay when due any tax or fee referred to in the preceding sentence, SEAS shall provide the City with at least 30 days' notice of that intention before the tax is due, explaining its reasons. The City may choose to pay the tax on behalf of SEAS, and if it is later determined the tax or some portion of it validly owed, SEAS shall reimburse the City.

12. Permits, Licensing and Accreditation.

12.1 Required Permits, Licenses and Accreditation. Throughout the Term, SEAS shall cause both itself and the Aquarium to be at all times (a) accredited by the AZA; (b) licensed with the United States Department of Agriculture; and (c) licensed by the Seattle-King County Health Department.

12.2 Other Licenses and Permits. SEAS and the City shall use their best efforts to have all licenses and permits currently held by the City in connection with the operation of the Aquarium legally transferred to SEAS or to have them canceled upon SEAS' obtaining replacement permits or licenses in its name if transfer is not possible. If any licenses or permits are required to be held by a governmental entity and/or owner of the Premises, or if the Parties agree otherwise with respect to any particular permit or license, then those licenses and permits shall remain in the possession of the City and under the City's name, and SEAS shall hereby be authorized as the agent of the City to perform such services under such licenses and permits as are required in the operation of the Aquarium to the extent permitted by applicable law . Upon any termination of this Agreement for any reason, SEAS shall transfer all licenses and permits back to the City and SEAS shall use its best efforts to assist the City with the documentation of any such transfer or reapplication for any such permit or license to be held in City's name after such termination.

13. Admissions.

13.1 SEAS' Responsibilities. Subject to Section 13.2 below, SEAS shall have the authority to set Aquarium admissions charges. The City and SEAS intend that the Aquarium remain affordable to individuals from all economic circumstances and particularly, to families with children.

13.2 Public Access. SEAS intends to operate the Aquarium with the goal of providing wide access to Seattle residents at an affordable cost. In furtherance of that goal, SEAS will (a) provide reduced admission costs for school groups; (b) make at least 30,000 free passes available annually to human services agencies having a primary purpose of serving low-income Seattle residents; and (c) pursue other options for ease of access to the Aquarium and special services at the Aquarium for children, seniors, the disabled and low-income individuals. Subject to expansion of the Premises in accordance with a City-approved Aquarium Master Plan, SEAS shall provide public access to the west end of the Aquarium pier during Aquarium business hours to the extent such access can be reasonably and safely accommodated and SEAS shall comply with all provisions of the lease between the City and State Department of Natural Resources, including any provisions related to public access, and any access requirements of any City law or regulation, as the same may be enacted, amended, altered or modified, from time to time.

13.3 Admissions Tax. No City admission taxes are currently charged on Aquarium admission. The City agrees that it will not impose admission taxes on Aquarium admissions so long as similar facilities (such as the Woodland Park Zoo and Pacific Science Center) are exempt from such taxes.

14. SEAS' Personal Property. All furniture, furnishings and articles of movable personal property installed in the Premises by or for the account of SEAS, without expense to the City, and which can be removed without structural or other material damage to the Premises (all of which are herein called "**SEAS Property**") shall be and remain the property of SEAS and may be removed by it subject to the provisions of Article 22.

15. Staffing and Employees.

15.1 Generally. The Parties anticipate that as of January 1, 2010, there will be seventy-five (75) City Employees at the Aquarium. It is the intention of the Parties that all City Employees who wish to continue employment at the Aquarium become employees of SEAS. The City is currently pursuing an option whereby City employees who transfer to SEAS employment might remain in the City retirement plan (a "**Favorable Ruling**"). The City will support this option if it is available under state and federal law and approved by the Retirement Board. SEAS will offer employment to all

City Employees for similar employment at the Aquarium to the extent similar positions are available. City Employees will have the shorter of two (2) years from the date of a Favorable Ruling or five (5) years from January 1, 2010, to determine whether they wish to transfer to SEAS employment. The City will use its best efforts to find other City employment for those City Employees who wish to remain in City employment but makes no representation that there will be comparable, vacant positions within the City at the time of the transfer.

15.2 SEAS Supervision of Employees. Pursuant to RCW 35.64.010(4) and commencing on the Effective Date until the transition of City Employees to SEAS employment is complete, SEAS, acting through its CEO, who shall replace the City's Aquarium Director, shall manage, supervise, and direct all City employees employed at the Aquarium and may, subject to the provisions of the City Charter, Seattle Municipal Code, City rules, state legislation and any applicable collective bargaining agreements, hire and, after consultation with the Superintendent, fire and otherwise discipline the City employees. The CEO shall be the ultimate appointing authority as provided for by City Charter and by City Ordinance. SEAS shall, in cooperation with the City's Personnel Director and the Superintendent, develop procedures for implementing this authority with regard to City Employees.

15.3 Employees. SEAS shall comply with all applicable federal, state and local laws, ordinances and regulations pertaining to all current and future employees at the Aquarium during and after their transition from City employment to SEAS employment. In addition, SEAS shall be an equal opportunity employer and make reasonable efforts to maintain a diverse work force. SEAS will use its best efforts during the Term to offer City Employees who transfer to SEAS employment (the "**Transferring Employees**") opportunities for professional advancement and a package of employee benefits that are generally consistent with the opportunities and benefits available to such City Employees as of the Effective Date.

15.4 City Employees Subject To Collective Bargaining Agreements. The City has previously negotiated collective bargaining agreements with collective bargaining representatives representing certain City Employees and anticipates that it will negotiate other such agreements that will affect City Employees working at the Aquarium. The Parties recognize that the terms of these collective bargaining agreements are binding on the City unless altered by mutual agreement between the City and the collective bargaining agents and consistent with all applicable state, federal and local laws. SEAS agrees to supervise City Employees consistent with applicable agreements and to bargain collectively with represented employees in the future.

15.5 City Transfer of Certain Balances. The City will calculate the vacation and sick leave balances for all Transferring Employees as of the transfer date and SEAS will credit the Transferring Employees with the full amount of those hours. The City will pay SEAS the value of the Transferring Employees' balances as follows:

15.5.1 Vacation. The vacation balances will be calculated based on the pay rate in effect on each employee's transfer date. The City will pay SEAS the value of each Transferring Employee's vacation leave in eight (8) equal quarterly payments (12.5% per quarter) beginning with the end of the first quarter in which the employee transfers to SEAS employment, such that the liability for vacation for each transferring employee will be paid out to SEAS over a two-year period.

15.5.2 Sick Leave. The City shall pay SEAS one-half of the value of the unused sick leave for each Transferring Employee in equal annual installments over five (5) years commencing the January following the year in which the employee's transfer date occurred (10% per year).

15.5.3 Pensions. SEAS has established and will maintain and manage a private defined contribution retirement plan for Transferring Employees. If the City obtains a Favorable Ruling as described in Section 15.1 above, and the Transferring Employees are permitted to remain in the City retirement system, then SEAS shall cooperate with the City and promptly execute such documents as the City may require in order to amend its retirement plan to allow for the Transferring Employees' continued participation in the City retirement plan. Thereafter, SEAS shall comply with all requirements of such documents and shall promptly pay when due the employer's share of all retirement system contributions for the Transferring Employees who remain in the City retirement plan.

15.6 Payroll and Taxation.

15.6.1 City Payroll until Transition. Each City Employee will remain on the City payroll until each such employee either transitions to SEAS employment or otherwise leaves City employment. Until such transition or separation, or transfer to other City employment, the City Employees will continue to receive City compensation and benefits, and City employee status and payment of taxes and reporting, although the CEO will supervise them. SEAS shall reimburse the City monthly for all compensation and benefits, including taxes and employer retirement contributions, for each City Employee from the Effective Date until the employee no longer works at the Aquarium. SEAS shall include a staffing plan and budget in its Annual Plan to the Superintendent and shall endeavor to schedule City Employees' hours so as to remain within the budget. If SEAS anticipates the need for any increase in the staffing budget, it shall so inform the Superintendent no later than September 1st of each year.

15.6.2 SEAS Payroll after Transition. From and after the date each City Employee commences employment with SEAS, SEAS shall make or cause to be made for each such employee all necessary payroll deductions for disability and unemployment insurance, social security, withholding taxes and other applicable taxes, and prepare, maintain and file or cause to be filed all necessary reports with respect to such taxes or deductions, and all other necessary statements and reports.

15.7 No Third Party Beneficiary Status. Employees affected by this Agreement are not intended to be third-party beneficiaries to this Agreement and cannot sue to enforce its terms.

16. Planning and Reporting Obligations; Public Involvement.

16.1 Master Plan. Within 18 months after the Effective Date, SEAS shall prepare for submittal to the Superintendent a strategic plan to help guide investments in the physical development of the Aquarium over the following five years. SEAS shall coordinate its planning and development of a future Master Plan with the Committee on Central Waterfront Partnerships, and the Waterfront Planning parameters subsequently developed by the City Council. The SEAS Master Plan shall be subject to City Council approval, by resolution, and shall be consistent with the adopted City Alaskan Way and Seawall Replacement Program, especially as concerns the seawall replacement component of the program and the redesign of adjacent public spaces at Waterfront Park and Piers 62/63. The Aquarium Master Plan should include, among other elements:

(a) A description of planned or potential physical development, including any planned infrastructure improvements and the timing of those improvements, including development priorities, the probable sequence for such planned development and estimated dates of construction and occupancy;

(b) A statement explaining the purpose of the development proposed in the master plan, including the public benefits resulting from the proposed new development and the way in which the proposed development will serve the public purpose mission of the Aquarium;

(c) A strategy for preservation of currently designated historic structures in connection with any future development;

(d) A strategy for preservation of view corridors in connection with any future development; and

(e) Consideration of pedestrian access to and circulation around the pier, including improved connections to existing and proposed public spaces, including Waterfront Park, Piers 62/63, the Pike Place Hillclimb and new public

space immediately east of the Aquarium; and strategies to activate and program spaces adjacent to the Aquarium and support public access to the water's edge.

16.2 Annual Report to City Council Parks Committee. SEAS shall, at its sole expense, prepare an Annual Report that provides, for the preceding Fiscal Year, (a) a general summary of the Aquarium's operations; (b) a financial accounting for all funds received by SEAS for the continued operation and management of the Aquarium from all sources, by category, and lists all expenditures, including any capital investments, made at the Aquarium; (c) an analysis of the affordability of Aquarium admission fees and membership rates on middle-income families; (d) a description of the public benefits provided; and (e) an updated business plan, if any material assumptions have changed. On or before July 1st of each year throughout the Term, SEAS will provide a briefing on its Annual Report for the prior Fiscal Year to the City Council's Parks Committee or its successor committee.

16.3 Monthly Report to Superintendent. Beginning one month after the Effective Date and each month thereafter throughout the Term, SEAS shall provide the Superintendent with a report of the attendance and revenue totals for the Aquarium for the preceding month, by source.

16.4 Annual Plan to Parks Board and Superintendent. On or before December 1st of each year throughout the Term, SEAS shall, at its sole expense, prepare and deliver an Annual Plan for the next Fiscal Year to the Parks Board and to the Superintendent, for that official's approval. The Annual Plan shall cover, at a minimum, any Capital Improvement and Exhibit expansion or refurbishment plans and a description of any planned major programmatic changes. The Superintendent and the CEO shall meet each year to discuss the contents of the Annual Plan.

16.5 Annual Independent Audit. Within sixty (60) days after the end of each Fiscal Year, SEAS shall arrange for an audit of its books and records by an independent, certified public accountant. This audit shall be conducted at SEAS' sole cost and expense and shall cover the previous Fiscal Year. SEAS shall deliver to the Superintendent an original, signed copy of each such annual audit by the earlier of (a) thirty (30) days after the completion of such audit or (b) 180 days after the end of the Fiscal Year covered by such audit.

16.6 Financial Records. SEAS shall establish and maintain books, records and systems of account relating to the Aquarium's gross revenue and operating expenses in accordance with generally accepted accounting practices for non-profit organizations. These records shall, to the extent necessary to meet requirements for audits under Section 16.5 of this Agreement, be retained by SEAS and made available to the City upon request.

16.7 City Audit Participation. If requested by the City, SEAS shall make available all information reasonably necessary for the City and, to the extent required by applicable law, for the State Auditor to perform audits of the use and application of all public revenues, grants, fees and City funds received by SEAS during the current and preceding year.

16.8 Public Involvement.

16.8.1 Involvement on SEAS Board. Subject to the provision that all SEAS Board appointees shall be subject to qualification requirements and approval based upon the criteria generally recognized for membership on SEAS' Board, the Mayor and the Chair of the City Council committee with oversight of the Aquarium will each be entitled to appoint one person to SEAS' Board. The Superintendent shall also be appointed to SEAS' board. All City appointees shall have full voting rights. Following the initial appointments to the Board positions authorized under this Subsection, succeeding new appointments to these two positions by the appointing authorities may only be made effective upon the occurrence of a vacancy or expiration of the preceding term.

16.8.2 Public Involvement Process for Major Capital Projects. Except for those projects identified in the approved Master Plan, the City and SEAS agree that the development process for any Capital Improvement projects costing more than \$3,000,000 must include reasonable opportunities for public involvement. For each such capital project, the Superintendent and SEAS will develop such a process for public involvement that is consistent with the Parks Department's Public Involvement Policy.

16.8.3 Open Meetings. The City and SEAS intend that to the extent practicable, decision-making with respect to Aquarium operations policies shall occur openly and with due consideration of public input and in a manner consistent with the spirit of the Washington State Open Public Meetings Act, RCW 42.30. SEAS therefore agrees that (a) all regular, annual and special meetings of the SEAS Board of Directors (the "**Board**") shall be open and public; (b) members of the public shall be permitted to attend any such meeting without being required, as a condition to attendance, to register his or her name or otherwise to fulfill any condition precedent to his or her attendance; (c) SEAS will not adopt any policies or resolutions materially affecting Aquarium operations policies outside of a public meeting; and (d) no Board meeting voting shall be by secret ballot.

Approximately one week in advance of any regularly-scheduled or annual meeting of the Board (or immediately upon the noticing of any special meeting of the Board), the Board shall provide notice of the Board meeting time, location and proposed agenda items as of the date of the notice to any member of the

public who submits a written request for such notice. Any written request for such notice shall state whether the requesting party wishes to receive such notice by electronic or regular mail. The Board shall also post contemporaneously such notice on the Aquarium internet web page(s). The proposed agenda identified in the notice shall be subject to change.

Nothing contained herein shall be construed as prohibiting the Board from convening an executive session during any regular or special meeting in situations where such session would be authorized under the provisions of the Washington Open Public Meetings Act, RCW 42.30.

16.9 SEAS Code of Ethics. SEAS shall maintain a code of ethics governing its Board members, employees and activities consistent with applicable requirements of State and federal laws and AZA standards. The City may request from SEAS those documents necessary for the City to confirm the existence of an ethics and conflict of interest policy. SEAS will report on compliance with the ethics and conflict of interest policy and any issues that have arisen as a result, in the Annual Report.

17. Insurance. The Parties will provide insurance and abide by the insurance provisions of this Agreement contained in Exhibit 7 to this Agreement.

18. Representations and Warranties.

18.1 SEAS hereby represents and warrants to the City and covenants as follows:

18.1.1 Experience. SEAS is experienced in aspects related to the operation and management of the Aquarium and hereby agrees to apply its best efforts and most efficient methods in the full operation and management of the Aquarium.

18.1.2 Mission. SEAS is committed to its fulfilling its mission: Inspiring conservation of our marine environment. Marine conservation, research, and education, with an emphasis on Pacific Northwest or Puget Sound aquatic ecosystems, will continue to be the primary focus of the Aquarium for the duration of this Agreement and any extension thereof.

18.1.3 Formation. SEAS is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Washington. SEAS shall at all times during the Term of this Agreement maintain its tax-exempt status under Section 501(c) (3) of the Internal Revenue Code.

18.1.4 Authority. SEAS has full power and authority (corporate or otherwise) to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary

action on the part of SEAS and no other corporate or other action on the part of SEAS is necessary to authorize the execution and delivery of this Agreement. The individual executing this Agreement for SEAS has full authority to do so and thereby to bind SEAS to its terms.

18.1.5 Conflicts and Consents. The execution and delivery by SEAS of this Agreement and the performance by SEAS of the transactions contemplated in it will not violate any federal, state or local law, rule or regulation, or conflict with or result in any breach or violation of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or constitute an event or condition that would permit termination or acceleration of the maturity of, the Articles of Incorporation, bylaws or partnership agreement of SEAS (as applicable) or any indenture, mortgage, lease, agreement or other instrument or obligation to which SEAS is a party or by which it may be bound whose termination or acceleration would materially adversely affect the ability of SEAS to perform its obligations under this Agreement. No approval, authorization, consent or other order or action of, or filing or registration with, any person, entity or governmental authority is required for the execution and delivery by SEAS of this Agreement.

18.1.6 Conflict with Orders, etc. The execution and delivery by SEAS of this Agreement will not conflict with any order, judgment or decree of any court, government, government agency or instrumentality, whether entered pursuant to consent or otherwise, by which SEAS may be bound or affected.

18.2 The City hereby represents and warrants to SEAS and covenants as follows:

18.2.1 Authority. The City has full power and authority to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary action on the part of the City and no other action on the part of the City is necessary to authorize the execution and delivery of this Agreement. The individual executing this Agreement for the City has full authority to do so and thereby to bind the City to its terms.

18.2.2 Conflicts and Consents. The execution and delivery by the City of this Agreement and the performance by the City of the transactions contemplated in it will not violate any federal, state or local law, rule or regulation. No approval, authorization, consent or other order or action of, or filing a registration with, a person, entity or governmental authority is required for the execution and delivery by the City of this Agreement.

18.2.3 Conflict with Orders, etc. The Execution and delivery by the City of this Agreement will not conflict with any order, judgment of decree of any

court, government, government agency or instrumentality, whether entered pursuant to consent or otherwise, by which the City may be bound or affected.

18.3 Litigation. There is no litigation, action, arbitration, grievance, administrative proceeding, suit or claim filed and pending, nor is there any investigation by a governmental agency of SEAS or any of its affiliates that, if adversely decided, could have a material adverse impact on SEAS' ability to perform its obligations under this Agreement.

19. Force Majeure. As used herein, the term "Force Majeure" with respect to a delay in performance shall mean any delay that is attributable to (a) any strike, lockout or other labor or industrial disturbance (whether or not on the part of the employees of either party hereto), civil disturbance, future order claiming jurisdiction, act of the public enemy, war, riot, sabotage, blockade, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body; (b) any changes in any applicable laws or the interpretation thereof; or (c) any lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion, or any other cause beyond the reasonable control of the party from whom performance is required and of its contractors or other representatives. Any prevention, delay or stoppage in a party's performance hereunder due to Force Majeure shall excuse the performance of the party affected for a period of time equal to any such prevention, delay or stoppage; provided, however, that during the period of any such delay or stoppage, the party whose performance hereunder is excused shall take all reasonable steps to minimize the length of such delay or stoppage.

20. Indemnities.

20.1 City's Indemnity. The City hereby agrees to indemnify, save harmless and defend SEAS from any and all losses, claims, actions or damage suffered by any person or entity (including SEAS) 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: (a) the City's use or occupancy of the Property, including trademark, patent, and copyright infringement; (b) the City's maintenance, repair or improvement obligations arising under this Agreement; (c) the City's employment of any Aquarium employees prior to the Effective Date; and (d) the City's pension plan for City Employees; but as to subclauses (a) and (b) above, only to the extent such claims, actions, costs, damages or expenses are caused by the willful misconduct or negligence of the City, its authorized officers, agents, employees or invitees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. Notwithstanding anything herein to the contrary, if (and only if) the provisions of RCW 4.24.115 apply to the foregoing indemnification and any injuries or damage on which a claim is based are caused by or result from the concurrent negligence of the City or its agents or employees, and SEAS or its agents or employees, the City's indemnification applies only to the extent of the negligence of the City, its agents or employees. The

City specifically assumes potential liability for actions brought by City's own employees against SEAS and for that purpose only the City specifically waives any immunity against claims by SEAS under the Workers Compensation Act, RCW Title 51; AND THE CITY ACKNOWLEDGES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO PURSUANT TO THE PROVISIONS OF RCW 4.24.115 AND WAS THE SUBJECT OF MUTUAL NEGOTIATION.

20.2 SEAS' Indemnity. SEAS hereby agrees to indemnify, save harmless and defend the City 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 SEAS or any of its officers, agents, employees, or invitees in connection with: (a) SEAS' use or occupancy of the Property, including trademark, patent, and copyright infringement; (b) SEAS' maintenance, repair or improvement obligations arising under this Agreement; (c) SEAS' management of any Aquarium employee while such employee remains employed by the City, but only to the extent such claims, actions, costs, damages or expenses are caused by the willful misconduct or negligence of SEAS, its authorized officers, agents, employees or invitees. The indemnification provided for in this section shall survive any termination or expiration of this Agreement. Notwithstanding anything herein to the contrary, if (and only if) the provisions of RCW 4.24.115 apply to the foregoing indemnification and any injuries or damage on which a claim is based are caused by or result from the concurrent negligence of SEAS or its agents or employees, and the City or its agents or employees, the SEAS indemnification applies only to the extent of the negligence of SEAS, its agents or employees. SEAS specifically assumes potential liability for actions brought by SEAS own employees against the CITY and for that purpose only SEAS specifically waives any immunity against claims the City under the Workers Compensation Act, RCW Title 51; AND SEAS ACKNOWLEDGES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO PURSUANT TO THE PROVISIONS OF RCW 4.24.115 AND WAS THE SUBJECT OF MUTUAL NEGOTIATION.

20.3 Relationship to Insurance Obligations. Nothing contained in this Article 20 shall be construed to affect the allocation of responsibilities between the Parties or the insurance coverages required under Article 17 and Exhibit 7 of this Agreement.

21. Default; Termination of Agreement; Remedies.

21.1 Termination by City. The City shall have the right to terminate this Agreement following an Event of Default. The following shall constitute "**Events of Default**" under this Agreement:

(a) failure of SEAS to perform or comply with any covenant or condition made under this Agreement, or failure of any representation or warranty made by SEAS in this Agreement to have been or to continue to be true and correct. In the event of a monetary default, the City may terminate this Agreement after ten (10) days'

prior written notice to SEAS; for all other defaults SEAS shall have a period of sixty (60) days from the date of written notice from the City within which to cure such default or, if such default is not legally capable of cure within such 60-day period, SEAS shall have a reasonable period to complete such cure if SEAS promptly undertakes action to cure such default within such 60-day period and thereafter diligently prosecutes the same to completion;

(b) abandonment, assignment, encumbrance, or transfer of this Agreement or of the Property by SEAS without the prior written consent of City; and

(c) the appointment of a receiver to take possession of all or substantially all of the assets of SEAS, or an assignment by SEAS for the benefit of creditors, or any action taken or suffered by SEAS under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

The foregoing Events of Default are in addition to any other right to terminate explicitly given to the City elsewhere in this Agreement.

If SEAS is in default of its obligations under Section 6.1 of this Agreement, then SEAS agrees that during the period that such default remains uncured, all rents, issues, income and profits due and to become due from any lease, license or other use of any room or space in the Premises or from any concession therein shall be deemed to have been assigned to the City effective as of the date of default, without the need for further action by either party, and SEAS shall immediately instruct its tenants and licensees to thereafter remit their payments to the City. The City shall apply all assigned revenues it receives to amounts in default and owed by SEAS.

21.2 Termination by SEAS. In the event the City fails to timely perform any obligation required to be performed by the City hereunder, and such failure is not cured within thirty (30) days after written notice of such failure has been delivered to the City by SEAS, SEAS shall have the right to terminate this Agreement; provided that if such default is not legally capable of cure within such 30-day period, the City shall have a reasonable period to complete such cure if the City promptly undertakes action to cure such default within such 30-day period and thereafter diligently prosecutes the same to completion. The foregoing is in addition to any other right to terminate explicitly given to SEAS elsewhere in this Agreement.

22. Surrender of Premises; Transition. Upon the Termination Date or other termination of this Agreement, SEAS shall (a) promptly remit to the City all Debt Service Reimbursement owed and unpaid through the date of termination in accordance with the payment schedule shown on Exhibit 6, and (b) peaceably quit and surrender to the City the Premises and Personal Property together with all permanent improvements

approved by the City, in good order and condition, normal wear and tear and damage caused by casualty or condemnation excepted. The Premises and Personal Property shall be surrendered free and clear of all liens and encumbrances other than encumbrances created or approved in writing by City. SEAS shall, immediately before the Termination Date or other termination of this Agreement, remove all of SEAS' Property as provided in this Agreement, and repair any damage resulting from the removal. SEAS' obligations under this section shall survive the Termination Date or other termination of this Agreement. Any items of SEAS' Property which shall remain in the Premises after the Termination Date of this Agreement may, at the option of the City, be deemed abandoned and in such case may be disposed of by City in any manner allowed by law.

Upon the termination of this Agreement for any reason, SEAS and the City shall cooperate to the fullest reasonable extent in effecting an orderly and efficient transfer of the operation and management of the Aquarium from SEAS to the City or its designee. Such cooperation shall include without limitation the entry into such agreement, the execution of such documents and the convening of such meetings as may be reasonably required to effect such transfer.

23. Hazardous Materials.

23.1 Definitions. As used herein, the following terms shall have the meanings set forth below:

23.1.1 "Environmental Laws" means any applicable federal, state and local laws (whether under common law, statute, ordinance, rule, regulation, code or otherwise), permits, orders, decrees, and other requirements of governmental authorities relating to the protection of human health or the environment, whether existing as of the date hereof, previously enforced, or subsequently enacted.

23.1.2 "Hazardous Material" means any element, compound, chemical, chemical mixture, or other substance that is identified as, or determined to be, a hazardous, toxic or dangerous substance, pollutant, contaminant, waste or material under, or is otherwise regulated under, any Environmental Law or other law relating to chemical management, environmental contamination, environmental cleanup or nuisances, including, without limitation, petroleum and petroleum products, asbestos, radon and other radioactive materials, bio-hazards and lead-based paint.

23.1.3 "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about any other part of the Premises.

23.2 No Hazardous Materials. SEAS covenants and agrees that neither SEAS nor any of its agents or invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises, or transported to or from the Premises, provided that SEAS may use such substances in such limited amounts as are customarily used in the operation and maintenance of aquariums so long as such use is in compliance with all applicable Environmental Laws. Each party hereto shall immediately notify the other party if and when such party learns or has reason to believe there has been any Release of Hazardous Material on or about the Premises.

23.3 SEAS' Environmental Indemnity. If SEAS breaches any of its obligations contained in this Article 23, or, if any act, omission or negligence of SEAS or any of its agents or invitees, contractors or consultants results in any contamination of the Premises or in the Release of Hazardous Material from, on, about, in, on or beneath the Premises, then SEAS shall indemnify the City from and against all claims, liabilities, damages, losses, costs and expenses (including, without limitation, the loss or restriction of the use of the Premises and sums paid in settlement of claims, fines, civil penalties, attorneys' fees, consultants' fees and experts' fees and costs) relating to such Release; provided, however, that, except as set forth in Section 23.4, the indemnity contained in this section shall not apply to any losses resulting from a pre-existing condition. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, clean up, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material, and to restore the Premises to their prior condition, all of which shall be deemed to be direct rather than consequential damages. Without limiting the foregoing, if SEAS or any of its agents or invitees, contractors or consultants causes or permits the Release of any Hazardous Materials on, about, in or beneath the Property, SEAS shall, immediately, at no expense to the City, take any and all necessary actions to abate and remediate the Release in accordance with all Environmental Laws. SEAS shall afford the City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

23.4 City's Environmental Indemnity. If any act, omission or negligence of the City or any of its agents (other than SEAS), contractors or consultants results in or has resulted in any contamination of the Premises or in the Release of Hazardous Material from, in, on or beneath the Premises or if any contamination of the Premises or any Release has occurred before the Effective Date and was not caused by SEAS, then the City shall indemnify SEAS from and against all claims, liabilities, damages, losses, costs and expenses (including, without limitation, the loss or restriction of the use of the Premises and sums paid in fines, civil penalties, attorneys' fees, consultants' fees and experts' fees and costs) resulting from any such contamination or Release; provided, however, that the foregoing indemnity shall not include indemnification for any losses

resulting from SEAS' aggravation of any pre-existing condition through SEAS' actions or inactions, or the actions or inactions of its agents, officers, employees, contractors or consultants, whether negligent or non-negligent. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material, and to restore the Premises to their prior condition, all of which shall be deemed to be direct rather than consequential damages. The City shall afford SEAS a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

24. Assignments; Subcontracting. SEAS has been chosen by the City to operate and manage the Aquarium in reliance upon SEAS' stated and unique expertise, skill and experience. SEAS shall not assign, transfer, mortgage or encumber its interest in this Agreement or any other right, privilege or license conferred by this Agreement, or the Property, either in whole or in part. Any assignment or encumbrance shall be voidable and, at the City's election, shall constitute a material default under this Agreement. Without limiting the obligations of SEAS under this Agreement, the Parties specifically acknowledge that there are existing leases, agreements, and arrangements between SEAS and third parties regarding Aquarium operations that the City approved under the Concession Agreement. SEAS shall have the right and the authority to renew such leases, agreements, and arrangements that expire during the Term and to enter into new and additional contracting arrangements with any other person or entity (including without limitation the Parks Department or other City agency) for the provision of any service required or allowed to be performed by SEAS under this Agreement, including food concessions, gift shop concessions and other concessions, attractions and operations consistent with the Permitted Use, subject to the following:

24.1 All third-party concession agreements with terms in excess of twelve months and generating revenue in excess of \$25,000 per year shall be subject to, and shall incorporate by reference, the terms and conditions of this Agreement.

24.2 Each such concession agreement shall provide that in the event of termination of this Agreement, at the City's option, the third party agreement shall continue in effect as a direct agreement between the City and the third party, and the third party shall execute such documents as the City shall reasonably request in order to evidence or give effect to the third party's attornment to the City.

24.3 Each such concession agreement shall provide that, upon notice from the City to the third party that SEAS is in default on monetary obligations hereunder and that payments of rent and other amounts owing on the third party agreement should be made to the City, the third party shall make all such payments to the City until otherwise instructed by the City or ordered by a court of competent jurisdiction, and shall further

provide that payments so made shall be credited to the third party's obligations under the third party agreement.

25. Prior Contracts between SEAS and the City; Integrated Agreement; Modification.

This Agreement supersedes the Concession Agreement and contains all the agreements of the Parties hereto relating to the subject matter addressed herein. No material provision of this Agreement may be amended or modified except by a written agreement approved by the Seattle City Council and executed by each of the Parties hereto.

26. Notices. All notices required to be given hereunder shall be in writing and either delivered personally or sent by certified mail or express overnight courier service to the appropriate address listed below, or at such other address as shall be provided by written notice. Notice shall be deemed communicated two Business Days from the time of mailing if mailed as provided in this section. For convenience of the Parties, copies of notices may also be given by other means; however, neither party may give official or binding notice except by personal delivery or by certified mail.

If to SEAS:

Seattle Aquarium Society
1483 Alaskan Way
Pier 59
Seattle, Washington 98101
Attn: CEO

If to The City of Seattle:

City of Seattle
Department of Parks and Recreation
100 Dexter Avenue North
Seattle, Washington 98109
Attn: Superintendent of Parks and Recreation

27. Compliance with Laws.

27.1 Generally. At SEAS' sole cost and expense, SEAS shall comply and conform with all laws and all governmental regulations, rules and orders that may from time to time be put into effect relating to, controlling or limiting the use and operation of the Aquarium. SEAS shall secure, or cooperate with the City in its securing, all permits and licenses specifically required for the operation of the Aquarium (copies of which shall be promptly provided to the Parks Department), and shall comply with all applicable laws and regulations relating to labor employed in and relating to the operation of the Aquarium.

27.2 Americans with Disabilities Act. SEAS acknowledges that the Americans with Disabilities Act ("**ADA**") requires that programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. SEAS further acknowledges its obligation to comply with the ADA and any other federal, state or local disability rights legislation. SEAS warrants that it will fulfill that obligation and that it will not discriminate against disabled persons in the provision of services, benefits or activities pursuant to this Agreement.

27.3 Non-Discrimination Ordinances. SEAS shall comply with all applicable 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. Without limiting the generality of the foregoing, SEAS agrees not to 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. SEAS shall take affirmative action to ensure that applicants are employed, and the 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. SEAS shall post in conspicuous places, available to employees and applicants for employment, notices as provided by the City of Seattle setting forth the provisions of this nondiscrimination clause.

28. Installation of Artwork.

28.1 Prohibition against Installation or Integration of Works of Visual Art on Premises. SEAS shall not permit the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended ("**VARA**"), if the removal of such artwork is reasonably likely to result in its distortion, mutilation, modification or destruction unless SEAS delivers to the City an executed waiver of the creator's right of integrity regarding such art work, for the benefit of the City and its successors and assigns, in a form that satisfies both the City and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified.

28.2 SEAS' Indemnification of the City against Liability under VARA. SEAS shall protect, defend, and hold the City harmless from and against any and all claims,

suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Section 28.1 of this Agreement; or (d) any violation of VARA by SEAS or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether the City or any other person employed by the City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Agreement.

29. Liens. SEAS and City shall keep the Premises and Personal Property free from any liens arising out of any work performed, material furnished or obligations incurred by or for SEAS and the City, respectively.

30. Dispute Resolution. In the event of a dispute between or among SEAS and the City regarding any term of this Agreement, the Parties shall attempt to resolve the matter informally through the following mechanism: the Superintendent and the CEO, or their respective designee(s), shall meet to review and discuss the matter(s) in dispute; if the Superintendent and the CEO are unable to reach a mutual resolution, SEAS' Board Chair(s) shall meet with the Superintendent and other City representatives, as appropriate, to review and discuss the matter(s) in dispute. If such persons are unable to resolve the matter informally, either party may submit the matter to a non-binding, structured mediation procedure fashioned by persons or organizations approved in advance by both Parties and experienced in alternative dispute resolution ("**ADR**") procedures. The mediation may be requested by either party and shall be initiated within thirty (30) days from the date of the request unless extended by agreement of both Parties. The ADR procedures utilized for the mediation shall include the exchange of written claims and responses, with supporting information, at least seven (7) days prior to the actual mediation. The positions expressed and mediator's recommendations shall not be admissible as evidence in any subsequent ADR or legal proceeding. If the matter is submitted to mediation and the matter is not resolved, an affected party shall be entitled to pursue any legal remedy available.

31. Use of Recycled Materials. Whenever practicable, SEAS shall use reusable products, recycled-content products and recyclable products, including recycled-content paper on all documents submitted to the City. SEAS shall duplex all documents that are prepared for the City under this Agreement, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced.

32. Miscellaneous.

32.1 Interest. If SEAS fails to pay the City any sum when due, such amount shall bear interest at the rate of twelve per cent (12%) per annum from the date due until the date paid.

32.2 Limitations of Liability. The City's obligations to SEAS and SEAS' obligations to the City under this Agreement shall be limited to the terms and conditions set forth herein. Notwithstanding any other provision in this Agreement to the contrary, in no event shall the City or SEAS be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including without limitation lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

32.3 Parties and Their Agents. As used herein, the term "agents" when used with respect to either party shall include the agents, employees, officers and representatives of such party. All approvals, consents or other determinations permitted or required by the City hereunder shall be made by or through the Superintendent unless otherwise provided in this Agreement or unless the City gives notice otherwise to SEAS. No permission, consent or approval of the Superintendent given pursuant to this Agreement is, or shall be construed as, a representation or assurance that the matter consented to or approved complies with applicable laws, regulations, ordinances or codes, nor shall any such consent or approval be construed to authorize any failure to comply with any of the foregoing.

32.4 No Implied Waiver. No failure by either party hereto to insist upon the strict performance of any obligation of the other party under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues (except in cases where this Agreement expressly limits the time for exercising rights or remedies arising out of a breach), shall constitute a waiver of such breach or of that party's right to demand strict compliance such term, covenant or condition or operate as a surrender of this Agreement. No waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of either party hereto given in any instance under the terms of this Agreement shall not relieve the other party of any obligation to secure the consent of the other party in any other or future instance under the terms of this Agreement.

32.5 Headings and Subheadings. The captions preceding the Articles, Sections, and Subsections of this Agreement and in the table of contents have been inserted for convenience of reference and such captions in no way define or limit the scope or intent of any provision of this Agreement.

32.6 Successors and Assigns. The terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the City and SEAS and, except as otherwise provided herein, their personal representatives and successors and assigns.

32.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

32.8 Access to the Aquarium. The City, the Parks Department and their duly authorized agents shall have access to the Premises and Personal Property at all times (a) for the purpose of inspection and to make any repairs, additions or renovations as the City may have the right to do under the provisions of this Agreement, and (b) for use by the City in case of emergency, as determined by City in its sole discretion.

32.9 Relationship of Parties. The services to be rendered by SEAS pursuant to this Agreement are as an independent contractor only and the relationship between SEAS and the City is solely that of owner and contractor. Nothing contained in this Agreement shall be construed to create a partnership, joint venture, or a relationship of employment or agency.

32.10 Agreement Made in Washington. This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Washington. Venue of any action brought by one party against the other to enforce or arising out of this Agreement shall be in King County Superior Court.

32.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

32.12 Non-Liability of Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other agent of the City shall be personally liable to SEAS, its successors and assigns, in the event of any default or breach by the City or for any amount which may become due to SEAS, its successors and assigns under this Agreement, or for any obligation of the City under this Agreement. Likewise, no board member, member, officer, employee or other agent of SEAS shall be personally liable to the City, its successors and assigns under this Agreement, in the event of any default or breach by SEAS or for any amount which may become due to the City, its successors and assigns, or for any obligation of SEAS under this Agreement.

32.13 Time of Essence. Time is of the essence of each provision of this Agreement.

32.14 Survival of Indemnities. Termination of this Agreement shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Agreement, nor shall it affect any provision of this Agreement that expressly states it shall survive termination hereof.

32.15 Partial Invalidity. If any court determines that any provision of this Agreement or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement, or application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

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

[signatures on next page]

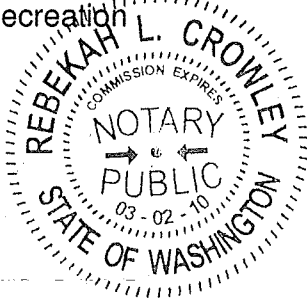
DATED this 26 day of January, 2010

THE CITY OF SEATTLE,
a Washington municipal corporation

SEATTLE AQUARIUM SOCIETY,
a Washington non-profit corporation

By [Signature]
Timothy A. Gallagher
Superintendent of Parks and
Recreation

By [Signature]
Robert W. Davidson
Chief Executive Officer



By [Signature]
Ted Ackerley, Chair
Board of Directors

By [Signature]
Stuart T. Rolfe, Immediate Past
~~President~~, Board of Directors
Chairman

By authority of Ordinance No. 123205

Exhibits:

- | | |
|-----------|-------------------------------------|
| Exhibit 1 | General Premises Diagram |
| Exhibit 2 | Detailed Premises Diagram |
| Exhibit 3 | City's Capital Obligations |
| Exhibit 4 | SEAS' Capital Obligations |
| Exhibit 5 | Personal Property Inventory |
| Exhibit 6 | Debt Service Reimbursement Schedule |
| Exhibit 7 | Insurance Requirements |

Exhibit 1
General Premises Diagram

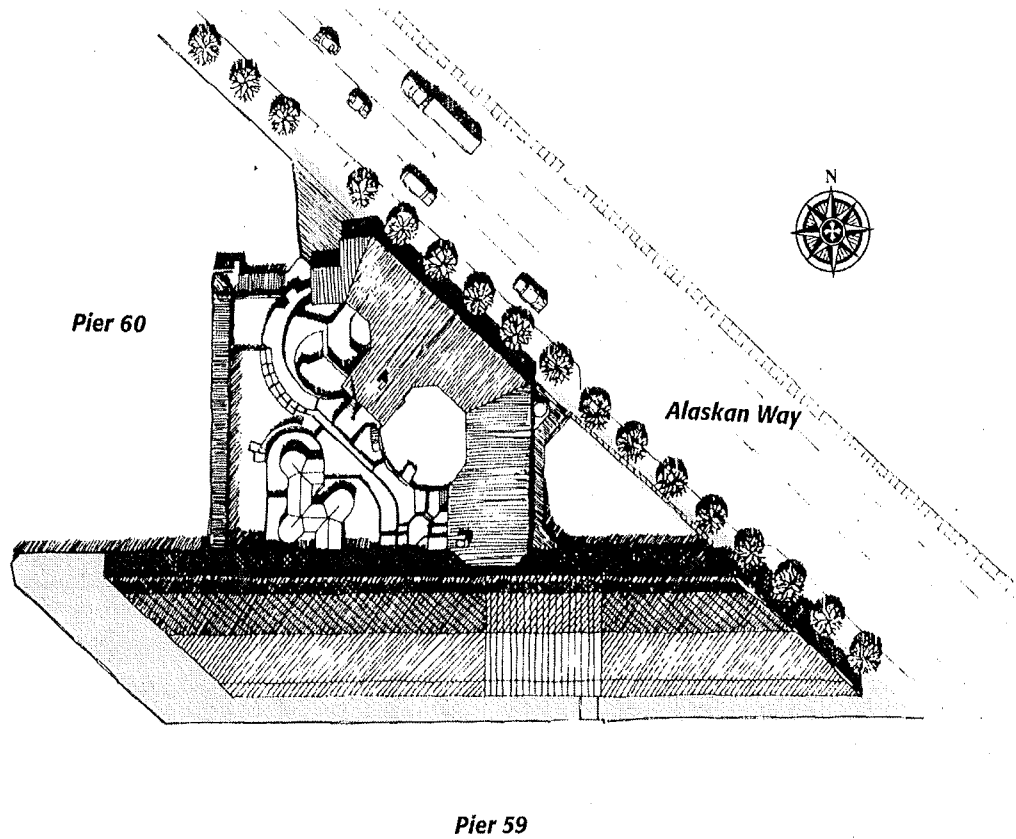


Exhibit 2
Detailed Premises Diagram

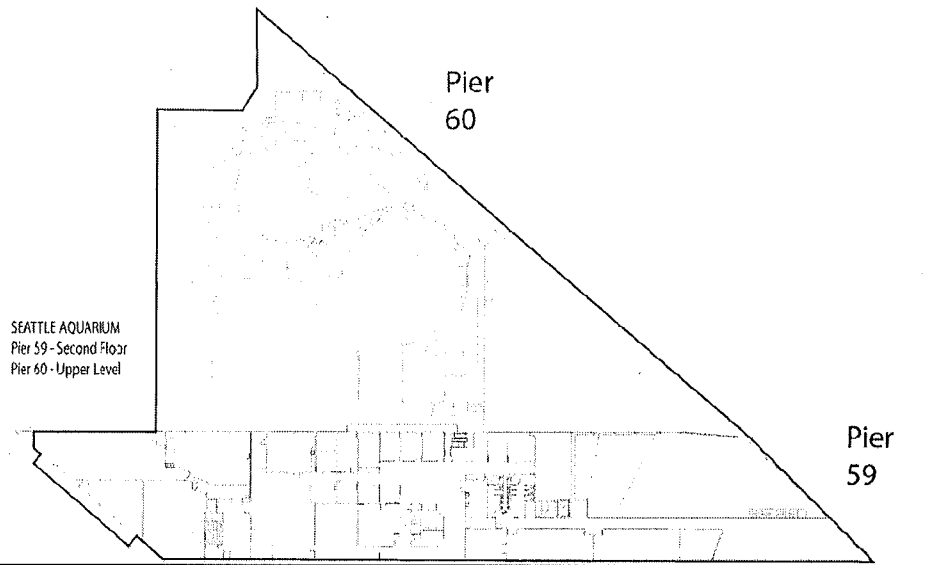
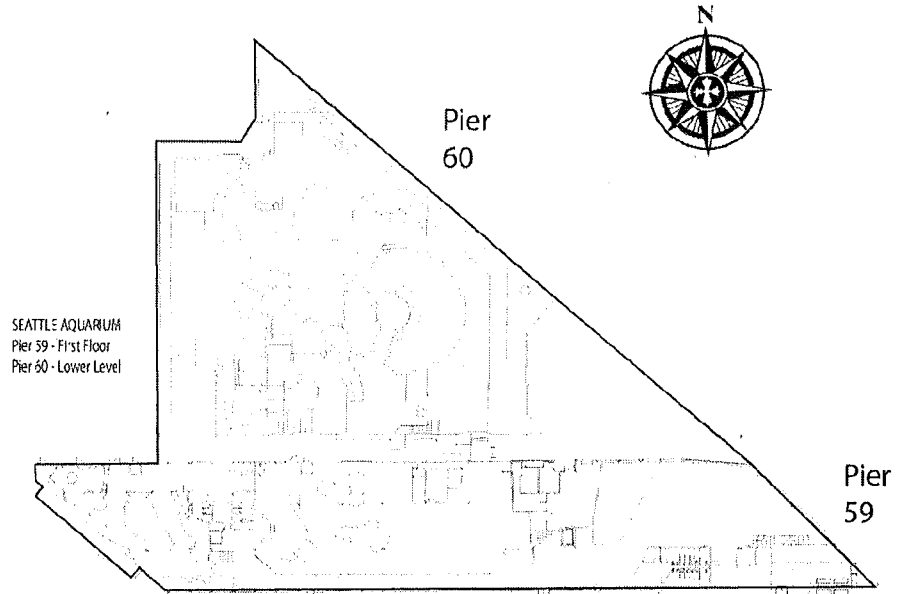


Exhibit 3
City's Capital Obligations

The City shall be responsible for the Capital Maintenance of all Aquarium piers, shell and core, as defined in Section 1.6. Specific responsibilities include, but are not limited to, the following:

Pier supports (pile and posts, pile caps) and under pier foundation elements including corrosion protection and repair (except if damaged in construction of new exhibits).

Building envelope (windows, interior and exterior doors), exterior paint, roof, flashing, and gutters including corrosion protection and repair (except for exhibits incorporated into building envelope).

Exterior concrete deck, interior slab or sub flooring including floor structural elements, wood decking, handrails, and exterior lighting on buildings and along pier apron, including corrosion protection and repair.

Electrical service from utility connection to outlets unless new or relocated.

Salt water delivery system to interior wall of facility and exterior salt water discharge system from wall of facility

Fire alarm and fire suppression systems and emergency lighting.

Fresh water supply from the street to the meter through the double check valve.

Except in restaurant areas, all sewer lines from the exhibits, sink and floor drains, toilets and pipe lines leading to the sewage, force main header collection vaults, sewage lift station pumps and controls and sewage connection lines from the sewage force main header lift stations to the connection with the main sewer lines in the street.

All heating and cooling elements and ductwork through facility, except for systems exclusively serving the gift shop and restaurant.

All elevator systems and stairways.

Structural elements of the exhibits and the corrosion protection necessary to assure the structural systems are protected to include all slab floors for the entire facility.

Exhibit 4
SEAS' Capital Obligations

SEAS shall be responsible for the following items of capital maintenance, repair, replacement and improvements:

Salt water delivery system from interior wall of facility and exterior salt water discharge system to exterior wall of facility.

Fresh water supply from the meter.

All sewer lines and sink and floor drains in the restaurant areas.

All heating and cooling elements and ductwork exclusively serving the gift shop and restaurant.

Exhibits, except for those portions that are integrated into the Aquarium building systems.

Tenant Improvements.

Exhibit 5
Personal Property Inventory

[To Be Attached]

Exhibit 6
Debt Service Reimbursement Schedule

Payment Date	2005 Bonds Principal	2005 Bonds Interest	2007 Bonds Principal	2007 Bonds Interest	Total
7/1/2010*	21,250	24,351.57	61,250	61,000.00	167,851.57
1/15/2011		46,578.13			46,578.13
3/15/2011				115,875.00	115,875.00
7/15/2011	90,000	46,578.13			136,578.13
9/15/2011			410,000	115,875.00	525,875.00
1/15/2012		44,328.13			44,328.13
3/15/2012				105,625.00	105,625.00
7/15/2012	90,000	44,328.13			134,328.13
9/15/2012			625,000	105,625.00	730,625.00
1/15/2013		42,078.13			42,078.13
3/15/2013				90,000.00	90,000.00
7/15/2013	95,000	42,078.13			137,078.13
9/15/2013			900,000	90,000.00	990,000.00
1/15/2014		39,703.13			39,703.13
3/15/2014				67,500.00	67,500.00
7/15/2014	100,000	39,703.13			139,703.13
9/15/2014			1,245,000	67,500.00	1,312,500.00
1/15/2015		37,203.13			37,203.13
3/15/2015				36,375.00	36,375.00
7/15/2015	105,000	37,203.13			142,203.13
9/15/2015			1,455,000	36,375.00	1,491,375.00
1/15/2016		34,578.13			34,578.13
3/15/2016	110,000	34,578.13			144,578.13
1/15/2017		31,828.13			31,828.13
7/15/2017	115,000	31,828.13			146,828.13
1/15/2018		28,953.13			28,953.13
7/15/2018	125,000	28,953.13			153,953.13
1/15/2019		25,828.13			25,828.13
7/15/2019	130,000	25,828.13			155,828.13
1/15/2020		22,578.13			22,578.13
7/15/2020	135,000	22,578.13			157,578.13
1/15/2021		19,625.00			19,625.00
7/15/2021	140,000	19,625.00			159,625.00
1/15/2022		16,125.00			16,125.00
7/15/2022	150,000	16,125.00			166,125.00
1/15/2023		12,375.00			12,375.00
7/15/2023	155,000	12,375.00			167,375.00
1/15/2024		8,500.00			8,500.00
7/15/2024	165,000	8,500.00			173,500.00
1/15/2025		4,375.00			4,375.00
7/15/2025	175,000	4,375.00			179,375.00
Total	1,901,250	853,664.17	4,696,250	891,750.00	8,342,914.17

* July 1, 2010 payment is final quarterly payment using methodology established in the Pier 59 Master Concession Agreement between the City and SEAS, dated October 9, 2006.

Exhibit 7
Insurance Requirements

1. SEAS Insurance Requirements. SEAS shall maintain (and, if applicable, cause its concessionaires, licensees or subtenants to maintain) in full force and effect throughout the Term, at no expense to City, insurance coverage as specified below:

1.1 Commercial General Liability (CGL) insurance including:

Premises/Operations Liability
Products/Completed Operations Liability
Personal/Advertising Liability
Contractual Liability
Stop Gap/Employers Contingent Liability
Independent Contractors Liability
Host Liquor Liability
Fire/Tenant Legal Liability

Such insurance shall provide the following minimum limits of liability:

- \$5,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage
- \$1,000,000 each Offense Personal and Advertising Injury
- \$250,000 each Occurrence Fire/Tenant Legal Liability
- \$1,000,000 each Accident/ Disease/Employee Stop Gap

The above limits may be provided through primary liability insurance only, or by a combination of primary and excess, or umbrella, liability insurance.

1.2 Business Automobile Liability insurance including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of liability of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage.

1.3 Workers Compensation insurance, securing SEAS' liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If SEAS is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, SEAS shall deliver a letter to the City so certifying, signed by

a corporate officer of SEAS and setting forth the limits of any policy of excess insurance covering its employees. In addition, SEAS shall comply with all Federal maritime workers' compensation statutes.

1.4 Property Insurance under which SEAS' furniture, trade and other fixtures, equipment and inventory (Business Contents) are insured throughout the Term in an amount equal to the replacement costs thereof, against the following hazards: (a) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (b) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (c) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (d) loss from business interruption or extra expense, with sufficient limits of liability to provide for the payment of rent and/or other fixed costs during any interruption of SEAS' business, for at least twelve (12) months.

2. General Requirements Regarding SEAS Insurance (Except Workers Compensation).

2.1 The CGL and Business Automobile liability insurance policies required above shall be endorsed to include The City of Seattle as an additional insured and shall be primary with respect to the City so that any insurance and/or self-insurance maintained by City shall be excess and not contributing insurance with SEAS' insurance. The limits of liability specified herein are minimum limits of liability only and shall not be construed to limit SEAS' liability or that of its liability insurers if SEAS maintains higher limits. The City shall be an additional insured for the total limits of liability maintained by SEAS, whether such limits are primary, excess, contingent or otherwise.

2.2 No insurance policy provided hereunder shall be canceled without actual written notice having been delivered to the City at its address shown below at least thirty (30) days prior to the effective date of cancellation or, in the case of non-payment of premiums, ten (10) days' prior to cancellation.

2.3 Policies shall be issued by insurers rated A-:VII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington or procured under the provisions of chapter 48.15 RCW (surplus lines).

2.4 Any deductible or self-insured retention in excess of \$10,000 must be disclosed to, and shall be subject to reasonable approval of the City's

Risk Manager. The cost of any claim payments falling within a deductible or self-insured retention shall be the responsibility of SEAS.

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

3. Evidence of Insurance. For all insurance policies required hereunder except workers' compensation, on or before the Effective Date (and thereafter, no later than five (5) days before the expiration or renewal date of each such policy), SEAS shall deliver proof of insurance coverage acceptable to the City. Such evidence shall be issued to "The City of Seattle, DEA Risk Management Division, P.O. Box 94669, Seattle, WA 98124-4669," but shall be delivered in electronic form as a PDF/XLS file attachment to riskmanagement@seattle.gov, or by facsimile transmission to (206) 470-1279.

Acceptable proof of insurance shall include a certificate of insurance and a copy of the CGL insurance policy provision showing the City as an additional insured for primary and non-contributory limits of liability on ISO Form CG 20 26 or equivalent additional insured or blanket additional insured policy wording.

4. City Insurance Requirements. The City shall insure and/or self-insure the Premises in an amount equal to the replacement cost thereof, against the following: (a) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (b) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; and (c) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises. The City will be responsible for claims falling within the deductible or self-insured retention.

5. Reconstruction Following Loss. In the event of a loss due to casualty then, provided insurance proceeds are sufficient therefor, the City will proceed to rebuild or restore the damaged portions of the facility so as to restore it as nearly as possible to its functionality before the casualty. If the Aquarium is to be restored, then SEAS shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to repair and restore its Business Contents with property that is at least equivalent to, or more suitable than, the Business Contents that were damaged or destroyed. If the Aquarium is not to be restored, then either party may terminate this Agreement upon written notice to the other and in such event, SEAS shall adjust the loss with its property insurance carrier

and promptly pay all insurance proceeds received on account of losses to SEAS' Business Contents to the City.

6. Waiver of Subrogation and Rights of Recovery. Except for losses up to the City's deductible or \$500,000, whichever is less, the City and the City's property insurer(s) shall waive their rights of subrogation and recovery against SEAS for damage to or destruction of the Building and Premises provided such losses result from SEAS' negligence or willful misconduct and only to the extent to which SEAS' Fire/Tenant Legal Liability insurance responds. SEAS and SEAS' insurer(s) shall waive their rights of subrogation and recovery for damage to or destruction of SEAS' Business Contents against the City except with respect to losses falling within the deductible amount and only if such loss is due to the City's negligence or willful misconduct.

7. Assumption of Risk. SEAS' shall bear all risk and responsibility for the placement and storage of its personal property in or around the Premises.

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	John Braden/ 386-4334	Jan Oscherwitz/ 684-8510

Legislation Title:

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to enter into an agreement with The Seattle Aquarium Society for operation and management of the Seattle Aquarium.

Summary of the Legislation:

This legislation authorizes the Parks Superintendent to enter into an agreement with the nonprofit Seattle Aquarium Society ("SEAS") to operate the Seattle Aquarium. Under the proposed agreement, SEAS will operate the Aquarium for 20 years without an ongoing City operating subsidy. While the Aquarium facility will remain under City ownership, all "personal" property at the Aquarium will be transferred to SEAS at transition.

The City will invest \$8 million in capital maintenance by December 31, 2015 and remain responsible for capital maintenance of the buildings and piers for the duration of the agreement. SEAS will invest \$10 million in new or refurbished exhibits and visitor amenities over 20 years, with a \$5 million investment in the first ten years. SEAS is also committing to use its best efforts to fundraise \$15 million by 2020. The agreement gives current City employees working at the Aquarium until December 31, 2014 to decide whether to transfer to SEAS employment or remain in City employment. For those employees who choose to remain in City employment, the City will endeavor to place them in positions as similar to their current positions as possible, but cannot guarantee that positions will be available. The City is continuing to explore avenues for allowing current City employees who transfer to SEAS employment to remain in the City retirement system but resolution of this issue, which requires action by the federal government, is at least two to three years away. For the transferring employees, SEAS expects to offer a benefits package that is comparable to that offered currently by the City.

Background:

In 1968, King County voters approved a bond measure to fund a regional aquarium to be run by the City of Seattle. The facility, known as the Seattle Aquarium, was completed at a cost of \$5.8 million and was opened for operations in 1977. Since its opening, the City of Seattle has continuously operated the Seattle Aquarium.

For many years, SEAS, a nonprofit corporation formed in 1982, has provided support to the Seattle Aquarium to maintain and enhance its exhibits and vital educational and research programs to build community awareness, interest, involvement, and support for the future growth of the Aquarium. This support is primarily in the form of raising funds and providing



strategic advice. Since 2004, SEAS has also managed the merchandise concessions at the Aquarium. In 2007, SEAS began managing food services.

Since the early nineties, the City and SEAS have been discussing the possible transfer of operations of the Aquarium to non-profit management. In 1994, the City-appointed Central Waterfront Citizens Advisory Committee (“CAC”) issued a report entitled “The Central Waterfront Master Plan – Portal to the Pacific.” Among other things, the CAC recommended transferring management and control of the renovated aquarium to a nonprofit corporation.

Over the next decade, the City and SEAS worked toward a vision of a redeveloped Aquarium on the Central Waterfront to be operated by SEAS. Due to changed economic conditions after the “dot.com” recession in 2001 and the deterioration of Pier 59, which required the City to undertake a major capital improvement project to repair it, SEAS and the City agreed to approach the Aquarium redevelopment in phases, beginning with making extensive structural repairs to Pier 59 and developing a new entrance, exhibit area, and visitor services in the east portion of that pier.

In 2005, the City and SEAS entered into a Memorandum of Agreement authorized by Resolution 30737, which outlined the framework for SEAS and the City to jointly redevelop the Aquarium. Resolution 30737 also set out the conditions for SEAS to meet before it assumed the long-term management and operations of the Aquarium. These conditions included the successful completion of the Pier 59 project with significant private fundraising, the retention by SEAS of a competent and reputable Chief Executive Officer to manage the Seattle Aquarium, the preparation of a sound business plan for the operation of the existing Seattle Aquarium, and successful management of the gift shop and food services under SEAS’ control.

The renovation and expansion of the Aquarium and the supporting piers was completed in 2007. On February 1, 2008, SEAS submitted a “Completion Report, Phase One Redevelopment of Pier 59, The Seattle Aquarium” to the Parks Superintendent in which SEAS demonstrated how it had met its management and fundraising milestones on the Pier 59 project. Recognizing SEAS’ accomplishments, the City Council approved Resolution 31080 in August 2008, which requested that the Executive prepare a due diligence report on the feasibility of a successful transition of the operations and management of the Aquarium to SEAS and set out principles to guide such a transition. That due diligence report is attached to this fiscal note. The proposed agreement is consistent with the principles set out in Resolution 31080.

X This legislation has financial implications.



Appropriations:

Fund Name and Number	Department	Budget Control Level*	2009 Appropriation	2010 Anticipated Appropriation
Parks Fund 10200	Parks & Recreation	K13		See note
TOTAL				

Notes: This agreement requires no ongoing City operating subsidy. The Aquarium is assumed to be a break-even operation in the City budget with annual expenses matching annual revenue. Positive net income in any given year is contributed to the Aquarium Subaccount while operating losses are absorbed by it. The 2010 Budget assumes that the Aquarium continues under City management for the entire year. If this legislation is adopted, the City will operate the Aquarium for six months after Council action and will transfer operations to SEAS on the first day of the seven month (“the Effective Date”). The City will also transfer any funds available in the Aquarium Subaccount on the effective date to SEAS, currently assumed to be \$350,000. SEAS will collect all revenue on or after the Effective Date and will pay all expenses. SEAS is responsible to cover any operating losses for 2010, including any loss incurred by the City in operating the Aquarium prior to the Effective Date, and for expenses that other departments incur for providing support services, such as information technology, to the Aquarium.

The City will incur some one-time costs related to transferring sick leave and vacation balances from City employees who chose to leave City employment for SEAS employment. Under the terms of the agreement, the City will pay SEAS for the full value of accrued vacation time and one-half the value of accrued sick leave for each transferring employee. Payments for accrued vacation will be paid quarterly over a two year period starting the first quarter after the employee transfers. Payments for sick leave will be paid in equal annual installments over a five year period beginning the year after the employee transfers.

Because employees may transfer to SEAS at any point between July 1, 2010 and December 31, 2014, it is difficult to provide an accurate estimate of the impact in any given year. The outstanding liability for vacation and sick leave for these employees as of September 25, 2009 is about \$700,000 and if all the employees were to transfer to SEAS in 2010, the City’s cost in 2011 could be as high as \$235,000, although actual costs in 2011 are likely to be much less because at least some employees are expected to remain as City employees for the full five year transition period. Furthermore, sick leave and vacation balances are a liability the City has regardless of whether employees transition to SEAS. When City employees retire, they receive 25% to 35% of the value of their sick leave balances. This agreement, like the agreement with the Woodland Park Zoological Society, provides the non-profit with 50% of the value of the sick balances, under the assumption that some of this leave will ultimately be taken at full value by employees.

On the capital side, the City will retain major maintenance responsibility for the building shell and core and the piers and commits to performing capital maintenance to keep the Aquarium open and operating through the term of the agreement. In addition, the City commits to provide \$8 million toward Capital Maintenance by December 31, 2015. Some of this funding is already incorporated in the 2010 budget, including \$1.457 million for Pier 60 Piling and Corrosion



Renovation, Pier 60 Filter Replacement, and Saltwater Pump Replacement. The remaining amount will be funded in subsequent budgets.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2009 Revenue	2010 Revenue
Parks Fund 10200	Parks & Recreation	K13		n/a
TOTAL				

Notes: As described above, SEAS will reimburse the City for any operating losses incurred at the Aquarium prior to the Effective Date. Since the 2010 budget for the Aquarium is assumed to be break-even, this has no net impact on the 2010 budget.

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

Notes: The City is currently pursuing an option whereby City employees who transfer to SEAS employment might remain in the City retirement plan (a “Favorable Ruling”) with SEAS providing the required employer contribution. This option would require a change in the IRS definition of a government plan which is currently under federal review and is unlikely to occur in less than two to three years. City employees will have the shorter of two (2) years from the date of a Favorable Ruling or five (5) years from January 1, 2010, to determine whether they wish to transfer to SEAS employment or remain in City employment. For those employees who choose to remain in City employment, the City will endeavor to place them in positions as similar to their current positions as possible, but cannot guarantee that positions will be available. Due to the uncertainty of when individual employees will transfer to SEAS, no position changes are included in this legislation. This will be addressed in the annual operating budgets for 2011 and beyond.

- **Do positions sunset in the future?**
 Yes. It is anticipated that all Aquarium positions will be abrogated by January 1, 2015.
- **Spending/Cash Flow:** N/A

Notes:

- **What is the financial cost of not implementing the legislation?**
 The Aquarium has been operating on a break-even basis for the last several years in large part due to the partnership between SEAS and the City. This partnership has been based on the expectation that the Aquarium would ultimately transfer to non-profit management. If this legislation does not proceed, SEAS believes that it cannot maintain the interest of its donors, board and senior members of its staff. While this impact is difficult to quantify, it may result in the need for general fund resources to support the Aquarium as was the case in



the 1980s and 1990s, when Aquarium attendance stagnated at a level of about 600,000 visitors a year.

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

There are no alternatives to spinning off the Aquarium to nonprofit operation/management that would achieve the same objectives.

- **Is the legislation subject to public hearing requirements:**

Not legally required

- **Other Issues**

There will be impacts to the Aquarium by plans to replace the Alaskan Way Viaduct. The Deep Bore Tunnel construction itself is not expected to disrupt the waterfront or the Aquarium, but the relocation of City utilities from the Viaduct corridor, removal of the Viaduct and construction of the new Western Avenue and Alaskan Way boulevards and Seawall will present challenges to the Aquarium in the 2013-2015 period. SEAS will need to remain actively involved in the Viaduct replacement planning process to assure the least possible impact on attendance, operations and finances in the near term. SEAS will also need to coordinate its planning of a future Master Plan with the Committee on the Central Waterfront Partnerships, and the Waterfront Planning parameters subsequently developed by City Council.

- **List attachments to the fiscal note below:**

Attachment 1 to Fiscal Note – 2009 Seattle Aquarium Transition Due Diligence Report



ATTACHMENT 1 TO FISCAL NOTE 2009 SEATTLE AQUARIUM TRANSITION DUE DILIGENCE REPORT

This report describes the due diligence investigation undertaken by the City of Seattle (“City”) and the Seattle Aquarium Society (“SEAS”) to evaluate the prospects for successful long-term transition of the management and operation of the Seattle Aquarium from the City to SEAS pursuant to Seattle City Council Resolution 31080. Staff from the Departments of Parks and Recreation, Finance, Law, and City Council central staff (the “Transition Team”) have worked closely with SEAS staff and SEAS board members in this due diligence effort. The process has been an iterative one; as results of the due diligence investigation have been determined, they have informed the negotiations.

On May 12, 2009, SEAS and the Parks Superintendent briefed the Seattle City Council’s Parks and Seattle Center Committee on how SEAS had met or intended to meet the three specific conditions for transition set out in Resolution 31080:

- a) The SEAS Board of Directors confirmed its intent to hire a reputable Chief Executive Officer (CEO) to manage the Seattle Aquarium following the transition. On May 19, 2009, the SEAS Board of Directors adopted a formal resolution expressing its intent to hire Robert W. Davidson as CEO. Bob has served as CEO of SEAS since March, 2002. He strengthened SEAS’ financial health and business systems, leading the national nonprofit rating group, Charity Navigator, to upgrade SEAS’ rating from “2” to “4” stars, the highest level possible. He managed the successful design and construction of SEAS’ \$19.6 million portion of the Pier 59 renovation with gifts from 2,000 donors. He also conducted national processes to solicit proposals for food and gift store partners for the Seattle Aquarium, executing long-term contracts with first-tier national businesses and obtaining over \$1.7 million of private investment in the Aquarium.
- b) In collaboration with the City, SEAS has developed a sound business plan which it believes it can achieve under the proposed terms of the Operations and Management Agreement. The plan, which includes a 10-year operating pro forma, assumes no operational subsidy from the City, conservative ticket price increases, modest growth assumptions, and a greater reliance on fundraising. With the exception of eliminating the position of the current Aquarium Director, SEAS expects to maintain existing staffing levels and will need to add some resources to perform administrative functions (human resources, accounting and information technology) currently provided by the Parks Department. The pro forma and its underlying assumptions are described in more detail in Exhibit A and Exhibit B.
- c) SEAS has been successful in the management of initial phases of Aquarium operations (detailed in a report to the Parks Superintendent dated February 1, 2008) working in partnership with the City to plan and carry out the \$42 million Seattle Aquarium expansion and redevelopment project. Through its New Currents Capital Campaign,



SEAS provided \$19.6 million to fund two new major exhibits, café and food services, gift store, new front entrance and visitor/event spaces. SEAS exceeded its original fundraising target of \$13.7 million and was able to apply its additional funds to amenities at the Aquarium.

In determining whether the Aquarium could be successfully transitioned, the Transition Team asked and examined the following additional questions:

How would City employees fair under a transition to SEAS management of the Aquarium?

To gain input from Aquarium employees about the most critical issues facing them in transition, Aquarium management and labor unions representatives conducted a survey in September 2009 (Exhibit C). This survey, which had an 83% response rate, showed that Aquarium employees are concerned about their personal welfare as they consider the upcoming transition, and they largely desire to continue to work at the Aquarium. Retaining fixed benefits in retirement is a critical issue for many employees.

For the past year, the City and SEAS have explored avenues for allowing current City employees who transfer to SEAS employment to remain in the Seattle City Employee Retirement System (SCERS) if they so desire, with SEAS paying the employer's share. In the course of our inquiry, we discovered that resolution of this issue requires action by the Federal government and is at least two or three years away. The Transition Team analyzed the impact on individual employees' retirement if they were able to stay in SCERS for two and five additional years from January 1, 2010 (Exhibit D - Employee Retirement Impact Analysis). This analysis informed the decision to extend the employees' transition period to the earlier of December 31, 2014 or two years after a favorable ruling from the federal government on whether they can remain in SCERS.

SEAS has committed to provide comparable benefits to transferring employees to those currently offered by the City and has gone to the marketplace to price these benefits for employees. On October 27, 2009, SEAS presented a draft matrix of benefits to the Aquarium and SEAS staff; the details are displayed in Exhibit E. This list of benefits will be subject to collective bargaining with the five unions who represent Aquarium employees. Prior to the transition date, SEAS will develop an Employee Handbook that will describe the policies, programs and benefits available to eligible employees.

Could SEAS operate an Aquarium that met the principles of affordability to Seattle families?

As part of its Business Plan, SEAS conducted a survey of peer institutions and determined that the Seattle Aquarium was underpriced compared to other aquariums of its size and quality. It also surveyed local attractions and determined it was priced competitively in comparison to them (Exhibit F). Even with ticket prices increasing a dollar a year for the next five years as proposed



in SEAS' operating pro forma, the Seattle Aquarium would still cost less than the nation's top tiered aquariums charge today.

To address concerns regarding affordability, SEAS has pledged to continue and expand programs giving access to members of the community who might not otherwise be able to visit the Aquarium. Examples include free admission and subsidized transportation for qualifying schools (40% student eligibility for free/reduced lunch program, ESL/ELL or special-needs class) through the Splash! Scholarship Fund and distribution of 18,000-20,000 free tickets within King County to people with special needs, disabilities, senior citizens, etc through direct requests from non-profits. Further, SEAS will provide an analysis of affordability annually to the City Council as part of its yearly update.

Could SEAS maintain a focus on marine conservation and education and maintain the highest standard of care for Aquarium animals and specimens?

The SEAS Board, in its June, 2008 retreat, officially reaffirmed its commitment to the mission statement of "inspiring conservation of our marine environment." SEAS has pledged to continue the Aquarium's stated commitment to maintain the highest standard of care for animals and specimens. The Seattle Aquarium has been accredited recently by the Association of Zoos and Aquariums (AZA) and has been told officially that it will not have to undergo an out-of-cycle accreditation process because of the transfer of management/operations functions to SEAS. AZA is the national agency which evaluates local zoos' and aquariums' conformance to the highest standards of animal/specimen care, and their statement of support for SEAS' management/operations of the Seattle Aquarium underlines their belief in SEAS' ability to support the conservation mission and commitment to the highest standard of care of animals and specimens.

Could SEAS and the City come to an agreement about how to maintain the physical plant?

The City and SEAS acknowledge that the Seattle Aquarium facility needs significant structural and system repair, renewal or replacement. As part of the due diligence process, the City and SEAS jointly commissioned a national firm (VFA, Inc.) to complete a detailed analysis of the Aquarium's physical plant on Piers 59 and 60 and identify an optimal schedule for major maintenance based on system age and condition. The original VFA asset reports of Piers 59 and 60 are included as Exhibits G and H. These lists were modified by the Aquarium's engineering staff based on their experience and expertise. As a next step, the Transition Team allocated specific projects to the City and SEAS based on an agreed upon division of responsibilities (generally, the City is responsible for the building shell and core and the underlying piers and SEAS is responsible for exhibits and tenant improvements). Exhibit I describes the facility asset systems, allocated by proposed responsible party. Aquarium management will decide replacement and repair schedules and this will be a function of capacity, urgency, and opportunity.



Conclusion

Based on the information analyzed during the due diligence process and presented above, the Executive and SEAS have independently and jointly concluded that the Seattle Aquarium can be successfully transitioned to SEAS long-term operations and management.

EXHIBITS:

Exhibit A – SEAS 10 Year Pro Forma Business Plan Narrative

Exhibit B – SEAS Expected Case Scenario 10 Year Pro Forma

Exhibit C – Report titled “Survey of Aquarium Employees – Proposed Transition to Nonprofit Management”

Exhibit D – Employee Retirement Impact Analysis

Exhibit E – Draft Proposed Employee Benefits Matrix

Exhibit F – Benchmark Analysis of Peer Institutions’ Pricing

Exhibit G – VFA Asset Snapshot Report for Pier 59

Exhibit H – VFA Asset Snapshot Report for Pier 60

Exhibit I - Asset List Allocated by Responsible Party

Exhibit A – SEAS 10 Year Pro Forma Business Plan Narrative

1. Attendance

- a. 2009 Full Year Forecast: 784,000 (flat from 2008)
- b. 2010 Full Year Forecast: 784,000 (flat)
- c. 2011 and thereafter: +1.5% growth in annual paid attendance
 - i. Specific nonprofit led initiatives:
 1. Annual investment reserve requirement of 2-4% of gross revenues deployed every 2-4 years to help produce some new marketable features every few years to remain viable and support essentially flat, slightly growing attendance assumption.
 2. Continued emphasis on interactivity of exhibitry as demonstrated by the significant diver communication aspect intentionally designed into the *Window on Washington Waters* exhibit unveiled in June, 2007.
 - ii. Continued Aquarium initiatives:
 1. Continued evolution of marketing plan for the Seattle Aquarium as evidenced by the award winning *Let Leonard In* campaign and associated growing attendance years from 2001 to present.

2. Revenue

- a. Gate Revenue
 - i. Ticket prices 2009: \$16/adult, \$10.50/youth, under 3 FREE
 - ii. Future ticket pricing: Grows approx. \$1/year on adult (pro rata on youth) annually for first five years, roughly one quarter of that thereafter (subject to change based on outcome of allocation of major maintenance responsibility between City and Society).
 - iii. Relative to comparable area attractions, the Seattle Aquarium remains at or below relative pricing and relative to Aquariums nationally, the Seattle Aquarium remains below average.
 - iv. Netted against inflation, the annual increase is considered nominal and will be considered as a function of what the marketplace can reasonably bear.
 - v. Affordability programs: To address concerns regarding affordability, the Seattle Aquarium currently provides programs to provide access to members of the community who might not otherwise be able to visit the Aquarium, some examples include:
 1. Splash! scholarship fund for qualifying schools which provides for free admission and subsidized transportation.
 2. Distribution of roughly 18,000 free tickets annually to the community via direct nonprofit solicitation of the Aquarium as well as distribution of blocks of free tickets to the Parks Department for use via area community centers.
 3. "Little Bit" overnight program for youth with disabilities and their chaperones.
 4. City Employees Latino night and Latino Family Night as well as outreach into Latino community partnering with local nonprofits focused on this constituency.



Exhibit A – SEAS 10 Year Pro Forma Business Plan Narrative

Possible new affordability program ideas under nonprofit management could include:

5. Outreach to the foster family community, provision of low or no cost programming.
 6. Outreach to the Children's Hospital and Regional Medical Center, provision of low or no cost programming.
 7. Continued connection with senior living centers, providing an interesting and fun outing for area senior citizens at a time of day best suited for their needs. Nonprofit assisted-living centers which petition the Aquarium directly today are provided with free tickets but no other services.
 8. Low or no cost evening events catering towards different cultural groups living in the Puget Sound region.
- vi. Risk on the assumed average ticket: Chinook book, bargain discounting, City Pass could all contribute negatively towards the Seattle Aquarium's ability to maintain revenue at modeled levels which are critical for the early years of transition.
- b. Earned Revenue (Food and Gift Store via contracted partners Sodexo and Event Network)
- i. Food and beverage business is conservatively estimated in 2010 following economic downturn in 2009. Commission revenues grow 4.5% per year thereafter.
 - ii. Number of evening events grow at a similar rate, and fee for event rentals grows at City of Seattle CPI for 2010 and 2011, and 4%/year thereafter.
 - iii. Gift store revenues are largely a function of attendance, the 2010 per cap sales are assumed down per recession and recover in later years, growing just under inflation at 2.5%/per year.
- c. Contributed Revenue
- i. Highest growth area for a nonprofit managed Seattle Aquarium with growth rates in excess of 14% annually. Lead gifts occur in 2010 commensurate with targeted transition date from area foundations with existing relationships with the Aquarium. Revenue mix objective in 2018 suggest contributed revenue grows to 18% of overall revenue, up from 14% in 2009.
 - ii. Society focus shifts from growing individual fundraising events such as Splash! and golf towards increasing all forms of contributed revenue in support of key programs within and without the Aquarium physical space.
 - iii. Recent success in securing material long term federal government grants from agencies such as National Science Foundation (NSF) and National Oceanographic and Atmospheric Agency (NOAA) will continue with petitions [and recently announced successful award] submitted for National Aeronautics and Space Agency (NASA) and others. Simultaneously, the Society will proactively fundraise with county, state, port and related authorities as well as all types of foundations.



Exhibit A – SEAS 10 Year Pro Forma Business Plan Narrative

3. Expense

- a. Personnel: For the purposes of the 10 year pro forma business model all existing positions between the Aquarium and the Society, with the exception of Aquarium Director, continue indefinitely in the model. Wages, benefits and retirement elements remain consistent with current City levels indefinitely. City employees who currently participate in the City retirement system (SCERS), are assumed to continue to remain within that system, with Society responsible for matching contributions into the plan. Wage pool increase in 2010 and 2011 is based on City's CPI assumption.
- b. Non-Personnel: existing expenditures remain at current levels, with inflation adjustments of roughly 4% annually.
- c. Annual reserve reinvestment requirement: A key assumption under nonprofit management calls for 2-4% of gross revenues to be reserved each year beginning in 2011 and deployed every 2-4 years as needed to refresh elements of the Aquarium experience deemed necessary to maintain desired attendance levels.
- d. Incremental expenses associated with transition: Under Parks management, the Aquarium p&l statement does not include all Parks costs of managing the facility. Accounting and HR are provided centrally and are not charged back to Aquarium operations. In 2010 and beyond, the p&l statement includes all direct costs, except some transitional costs related to IT that may be covered by the City on an interim basis.

4. City/Society shared responsibility

- i. In light of economic reality of 2009, City and Society agree to discuss the possible transition of certain elements of the Aquarium more slowly than others in order to delay the full financial impact in the first years on the Aquarium p&l.
- ii. The City and Society will explore whether the City can provide some IT support during the first year following transition to preclude the need for the Society to hire an extra FTE to perform this work. This savings is assumed in the pro forma and will have to be added back if an agreement cannot be reached.
- iii. Insurance: The City and the Society have agreed in general terms to the City continuing its coverage of property insurance indefinitely with the Society picking up the cost for all other necessary coverage.

5. Operating Surplus/Deficiency

- a. Under the expected case scenario, with assumptions as of March 2009, the Seattle Aquarium under non profit management beginning in 2012 is capable of running at breakeven to possible surplus, with the potential for reinvestment back into the Aquarium greatest in the later years.

6. Major Maintenance

- i. The City and SEAS agree in principle on the division of responsibility regarding major maintenance.
- ii. The pro forma does not address the elements of capital maintenance agreed to by the City – see the 20 year operating agreement for details.

Exhibit A – SEAS 10 Year Pro Forma Business Plan Narrative

- iii. As described earlier, the Society plans to implement an annual reserve reinvestment requirement of 2-4% of gross revenues to be deployed every 2-4 years to perform refreshment of the asset, particularly with regard to guest experience to enable attendance levels to remain consistent. This generates roughly \$750K by late 2012 which can be coupled with matching private contributions to deploy nearly \$1.5 million in early 2013.

7. Major Redevelopment

- a. The 10 year pro forma business model does not assume a major capital project as too much information remains unknown at this time to responsibly forecast the impact properly. A significant capital campaign along the lines of the New Currents campaign can be expected once a long range plan has been developed and approved by the City. The viaduct replacement plans clearly present opportunity for a new connection to the waterfront from the City and any discussion and planning of a redevelopment of this area would include the Aquarium.

8. Reserves

- a. Society unrestricted reserve as of 12/31/08 is roughly \$1 million and is anticipated to end 2009 at roughly the same level. This figure is seasonal and tends to dip leading up to the annual Splash! fundraising event after which it rebounds higher. This reserve is not required to obtain the breakeven operating performance in the expected case scenario of the 10 year pro forma business model.
- b. The Aquarium maintains its equivalent reserve in the form of an 'Aquarium Sub Account' which typically is the surplus between membership revenues earned and direct expenses spent. As of year ended 12/31/08 this account held a surplus balance of approximately \$435,000 and is expected to have a balance of roughly \$350,000 at the point of anticipated change in control of 7/1/2010. This balance required to absorb the potential loss on operations in first couple years of the agreement as there are no other subsidies considered in the 20 year management and operations agreement with the City.
- c. The combined reserve position of roughly \$1.4 million is only sufficient to cover 1.45 months of operational expenses, if no revenue came into the Aquarium in any capacity.

9. Alternative Scenarios to 10 year pro forma 'expected case'

- a. 'Low attendance' scenario under nonprofit management
 - i. The 10 year pro forma was run assuming a precipitous drop in 2009 attendance of 10% versus 2008. The resulting operational deficiency by the Aquarium would be close to \$649K for 2009 and another \$268K in the first year of nonprofit management in 2010. This combined loss would more than wipe out the existing Aquarium reserve of \$435K, even before the end of 2009, requiring the Aquarium to cut direct expenses dramatically, or petition the City for general fund support. Upon its first year of operation, the Society would rely upon its unrestricted reserve to weather the \$268K deficit until revenues rebound in 2011.



Exhibit B – SEAS Expected Case Scenario 10 Year Pro Forma

Profit and Loss Statement

Seattle Aquarium Business Plan

Version 13.0

Expected Case Scenario Pro Forma as of October 31, 2009

	Actual 2008	Estimate 2009	Estimate 2010	Estimate 2011	Estimate 2012	Estimate 2013	Estimate 2014	Estimate 2015	Estimate 2016	Estimate 2017	Estimate 2018
\$'s in K											
Revenue											
Admissions	6,916	6,902	7,522	8,038	8,634	9,245	9,873	10,022	10,424	10,580	10,999
Memberships	1,258	1,333	1,417	1,523	1,631	1,743	1,857	1,975	2,096	2,220	2,347
Concessions											
Sodexo Food Operator	175	150	150	157	164	171	179	187	195	204	213
Event Rental Fees	217	200	216	233	253	275	299	325	353	383	417
Gift Store (Event Network)	498	510	558	580	604	628	653	680	707	736	766
Contributions											
Splash @ Gross	900	660	660	682	703	724	744	763	782	799	815
Golf @ Gross	92	96	99	102	105	108	112	115	118	120	123
Educational Prgms	310	310	330	376	429	489	557	635	724	825	941
Annual Fund	367	392	491	559	638	727	829	945	1,077	1,228	1,399
Other - Society	40	41	42	42	43	44	45	46	47	48	49
Other - Aquarium	90	77	78	80	81	83	84	86	88	90	91
Total Operations Revenue	10,862	10,670	11,561	12,372	13,284	14,237	15,232	15,778	16,610	17,233	18,159
YTY Change %		-1.77%	8.35%	7.01%	7.38%	7.17%	6.99%	3.58%	5.27%	3.75%	5.38%
Operating Expenses by Dept											
Administration (ADMIN)	1,466	1,252	1,292	1,300	1,332	1,366	1,400	1,426	1,441	1,478	1,517
Development (DEV)	723	751	769	878	911	946	1,040	1,084	1,200	1,259	1,404
Finance (FIN)	221	229	475	471	490	510	531	552	576	600	626
Human Resources (HR)	2	2	131	135	140	145	150	156	161	167	174
Information Technology (IT)	122	129	342	405	423	441	460	480	502	524	547
Marketing (MTG)	1,124	1,182	1,191	1,237	1,287	1,339	1,393	1,450	1,509	1,571	1,635
Membership (MBR)	291	299	310	322	335	349	363	378	393	409	425
Education (EDUC)	1,518	1,480	1,501	1,597	1,624	1,788	1,917	2,000	2,154	2,252	2,439
Guest Services (GUEST)	1,267	1,178	1,226	1,274	1,328	1,383	1,442	1,503	1,566	1,630	1,698
Life Sciences (LIFESCT)	2,131	2,160	2,253	2,338	2,436	2,539	2,646	2,758	2,875	2,996	3,123
Facilities (FACIL)	2,100	2,059	2,153	2,463	2,821	2,937	3,057	3,163	3,284	3,400	3,532
Total Operating Expenses	10,966	10,722	11,643	12,391	13,128	13,743	14,399	14,951	15,661	16,287	17,119
YTY Change %		-2.22%	8.59%	6.42%	5.95%	4.68%	4.78%	3.83%	4.74%	4.00%	5.11%
Net Oper.											
Surplus/(Deficiency) Note 1	(103)	(52)	(82)	(19)	156	494	833	826	949	946	1,040
Ten Year (2010-2020) Average											
Surplus/(Deficiency)											
Five Year (2010-2015) Average											
Surplus/(Deficiency)											

Note 1: The Aquarium Sub Account is expected to have a positive balance of at least \$350K mid-2010 which is required by the Society in 2010 as key reserve figure associated with the transition effort.



Exhibit B – SEAS Expected Case Scenario 10 Year Pro Forma

Profit and Loss Statement

Seattle Aquarium Business Plan

Version 13.0

Expected Case Scenario Pro Forma as of October 31, 2009

	Actual 2008	Estimate									
		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Paid Attendance & Growth	784,000	784,000	784,000	795,760	807,696	819,812	832,109	844,591	857,260	870,118	883,170
Revenue Growth Rates		0.0%	0.0%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%
Admissions		-0.2%	9.0%	6.9%	7.4%	7.1%	6.8%	6.3%	4.0%	1.5%	4.0%
Memberships		6.0%	6.2%	7.5%	7.1%	6.8%	6.6%	6.3%	6.1%	5.9%	5.7%
Concessions		-14.3%	0.0%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%
Sodexo		-7.8%	7.8%	7.9%	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%
Event Rental		2.5%	9.3%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Gift Store (Event Network)											
Contributions											
Splash @ Gross		-26.7%	0.0%	3.3%	3.1%	3.0%	2.8%	2.6%	2.4%	2.2%	2.0%
Golf @ Gross		4.0%	3.4%	3.2%	3.1%	3.0%	2.9%	2.8%	2.6%	2.4%	2.2%
Educational Prgrms		0.0%	6.5%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%
Annual Fund		6.8%	25.1%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%
Other - Society		2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Other - Aquarium		-15.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Total Operations Revenue		-1.77%	8.35%	7.01%	7.38%	7.17%	6.99%	3.58%	5.27%	3.75%	5.38%
Operational Revenue Mix											
Gate		77%	77%	77%	77%	77%	77%	76%	75%	74%	73%
Earned		9%	9%	9%	9%	8%	8%	8%	8%	8%	8%
Contributed		14%	14%	14%	14%	14%	15%	16%	16%	17%	18%
Total		100%	100%	100%	100%	100%	100%	100%	100%	100%	100%



Survey of Aquarium Employees

Proposed Transition to Nonprofit Management

September 22, 2009

In order to have an indication from current Seattle Aquarium employees about some of their anticipated choices after transition to nonprofit management, the City, SEAS (Seattle Aquarium Society) and the labor unions representing Aquarium employees developed a short survey (see back page). Staff were asked to respond anonymously with the understanding that their responses were not binding, but would help us gather a better picture of their desires and intentions. The survey was conducted from September 14-18, 2009.

Of the 76 permanent employees who got the survey, 63 completed it (83%). Note that a few questions were not answered (or the question was rewritten to change the meaning) and those have been excluded from the results that are displayed below, so the total answers to each question are fewer than 63 in several cases. There was an opportunity for staff to make written comments, and those are included at the end of this paper.

Aquarium employees are concerned about their personal welfare as they consider the upcoming transition; Aquarium employees largely desire to continue to work at the Aquarium.

SCENARIO #1 where current Aquarium employees can remain in and continue to contribute to the Seattle City Employees Retirement System (SCERS) after becoming employees of SEAS.

In this case, 71% or 43 of the survey respondents would prefer to transfer to SEAS employment and remain in the SCERS; only seven respondents would prefer to transition to other City employment. Nine plan to retire and become SEAS employees and two plan to retire/resign and not work for either the City or SEAS.

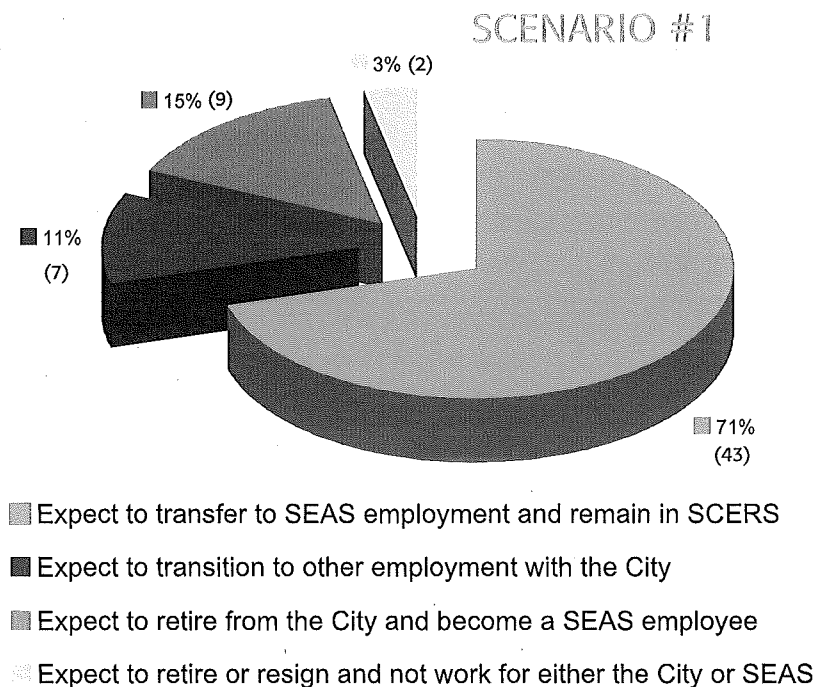
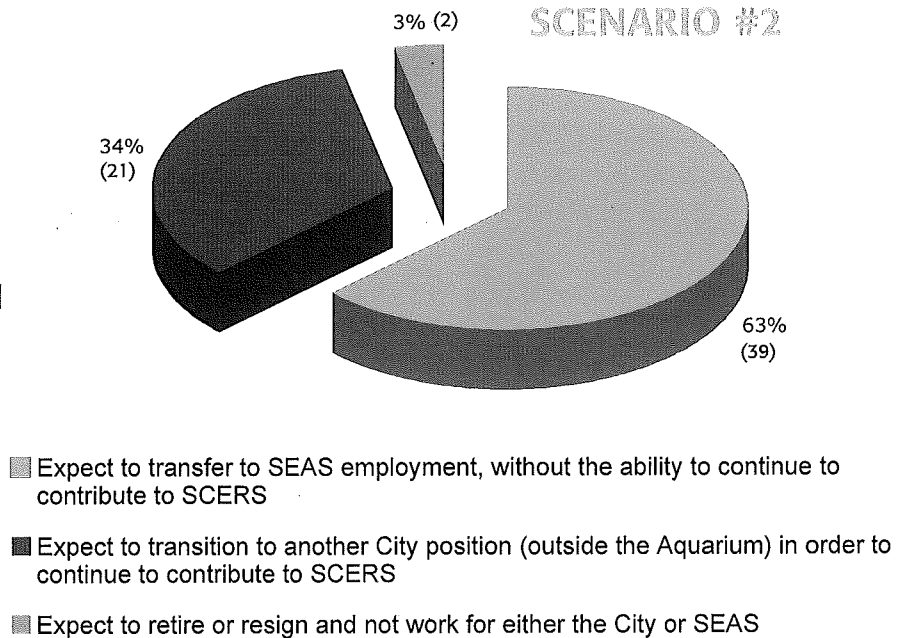


Exhibit C

Survey of Aquarium Employees Proposed Transition to Nonprofit Management

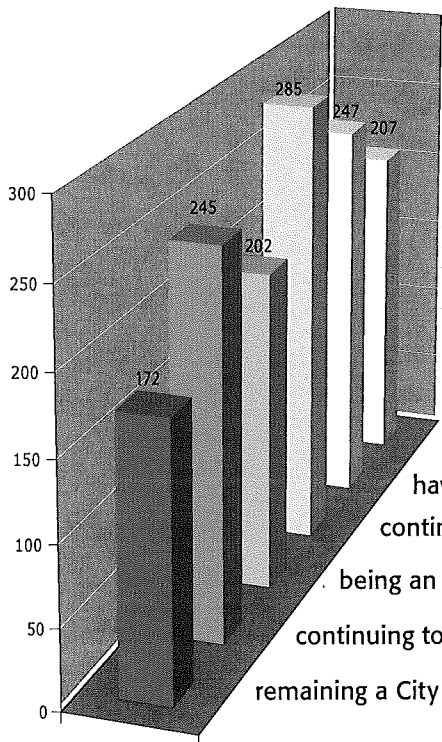
SCENARIO #2 where approval has not been granted to allow current Aquarium employees transferring to SEAS employment to continue to contribute to SCERS. Aquarium employees who want to stay in SCERS could remain City employees under the supervision of SEAS for a specified time period.

In this case, at the end of the transition period, 63% of the survey respondents (39 individuals) would prefer to transfer to SEAS employment without the ability to continue to contribute to SCERS, 34% (21) would prefer to move to another City position (outside the Aquarium) in order to continue to contribute to SCERS.



ADDITIONAL ISSUES:

Staff were asked to rate how important each of the following statements is to their future plans (scale of 1 "not at all important" to 5 "very important").



Continuing to work at the Seattle Aquarium was rated highest (had the most accumulated points) with an average score of 4.59 and with 48 respondents rating it "very important".

Having a "grace period" of up to 2 years (to decide whether to join SEAS, find another City job, or retire/resign) received the next highest number of points with an average score of 3.99 and 36 "very important" ratings. Being able to continue to contribute to SCERS ranked third with an average score of 3.88 and 33 "very important" ratings.

- having a longer "grace period" than 2 years
- having a "grace period" of up to 2 years to decide
- continuing to work at the Seattle Aquarium
- being an employee of SEAS
- continuing to contribute to City's retirement system whether working for the City or SEAS
- remaining a City employee



Exhibit C

Survey of Aquarium Employees Proposed Transition to Nonprofit Management

STAFF COMMENTS:

"A 2-year grace period is too long. A 1-year period is more than adequate and allows the Society to more easily configure staffing and positions to meet the needs of this more focused and dynamic organization. 2 years extends the "agony" and clouds the ability of the Society to manage effectively.

Recruitment and retention all become more difficult with a "2-path" program. Make a clean break and run!"

"If I decide to stay with the City, transferring to a job similar to what I actually do now will not be reflected in what my job title is now. My job title does not accurately reflect what I do."

"For employees new to the City system, it is important to know whether the funds currently in the retirement system will be rolled over or cashed out. What will the choices be if we can't stay in the SCERS?"

"Becoming an employee of SEAS is dependent on the quality of the health insurance offered and job security (i.e. "grace period") comparable to other options. If I retire from the City and become an employee of SEAS, would I have the option to decline to participate in their healthcare program (instead, purchase, on my own, a group plan from the City as a retiree)?"

"Although my contributions to the retirement system are minimal, I do value the benefits from it. At transition time, I will be evaluating my options, not just from the City and SEAS."

"My primary concerns include the health and well-being of the animals, the mission and being able to continue to live/support myself and family."

"If I am retired when the transition occurs, none of this will matter to me at all. This questionnaire only talks about retirement. The nature of medical benefits might influence

whether I cared about being a City or a SEAS employee."

"I will have no problem going with SEAS as long as the

mission stays the same. Animal health is priority. I can handle some benefit changes and I am aware that this will happen."

"Continue with the transportation subsidy"

"I would like the Aquarium management to get a commitment from the City to transfer us to other jobs in other departments as jobs become available. It is very frustrating that we only have the Parks Dept. offering to transfer us to other jobs with the department. We work for the City and I don't see them backing us up!!! Parks Dept needs to talk to other departments within the City."



Exhibit C

Survey of Aquarium Employees Proposed Transition to Nonprofit Management

Survey Questions with Detailed Totals:

SCENARIO #1

SEAS assumes management of the Aquarium operations. The City has received notification from the IRS that current City employees at the Aquarium can remain in and continue to contribute to SCERS after becoming employees of SEAS. Employees would choose one of the following:

- transfer to SEAS employment (become a SEAS employee);
- remain with the City in a position at a comparable level in a City department (outside the Aquarium); or
- leave City employment at the employee's option.

Under Scenario #1, assuming you could continue to participate in the City's retirement system, would you: (check one box) There were 61 respondents to this question

Expect to transfer to SEAS employment and remain in SCERS = 43 votes

Expect to transition to other employment with the City = 7 votes

Expect to retire from the City and become a SEAS employee = 9 votes

Expect to retire or resign and not work for either the City or SEAS = 2 votes

SCENARIO #2

SEAS assumes management of the Aquarium operations. At the time of management change, IRS approval to allow current City employees working at the Aquarium who transfer to SEAS employment to continue to contribute to SCERS has not been granted. Under this scenario, City employees who want to stay in SCERS could remain City employees under the supervision of SEAS for specified time period. At the end of that time period, employees would be asked to choose one of the following:

- transfer to SEAS employment (become SEAS employees);
- remain with the City in a position at a comparable level in a City department (outside the Aquarium); or
- leave City (SEAS) employment at the employee's option.

Under Scenario #2, at the completion of the transition period, assuming you could not continue to participate in the City's retirement system, would you:

(check one box) There were 62 respondents to this question

Expect to transfer to SEAS employment, without the ability to continue to contribute to SCERS = 39 votes

Expect to transition to another City position (outside the Aquarium) in order to continue to contribute to SCERS = 21 votes

Expect to retire or resign and not work for either the City or SEAS = 2 votes

ADDITIONAL ISSUES

On a scale of 1 to 5 (1 being "not at all important," and 5 being "very important"), how important are the following options to you? Please rate each option from 1 to 5.

remaining a City employee:

Of 63 respondents 1=19, 2=9, 3=17, 4=6, 5=12 with an average ranking of 2.73

continuing to contribute to the City's retirement system whether working for the City or for SEAS

Of 63 respondents 1=6, 2=5, 3=12, 4=7, 5=33 with an average ranking of 3.88

being an employee of SEAS:

Of 63 respondents 1=10, 2=5, 3=24, 4=10, 5=14 with an average ranking of 3.20

continuing to work at the Seattle Aquarium:

Of 62 respondents 1=2, 2=1, 3=3, 4=8, 5=48 with an average ranking of 4.59

having a "grace period" of up to 2 years from the effective date of the transition to decide whether to join SEAS, find another job with the City, or retire or resign and not work for either:

Of 62 respondents 1=7, 2=3, 3=10, 4=6, 5=36 with an average ranking of 3.99

having a longer "grace period" than 2 years to decide about employment options for employees who meet certain criteria:

Of 63 respondents 1=15, 2=5, 3=13, 4=7, 5=23 with an average ranking of 3.28



**EXHIBIT D
Employee Retirement Impact Analysis**

Age	Estimated Years as of Dec 31, 2009	Retirement benefit 12/31/09	Retirement benefit in 2 years	Retirement benefit in 5 years	Earliest retirement age	Maximum benefits if able to stay in retirement system 5 more years and retires at earliest age	Maximum benefits if able to stay in retirement system 5 more years and leave money in until benefits stop increasing	Age when benefits stop increasing
67	30.62	60%	60%	60%	now	60%	60%	now
54	30.19	60%	60%	60%	now	60%	60%	54
52	29.80	58%	60%	60%	now	60%	60%	53
53	29.01	58%	60%	60%	now	60%	60%	54
55	28.30	56%	60%	60%	now	60%	60%	57
52	27.69	51%	58%	60%	now	60%	60%	55
51	26.56	Can't Retire	56%	60%	52	60%	60%	55
62	25.51	50%	54%	60%	now	60%	60%	67
55	24.62	46%	52%	58%	now	58%	58%	59
62	23.37	46%	50%	56%	now	56%	56%	67
59	23.37	46%	50%	56%	now	56%	56%	64
62	21.13	42%	46%	52%	now	52%	52%	67
50	22.88	Can't Retire	38%	54%	52	54%	54%	55
66	22.86	44%	48%	54%	now	54%	54%	71
62	22.77	44%	48%	54%	now	54%	54%	67
68	21.44	42%	46%	52%	now	52%	52%	73
49	20.34	Can't Retire	Can't Retire	48%	52	48%	50%	55
52	19.66	Can't Retire	32%	48%	53	48%	48%	57
55	19.58	Can't Retire	38%	48%	56	48%	48%	60
53	19.56	Can't Retire	34%	48%	52	48%	48%	58
45	18.86	Can't Retire	Can't Retire	Can't Retire	52	35%	46%	57
51	18.56	Can't Retire	26%	44%	52	44%	46%	57
65	18.50	36%	40%	46%	now	46%	46%	70
54	17.92	Can't Retire	Can't Retire	44%	55	44%	44%	59
47	17.75	Can't Retire	Can't Retire	31%	52	31%	44%	58
62	15.51	27%	33%	40%	now	40%	40%	67
48	15.42	Can't Retire	Can't Retire	26%	53	26%	40%	60
54	15.38	Can't Retire	Can't Retire	38%	57	38%	40%	60
44	14.00	Can't Retire	Can't Retire	Can't Retire	57	29%	38%	65
51	13.78	Can't Retire	Can't Retire	Can't Retire	57	27%	35%	65
35	13.27	Can't Retire	Can't Retire	Can't Retire	57	27%	36%	65
40	12.68	Can't Retire	Can't Retire	Can't Retire	57	26%	34%	65
42	13.06	Can't Retire	Can't Retire	Can't Retire	57	27%	36%	65
40	11.17	Can't Retire	Can't Retire	Can't Retire	57	24%	32%	65
59	11.02	18%	23%	31%	now	31%	32%	65
38	10.52	Can't Retire	Can't Retire	Can't Retire	57	23%	30%	65
44	9.80	Can't Retire	Can't Retire	Can't Retire	57	21%	28%	65



**EXHIBIT D
Employee Retirement Impact Analysis**

Age	Estimated Years as of Dec 31, 2009	Retirement benefit 12/31/09	Retirement benefit in 2 years	Retirement benefit in 5 years	Earliest retirement age	Maximum benefits if able to stay in retirement system 5 more years and retires at earliest age	Maximum benefits if able to stay in retirement system 5 more years and leave money in until benefits stop increasing	Age when benefits stop increasing
44	9.77	Can't Retire	Can't Retire	Can't Retire	57	21%	28%	65
61	9.93	Can't Retire	21%	28%	62	28%	28%	66
37	8.50	Can't Retire	Can't Retire	Can't Retire	57	20%	26%	65
43	8.44	Can't Retire	Can't Retire	Can't Retire	57	20%	26%	65
58	8.17	Can't Retire	17%	24%	60	24%	26%	65
35	7.82	Can't Retire	Can't Retire	Can't Retire	57	18%	24%	65
30	6.85	Can't Retire	Can't Retire	Can't Retire	57	17%	22%	65
38	6.66	Can't Retire	Can't Retire	Can't Retire	57	17%	22%	65
28	6.58	Can't Retire	Can't Retire	Can't Retire	57	17%	22%	65
39	5.63	Can't Retire	Can't Retire	Can't Retire	57	15%	20%	65
26	5.63	Can't Retire	Can't Retire	Can't Retire	57	15%	20%	62
30	5.62	Can't Retire	Can't Retire	Can't Retire	57	15%	20%	65
62	5.45	9%	14%	20%	65	20%	20%	67
28	5.33	Can't Retire	Can't Retire	Can't Retire	57	15%	20%	65
45	4.78	Can't Retire	Can't Retire	Can't Retire	62	16%	18%	65
46	4.64	Can't Retire	Can't Retire	Can't Retire	62	16%	18%	65
33	4.31	Can't Retire	Can't Retire	Can't Retire	57	16%	18%	65
56	4.06	Can't Retire	Can't Retire	Can't Retire	62	16%	18%	65
26	4.03	Can't Retire	Can't Retire	Can't Retire	62	16%	18%	65
54	3.93	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
36	3.88	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
28	3.67	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
35	3.31	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
49	3.26	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
28	3.23	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
43	3.14	Can't Retire	Can't Retire	Can't Retire	62	15%	16%	65
24	3.04	Can't Retire	Can't Retire	Can't Retire	62	16%	18%	65
33	2.97	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
30	2.77	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
40	2.71	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
27	2.47	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
43	2.44	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
42	2.39	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
29	2.14	Can't Retire	Can't Retire	Can't Retire	62	13%	14%	65
55	1.99	Can't Retire	Can't Retire	Can't Retire	62	11%	12%	65
23	1.60	Can't Retire	Can't Retire	Can't Retire	62	11%	12%	65
40	1.36	Can't Retire	Can't Retire	Can't Retire	62	11%	12%	65

EXHIBIT D
Employee Retirement Impact Analysis

Age	Estimated Years as of Dec 31, 2009	Retirement benefit 12/31/09	Retirement benefit in 2 years	Retirement benefit in 5 years	Earliest retirement age	Maximum benefits if able to stay in retirement system 5 more years and retire at earliest age	Maximum benefits if able to stay in retirement system 5 more years and leave money in until benefits stop increasing	Age when benefits stop increasing
36	1.29	Can't Retire	Can't Retire	Can't Retire	62	9%	10%	65
61	1.18	Can't Retire	9%	12%	65	12%	12%	66
37	1.07	Can't Retire	Can't Retire	Can't Retire	62	11%	12%	65
47	0.96	Can't Retire	Can't Retire	Can't Retire	62	9%	10%	65
30	0.44	Can't Retire	Can't Retire	Can't Retire	65	10%	10%	65
31	0.40	Can't Retire	Can't Retire	Can't Retire	62	9%	10%	65



Exhibit E – Draft Proposed Employee Benefits Matrix

Seattle Aquarium Society

Draft Proposed Employee Benefits Matrix

Dated: October 27th, 2009

The accompanying comparative matrix is intended to assist Aquarium employees in understanding the potential differences between Seattle Aquarium Society (“SEAS”) current policy or proposed benefit at the time of transition and what is currently in place with the City of Seattle. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma business plan, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

DRAFT

Category	Proposed SEAS Benefit	Current City Benefit
Wage Levels	Wage level at time of transition will remain the same for that year. Wage levels are determined annually through budget process via referenced index rates as well as governing contracts if applicable.	Wage levels for represented employees are governed by contracts. Some classifications receive step increases based on longevity. Cost of living increases tied to an index rate are also defined in contract and are generally applied annually. For employees in the broadband system – band is informed by market rate analysis and salaries are determined by management based on performance. Non-represented employees often receive the same cost of living adjustment as coalition of City unions.
Wage cost of living increase timing	Annually for all employees effective April 1 st . City employees under SEAS management likely to remain on City calendar.	Annually for most employees effective in January but lagged a year from the prior June. Contracts specify timing.
Positions	SEAS intends to employ	City positions are



Exhibit E – Draft Proposed Employee Benefits Matrix

Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

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Category	Proposed SEAS Benefit	Current City Benefit
	all positions in place at the time of transition except for those positions who clearly wish to retire from employment. For 12 months following the transition date, SEAS intends no reduction in force or layoffs. After this period, SEAS will maintain positions which best suit the institution's needs at that time which is no different from how the City operates today.	established, abrogated, and modified by Council action, usually through the budget process. Position authority may be granted but not necessarily used depending on the judgment of department or division leadership. Layoff decisions are at the discretion of management. Civil service positions have bumping rights.
Vacation Leave	Vacation accrues from 1 st day but new employees (excluding incoming former City employees) must work 90 days prior to use of vacation. Yr 1 = 12 days Yr 2 thru 4 = 15 days Yr 5 thru 9 = 18 days Yr 10 thru 14 = 20 days 15+ = 25 days days.	Vacation accrues based on hours worked from the 1 st day, but employee (full and part-time) must work approximately 6 months before taking vacation. Yr 1-Yr 4 = 12 days Yr 5 thru Yr 9 = 15 days Yr 10 thru Yr 14 = 16 days Yr 15 thru Yr 19 = 18 days Yr 20 = 19 days; Thereafter 1 day per year for each year up to Yr 30 up to a max of 30 days.
Personal Leave	Up to 2 days per year	Up to 2 days per year for up to 10 years (or 18,721 hours), afterwards 4 days per year. Employees who are FLSA exempt receive 4 executive leave days annually and can receive up to 6 merit days. These employees are not



Exhibit E – Draft Proposed Employee Benefits Matrix

Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

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Category	Proposed SEAS Benefit	Current City Benefit
		eligible for overtime pay.
Sabbatical Leave	Yes, up to 30 days unpaid leave but with continuance of medical coverage in a 12 month period, subject to certain conditions.	Yes, up to 12 months unpaid following 7 years continuous service. Medical insurance continues.
Vacation Carry Over at Year End	Intent to adopt a maximum of 4 weeks (240 hours) annual carry over. Exceptions can be granted.	Max vacation balance is equal to two times the employee annual accrual rate. Exceptions and three month grace period can be granted.
Holidays	10 holidays per year	10 holidays per year
Sick Leave	1 day earned per month	1 day earned per month
Bereavement (funeral) Leave	3 days in the first 14 following loss, sick leave may be used in extenuating circumstances.	Up to 2 days of paid leave dependent on distance traveled. Up to 4 additional days taken from sick leave balance. Max allowed is 5 days and rules apply based on "blood" relatives.
Other Leave	Jury Duty, Military, Family Med Leave or equivalent if less than 50 employees, Maternity, Worker's Comp, Educational, Time off to Vote, Witness duty	Jury Duty, Military, Family Med Leave, Maternity, Worker's Comp, Educational, Time off to Vote, Witness duty
Employment Assistance Prog.	To be established and available to all employees at no charge.	Free to all employees and families via Family Services.
Long Term Disability	Premium paid 100% by Employer. Benefits paid at 60% of salary up to \$6K/month. 90 day waiting period.	Employer pays 100% of premium for basic coverage of \$400/month after 90 days following accident.
Dependent Day Care Reimbursement and	Section 125 plan flexible spending accounts will be	Dependent Care Flexible Savings Account available;

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Exhibit E – Draft Proposed Employee Benefits Matrix

Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

Category	Proposed SEAS Benefit	Current City Benefit
Assistance Programs	made available to employees to cover eligible dependent care expenses.	
Health Care Reimbursement Acct	Section 125 plan flexible spending accounts will be made available to employees to cover eligible medical expenses.	Offered as part of section 125 plan
Basic Life Insurance	Premium paid 100% by Employer. Benefit is 1 X annual salary to \$100,000 max and also covers AD&D. Voluntary additional coverage available.	Premium paid 40% by City, 60% by employee. Benefit is 1.5 x annual salary and also covers AD&D.
Supplemental Life Insurance (voluntary)	Will be made available, premium is 100% employee responsibility.	Capped at 4x annual salary and premium is 100% employee responsibility.
Accidental Death and Dismemberment (AD&D)	Will be covered in Basic Life insurance benefit offering.	Voluntary at 100% employee premium responsibility.
Health Insurance Carriers	Intent to provide 1.) choices for deductible levels. 2.) request proposal for coverage from all local carriers to include HMO, PPO and related providers. 3.) Best fit for financial condition of self-supported Aquarium.	Four choices for medical (two Aetna, two Group Health) Two choices for dental (Washington Dental & Dental Health Services) One vision plan (VSP)
Health (Medical/Dental/Vision) Insurance Coverage	See separate section for description of basic plans and funding choices.	See separate section for description of plans and funding choices.
Sick/Vacation leave	Intent to honor accrued	Formula-based payout upon

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Exhibit E – Draft Proposed Employee Benefits Matrix

Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

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Category	Proposed SEAS Benefit	Current City Benefit
accrued balances	balances earned under City service.	retirement or separation from City employment.
Retirement Plan	Intent to offer a 403(b) tax deferred defined contribution plan. Employee participation is voluntary for both SEAS and City employees under Aquarium management up to the individual IRS allowed limit. SEAS staff with at least 1000 hours of work per year are eligible for an employer matching contribution which will range between 0% and 8.03%.	Defined benefit plan. Current City contribution is 8.03% and sick leave is paid out at 25% at retirement unless employee is a VEBA employee (part of an “eligible group” that has to vote affirmatively for this option...which allows 35% of sick leave to be rolled over to Deferred Compensation account for medical expenses and employee pays no taxes). Employees also have the option of participating in a 457 deferred compensation plan managed by Prudential.
Credit Union	N/A	Yes
Direct Deposit	Yes	Yes
OT Pay for Holidays	Yes	Yes
Tuition Assistance	Yes, may be available to eligible employees provided coursework is consistent with work duties. Amount to be determined on case-by-case basis. Voluntary separation by employee within 1 year of last tuition could result in repayment requirement.	Yes
Worker’s Comp	Claims paid by State but monitored by SEAS. A premium is paid monthly as part of payroll to the State for this insurance.	Claims paid by City which self-insures and pays 100% of all claims.



Exhibit E – Draft Proposed Employee Benefits Matrix

Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

Category	Proposed SEAS Benefit	Current City Benefit
Long Term Care	Voluntary at 100% employee premium responsibility, Existing City employees wishing to retain their existing plan will be able to do so with John Hancock. Not available to non-City or new employees initially.	Voluntary at 100% employee premium responsibility – plan administered by John Hancock.
Transit Subsidy	Metro Bus pass coverage for full-time and permanent part-time employees. Will move to ORCA card in 2010 with decision on “passport” v. “choices” dependent on all employee transit survey.	Metro Bus pass coverage for employees. Moving to ORCA card “choice” in 2010 with e-purse deposit of \$81/month maximum subsidy.
Workplace	Substantially unchanged from existing workplace conditions at Seattle Aquarium.	Workplace as described under employee handbook and ordinary conditions at Seattle Aquarium.

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Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

Health Benefit (Medical/Dental/Vision)

Current City employees may choose between four different medical plans administered through the City, two with Aetna and two with Group Health. SEAS has provided major insurance carriers in Seattle a blind census of the prospective total combined Aquarium employee population and obtained preliminary nonbinding pricing to provide similar coverage for all employees. The plan is similar to those offered by the City in most major categories.

The premiums for similar coverage across a much smaller base (roughly 80-90 employees at the Aquarium versus 11,000+ at the City) result in significantly higher premiums.

The below table indicates how the SEAS proposal will compare to the current structure at the City.

Data per Open Enrollment Guide for Plan Year 2010 – City of Seattle



Exhibit E – Draft Proposed Employee Benefits Matrix

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Comparative Matrix between Seattle Aquarium Society current policy or proposed benefit at the time of transition. SEAS reserves the right to modify or change its benefits offering at any time.

The enclosed benefits are presented for consideration and reflect SEAS intent at this time. While they are modeled in the pro forma, they are subject to change at any time. They are also subject to collective bargaining and therefore are for illustrative purposes only.

Medical Plan	Total Monthly Premium	Employee's Monthly Premium Contribution (ee only)	Employee's Monthly Premium Contribution (ee plus spouse/domestic partner either with or without children)	Per cent of premium covered by employer
City of Seattle Preventative Plan	\$ 899.70	\$ 48.12	\$ 98.50	89%
City of Seattle Traditional Plan	\$ 813.11	\$ -	\$ 32.24	96%
Group Health Standard Plan	\$ 867.33	\$ 48.40	\$ 99.90	88%
Group Health Deductible Plan	\$ 798.63	\$ 25.00	\$ 56.92	93%

<i>Prospective SEAS plan (medical, dental, vision)</i>	<i>\$ 1,255.60</i>	<i>\$ 25.00</i>	<i>between \$38-\$120</i>	<i>between 90-97%</i>
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Exhibit F - Benchmark Analysis of Peer Institutions' Pricing

Item	Seattle Aquarium	Tennessee Aquarium	Aquarium of the Pacific	Florida Aquarium	Georgia Aquarium	John G. Shedd Aquarium	Monterey Bay Aquarium	National Aquarium
Annual attendance (YE '08)	815,177	689,647	1,502,617	652,169	2,191,755	1,864,863	1,902,856	1,431,077
Location	Seattle, WA	Chattanooga, TN	Long Beach, CA	Tampa, FL	Atlanta, GA	Chicago, IL	Monterey, CA	Baltimore, MD
Ticket Price: adult/child (2009)	\$16/\$10.50	\$21.50/\$14.95	\$20.95/\$18.50	\$19.95/\$14.95	\$26.00/\$19.50	\$17.95/\$13.95	\$29.95/\$17.95	\$29.95/\$19.95
Additional Amenity	n/a	IMAX, River Gorge Tourboat	n/a	n/a	n/a	n/a	n/a	n/a

Admission Fees Survey (May 2008)

2008 Admission Base Rates	Adult +13	Family Memb
Aquarium of the Americas	\$17.50	\$125.00
Florida Aquarium	\$20.95	\$110.00
Georgia Aquarium	\$26.00	\$110.00
Monterey Bay Aquarium	\$24.95	\$120.00
Mystic Aquarium	\$23.00	\$125.00
Nat'l Aquarium - Baltimore	\$21.95	\$124.00
New England Aquarium	\$19.95	\$100.00
New Jersey Aquarium - Closed F	\$17.95	\$135.00
Oklahoma Aquarium	\$13.95	\$85.00
Oregon Coast Aquarium	\$13.25	\$80.00
Seattle Aquarium	\$15.00	\$75.00
Shedd Aquarium - Day Pass	\$23.00	<i>fee increased \$1 and \$5 respectively in 2009</i>
So. Carolina Aquarium	\$17.00	\$110.00
Tennessee Aquarium	\$19.95	\$80.00
Texas State Aquarium	\$14.95	\$100.00
Vancouver Aquarium (Can\$)	\$19.95	\$125.00

*Seattle & Broader Area Attractions

Argosy Cruises - harbor tour	\$19.28
Children's Museum	\$7.50
EMP/SFM	\$15.00
Museum of Flight	\$60.00
Northwest Trek	\$14.00
Pacific Science Ctr & Imax	\$85.00
Point Defiance Zoo & Aquarium	\$80.00
Space Needle	\$82.00
Woodland Park Zoo	\$11.00
	\$16.00
	\$15.00
	\$289.00
	\$75.00
	\$60.00
	\$85.00
	\$80.00
	\$82.00
	\$110.00



Exhibit G – VFA Asset Snapshot Report Pier 59



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Asset Snapshot Report

by Asset Name

Region: Seattle Aquarium
 Campus: Seattle Aquarium

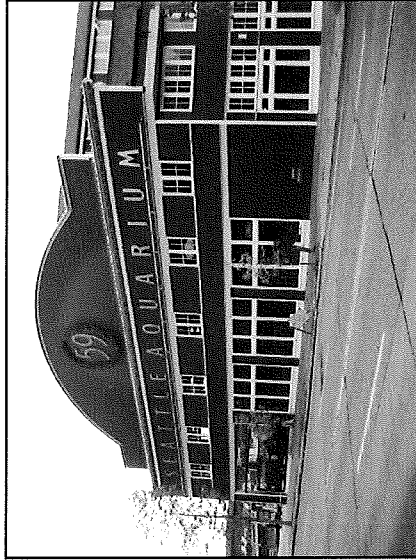
Asset Name: Pier 59 Building
 Asset Number: 59

STATISTICS

FCI Cost:	4,023,008	FCI:	0.10
Total Requirements Cost:	5,335,221	RI:	0.13

Current Replacement Value: 39,922,071 Size: 54,448 SF
 Address 1: 1483 Alaskan Ave. Address 2: -
 City: Seattle State/Province/Region: Washington

PHOTO



Primary Photo

ASSET DESCRIPTION

The Pier 59 Building, at the Seattle Aquarium, is a two story wood framed structure with 54,448 gross sq/ft of space on two floors. The building was originally constructed in 1904 with an addition in 1922 and another in 2007. The building houses the administrative functions of the aquarium along with display areas and tanks.





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by Asset Name

The building structure is supported by a structural steel pier substructure and a wood decking subfloor. The exterior and interior walls are of wood construction. The sloped roof consists of an asphalt shingle roofing system, the exterior windows are wood framed with single pane glass and the exterior doors are predominately hollow metal.

Per the 2003 International Building Code, Chapter 3, section 303.1, the building is classified as Assembly Group A-3, Chapter 3, Section 303.1 and Table 6-A, the building construction is Type V-B or better, as determined from field observations.

SYSTEMS DESCRIPTION

AI021 - Pile Foundations - Structural Steel Pier Substructure (Apron) : Steel Columns/Piers with Structural Steel angle bracing.

Piers, with Structural Steel Column Piles, steel angle bracing, and precast reinforced concrete rim beams supporting a two part decking consisting of precast concrete panels with a poured concrete topping deck.

This information has been collected from reports and interviews supplied by The Seattle Aquarium, Tinnea Associates; Seattle, WA and Berger/Abram Engineers Inc; Federal Way, WA.

AI021 - Pile Foundations - Structural Steel Pier Substructure (Main Building) : Steel Columns/Piers with Structural Steel angle bracing.

Piers, with Structural Steel Column Piles and structural steel cross bracing. This includes the Pier / Substructure directly under the Pier 59 building.

This information has been collected from reports and interviews supplied by The Seattle Aquarium, Tinnea Associates; Seattle, WA and Berger/Abram Engineers Inc; Federal Way, WA.

B10 - Superstructure - Superstructure - Multi Story - Wood - 1904

Multi-story wood framed building, includes wood framing, flooring, and roof structure. Roof structure has had some repairs leading to extended life.

B10 - Superstructure - Superstructure - Multi Story - Wood - 1922

Multi-story wood framed building, includes wood framing, flooring, and roof structure. Roof structure has had some repairs leading to extended life.

B10 - Superstructure - Superstructure - Multi Story - Wood - 2007

Multi-story wood framed building, includes wood framing, flooring, and roof structure.

B2010 - Exterior Walls - Wood Walls - Siding (Shingles)

The exterior walls are of wood siding, shingles and wood stud exterior wall framing. Walls have had ongoing replacement of some worn exterior siding leading to extended life.

B2020 - Exterior Windows - Wood Windows - 1977

The building includes wood framed exterior window units with, insulating glass. Located in the high clearstory section of the pier.

B2020 - Exterior Windows - Wood Windows - 1998

The building includes wood framed exterior window units with, insulating glass.

B2020 - Exterior Windows - Wood Windows - 2007

The building includes wood framed exterior window units with, insulating glass.

B2030 - Exterior Doors - Door Assembly - 6 x 7 HM - 1977

Exterior doors include pr. 3 x 7 steel doors and steel frame with hinges, locksets (lever), exit hardware and closers. Includes painted doors and painted frame.

B2030 - Exterior Doors - Door Assembly - 6 x 7 HM - 2007

Exterior doors include pr. 3 x 7 steel doors and steel frame with hinges, locksets (lever), exit hardware and closers. Includes painted doors and painted frame.



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Asset Snapshot Report

by Asset Name

B2030 - Exterior Doors - Door Assembly 5 - Average - 1977

The exterior doors include high range, moderate cost assemblies for structures such as low rise office buildings and hospitals, courthouses, class room or dorm buildings, factories, hotels and jails. Door types include single aluminum frame glass doors, solid doors and overhead doors.

B2030 - Exterior Doors - Overhead Doors (Manually Operated)

Door, wd, rolling, manual operation, 10'-0" x 10'-0" opening

B30 - Roofing - Asphalt Shingled Roofing

The roof covering is comprised of asphalt shingles with deck insulation.

B30 - Roofing - Gutters and Downspouts - Maximum

Rain water is removed from the roof by perimeter gutters, scuppers and downspouts, which discharge to the surrounding property.

C10 - Interior Construction - Displays - Life of a Drifter

This display area includes the Ring of Life (Jelly Tank), Beneath the Surface (Octopus Tank), and the display table. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Life on the Edge & Inland Seas

This includes the Life on the Edge and Inland Seas displays. Mechanical costs were not included in this number. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - PCR

This includes the PCR display area. Mechanical costs were not included in this number. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Wave Tank

This includes the wave tank display. Mechanical costs were not included in this number. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - WOWW Tank

This includes the Window on Washington Waters (WOWW) Tank. Mechanical costs were not included in this number. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Restroom - Complete - Gang - 1977

Complete restroom including fixtures, accessories, wall finishes, floor finishes, ceiling finishes, exhaust, lighting fixtures and receptacles. Accessible compliant. Fire alarm devices are not included.

C10 - Interior Construction - Restroom - Complete - Gang - 2007

Complete restroom including fixtures, accessories, wall finishes, floor finishes, ceiling finishes, exhaust, lighting fixtures and receptacles. Accessible compliant. Fire alarm devices are not included.

C10 - Interior Construction - Restroom - Shower - Add

Add a shower to a restroom - single stall, accessible compliant. Located in the WOWW 2R floor.

C1010 - Partitions - Folding Partitions - Economy

The building interior includes economy folding partition located on the second floor meeting room.



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Asset Snapshot Report

by Asset Name

C1010 - Partitions - GWB Walls - Standard (Non-Painted)

The building interior includes standard GWB partitions, taped and finished, but not painted, with no insulation.

C1010 - Partitions - Sculptural Wall - 3 Coats

The building interior has a sculptural wall located at the open area adjacent to the WOWW tank

C1010 - Partitions - Windows / Partitions - Average

Building interior includes economy grade windows and partitions. Located in the second floor office area.

C1020 - Interior Doors - Swinging Doors - Average - 1977

Interior doors include 3' x 7' doors with hinges, lockset and closer. Includes steel and wood (birch and oak) faced rated doors, painted doors and frames.

C1020 - Interior Doors - Swinging Doors - Average - 2007

Interior doors include 3' x 7' doors with hinges, lockset and closer. Includes steel and wood (birch and oak) faced rated doors, painted doors and frames.

C1020 - Interior Doors - Swinging Doors - Pair - 6 x 7 - 1977

Interior doors include pr. non-rated 3 x 7 wood doors and steel frame with hinges, locksets (lever) and closers. Includes finished doors and painted frame.

C20 - Stairs - Stairs - Average - 1977

The interior stairs consist of 12 risers per flight with landing and 2 flights per story. Approximately 28 LF of center rail plus 28 feet of wall rail per flight.

C20 - Stairs - Stairs - Average - 2007

The interior stairs consist of 12 risers per flight with landing and 2 flights per story. Approximately 28 LF of center rail plus 28 feet of wall rail per flight.

C3010 - Wall Finishes - Fiberglass Reinforced Plastic Panels

Fiberglass Reinforced Plastic Panels, on walls, adhesive mounted, embossed surface, .090" thick. Located on the second floor in the WOWW tank area.

C3010 - Wall Finishes - Painted Finish - Average (1 Coat Prime - 2 Coats Finish)

Interior wall finishes include standard paint finish. Painting is an ongoing project.

C3020 - Floor Finishes - Access Flooring - High End

Floor finishes include raised, access type computer room flooring (concrete finish).

C3020 - Floor Finishes - Carpeting 4 - Carpet Broadloom - Economy

Floor finishes include carpeting and base for average or economy "spec" office buildings in the common spaces, etc.

Also used in stair towers and elevators where fire ratings is a concern.

C3020 - Floor Finishes - Carpeting 5 - Carpet Tiles - Average

Floor finishes include a standard range carpet tiles (18 x 18 modules or 24 x 24) and vinyl or rubber base, for medium traffic areas.

C3020 - Floor Finishes - Epoxy Flooring - High End

Floor finishes include high end cement epoxies and related base. Located on the second floor in the WOWW tank area.

C3020 - Floor Finishes - VCT 4 - Average



Exhibit G – VFA Asset Snapshot Report Pier 59

VFA

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Asset Snapshot Report

by Asset Name

Floor finishes include areas of premium VCT and vinyl sheet goods flooring and related base. Located in the stairs.

C3020 - Floor Finishes - Vinyl Sheet Goods

Floor finishes include areas of vinyl sheet goods flooring and related base. Located on the upper level in the cafeteria area.

C3030 - Ceiling Finishes - ACT Concealed Spline System

Concealed spline 12 x 12 x 3/4-in. ACT ceiling system with "Z" grid.

C3030 - Ceiling Finishes - Fiberglass Reinforced Plastic Panels

Fiberglass Reinforced Plastic Panels, on ceilings, for lay in grid system, embossed surface, .090" thick. Located on the second floor in the WOWW tank area.

C3030 - Ceiling Finishes - GWB Taped and Finished

GWB ceiling system over 8-ft above floor taped, finished and painted with primer and 2 finish coats. Ceiling on suspension system or fastened to mtfl or wd furring.

D1010 - Elevators and Lifts - Hydraulic Passenger Elev - 1977

The conveying equipment includes an average passenger hydraulic elevator - two stories.

D1010 - Elevators and Lifts - Hydraulic Passenger Elev - 2006

The conveying equipment includes a passenger hydraulic elevator - two stories, with front and rear doors.

D2010 - Plumbing Fixtures - Custodial/Utility Sinks

The plumbing fixtures include wall hung CI custodial/utility sink. Includes rough-in and faucet.

D2010 - Plumbing Fixtures - Scullery Sinks

The plumbing fixtures include stainless steel scullery sinks used for fish food preparing and cleaning.

D2010 - Plumbing Fixtures - Water Coolers - Wall Mount Dual Height

Plumbing fixtures include wall-mounted water coolers, dual-height.

D2020 - Domestic Water Distribution - Sea Water Circulation Pump - 1984

The sea water distribution system includes a triplex circulation pump system. Turbine pumps lift water from the sound to be used in the various tanks throughout the aquarium. This system is specific to the 1984 pumps, and includes the piping to the manifold only. Distribution piping is listed in a separate system. Note: RS Means item does not exactly match the equipment in the field. System adjusted for budgetary purposes.

D2020 - Domestic Water Distribution - Sea Water Circulation Pump - 2006

The sea water distribution system includes a triplex circulation pump system. Turbine pumps lift water from the sound to be used in the various tanks throughout the aquarium. This system is specific to the 2006 pumps, and includes the piping to the manifold only. Distribution piping is listed in a separate system. Note: RS Means item does not exactly match the equipment in the field. System adjusted for budgetary purposes.

D2020 - Domestic Water Distribution - Sea Water Distribution

The building includes a seawater distribution system to furnish the fish tanks with fresh water from the sound. This system includes the main distribution piping, but not the filtration systems for each display. This system does include the automatic valves and the intake manifold. Note: Items chosen to be as close to the installed equipment as possible, but primarily for budgetary purposes. RS Means pricing may differ from material quotations.

D2020 - Domestic Water Distribution - Water Dist Complete

The building domestic water distribution system includes a four inch main line, water meter, rpz backflow preventer, with rough ins included. This system does not include a water heater.

D2020 - Domestic Water Distribution - Water Heater - Elec



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Asset Snapshot Report

by Asset Name

The domestic hot water is provided by a 40-gallon residential grade electric water heater.

D2020 - Domestic Water Distribution - Water Heater - Elec - 30 Gal

The domestic hot water is provided by a 30-gallon residential grade electric water heater.

D2020 - Domestic Water Distribution - Water Heater - Elec - 80 Gal

The domestic hot water is provided by an 80-gallon residential grade electric water heater.

D2030 - Sanitary Waste - Sanitary Waste - Pumped Disch

The building includes an average sanitary waste system, primarily of cast iron piping, with sewage ejector pumps and discharge to the municipal system. While portions of this system are within its expected life, components are beginning to fail.

D2090 - Other Plumbing Systems - Exhibit Equipment - LOTE

This system includes the mechanical display equipment for the Life on The Edge (LOTE) exhibits. Equipment includes circulation pumps, protein skimmers, filters and ultra-violet light sterilizers. Some of this equipment is not available in RS Means. Equipment in line items has been chosen for budgetary purposes.

D2090 - Other Plumbing Systems - Exhibit Equipment - PCR

This system includes the mechanical display equipment for the Pacific Coast Reef (PCR) exhibits. Equipment includes circulation pumps, protein skimmers, piping and controls. Some of this equipment is not available in RS Means. Equipment in line items has been chosen for budgetary purposes.

D2090 - Other Plumbing Systems - Fish Tank Equipment - Filter and Pump - PCR

The building includes pool filtration, treatment and pumping system, including equipment related piping and valves. This system is used for budget purposes and has been modified to reflect the costs of the filtration systems of the large sea water tanks. This system includes the equipment for the PCR area of the building.

D2090 - Other Plumbing Systems - Fish Tank Equipment - Filter and Pump - WOWW

The building includes pool filtration, treatment and pumping system, including equipment related piping and valves. This system is used for budget purposes and has been modified to reflect the costs of the filtration systems of the large sea water tanks. This system includes the equipment for the WOWW and LOTE areas of the building.

D2090 - Other Plumbing Systems - Tank Equipment - Wave Generator - Wave Tank

The systems include a wave generator. This system applies to the Wave Tank. Note: This is a custom fabricated device. No RS Means system exists. A non-Means line item is used for pricing based on information provided.

D2090 - Other Plumbing Systems - Tank Equipment - Wave Generator - WOWW Tank

The systems include a wave generator. This system applies to the WOWW tank. Note: This is a custom fabricated device. No RS Means system exists. A non-Means line item is used for pricing based on information provided.

D3012 - Gas Supply System - Natural Gas Service to Bldg

The building includes a natural gas supply to boilers, hot water heaters, and kitchen equipment.

D3020 - Heat Generating Systems - Boiler HW - Gas Fired

The sea water for the PCR area is heated using two gas fired boilers (a primary and a back up). These boilers work in conjunction with the plate and frame heat exchangers found in a separate system. Note: The sizes available in RS Means do not exactly match the equipment in the field - line items chosen for budgetary purposes.

D3040 - Distribution Systems - Central AHU - VAV System w/Distribution



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Asset Snapshot Report

by Asset Name

The HVAC system has a central AHU with heating coils, VFD, VAV ducted distribution, diffusers and plenum return. The main lobby area uses underfloor distribution for the AHU system.

D3040 - Distribution Systems - Exhaust System - General Building

The HVAC ventilation system includes roof mounted exhaust fans with ducting. This system includes fans for general building exhaust, mechanical and electrical room exhaust.

D3040 - Distribution Systems - Exhaust System - Restroom

HVAC ventilation system includes restroom exhaust fans with ducting.

D3040 - Distribution Systems - Exhaust System - Restroom Fan

HVAC ventilation system includes in-line duct mounted restroom exhaust fans with ducting.

D3040 - Distribution Systems - Heat Exchanger - Liquid/Liquid - Plate and Frame

Plate and frame heat exchangers are used to heat the sea water used in the fish tanks.

D3040 - Distribution Systems - Heat Exchanger - Steam/HW - Shell and Tube

The HVAC system includes a steam to HW shell and tube heat exchanger.

D3040 - Distribution Systems - Perimeter Heat - Electric Baseboard and Radiant Panels

HVAC distribution includes electric baseboard heating and ceiling mounted radiant panels. This system is used in the office area to supplement the HVAC system.

D3050 - Terminal and Package Units - Furnace - Gas Fired

The HVAC system includes gas fired warm air furnaces. These units primarily support the office, PCR and LOTE areas.

D3050 - Terminal and Package Units - Unit Heaters - Gas Fired Radiant Heaters

Heating is provided by suspended, gas fired radiant unit heaters. These are used primarily in the shop and utility areas.

D3060 - Controls and Instrumentation - DDC System

HVAC controls include average DDC system for system optimization, basic pc control, moderate sensor types and quantities.

D3060 - Controls and Instrumentation - DDC System - Life Support

Life support controls includes an extensive DDC system. System is used to control the various systems for the exhibits in the facility. System line items selected for budgetary purposes only and may not exactly match the equipment used in the field.

D40 - Fire Protection - Dry Sprinkler System

The fire protection systems include a light hazard, dry fire sprinkler system. Includes air pump, controls and manual discharge.

D40 - Fire Protection - Fire Extinguishers - Dry Chem w/Cabinet

Handheld type dry chemical fire extinguishers are located throughout the building, as required. Includes cabinets.

D5012 - Low Tension Service and Dist. - Distribution Equipment, Panelboards, and Feeders - 1977

Electrical power is distributed throughout the facility from the main switchboards via conduit and wire feeders that supply 480Y/277-Volt panelboards, and 480-208Y/120-Volt step-down transformers that provide power to lighting and appliance branch circuit installed throughout the facility.

D5012 - Low Tension Service and Dist. - Distribution Equipment, Panelboards, and Feeders - 1985





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Asset Snapshot Report

by Asset Name

Electrical power is distributed throughout the facility from the main switchboards via conduit and wire feeders that supply 480Y/277-Volt panelboards, and 480-208Y/120-Volt step-down transformers that provide power to lighting and appliance branch circuit installed throughout the facility.

D5012 - Low Tension Service and Dist. - Distribution Equipment, Panelboards, and Feeders - 2007

Electrical power is distributed throughout the facility from the main switchboards via conduit and wire feeders that supply 480Y/277-Volt panelboards, and 480-208Y/120-Volt step-down transformers that provide power to lighting and appliance branch circuit installed throughout the facility. The branch circuitry wiring consists of a mix of conduit and wire or armored clad cable installed throughout the facility.

D5012 - Low Tension Service and Dist. - Main Electrical Service

Power for this building originates at a utility owned electrical vault located on an adjacent pier. From this vault a 1600A, 480Y/277V feeder is installed under the pier and terminates in the main switchboard located in the main electrical room. This equipment consists of 3, 1600A 480Y/277V switchboard section bolted together to form a single main switchboard. Section 1 contains the metering equipment, section 2 contains the main service disconnect, and section 3 contains the main distribution equipment.

D5021 - Branch Wiring Devices - Branch Wiring - Equipment & Devices - 1977

Branch wiring for this building consists of a mix of conduit and wire or armored clad cable installed throughout the facility and includes a typical concentration of branch wiring, devices, and utilization equipment.

D5021 - Branch Wiring Devices - Branch Wiring - Equipment & Devices - 1985

Branch wiring for this building consists of a mix of conduit and wire or armored clad cable installed throughout the facility and includes a typical concentration of branch wiring, devices, and utilization equipment.

D5021 - Branch Wiring Devices - Branch Wiring - Equipment & Devices - 2007

Branch wiring for this building consists of a mix of conduit and wire or armored clad cable installed throughout the facility and includes a typical concentration of branch wiring, devices, and utilization equipment.

D5022 - Lighting Equipment - Exhibit Lighting

Exhibit Lighting system includes master control panel, spots, and track lighting, conduit and wire.

D5022 - Lighting Equipment - Lighting Fixtures

The interior is provided primarily by fluorescent lighting fixtures. The lights are a combination of surface mounted and recessed fixtures. The fluorescent light fixtures throughout the facility contain a mix of T12 lamps and magnetic ballasts and T8 lamps and electronic ballasts. Facility personal stated that T12 lamps and ballasts are replaced with T18 lamps and ballasts when the fixtures fail. Interior lighting control is by motion sensor switches and local wall switches. Exterior lighting consists of HID fixtures located on the building perimeter.

D5031 - Public Address and Music Systems - Public Address System

The building includes a heavy density state of the art museum grade public address system. The public address system includes as a minimum: Amplifier, intercom/monitor, volume control, speakers (ceilings or walls), conduit and shielded wiring.

D5033 - Telephone Systems - Telephone System

The building includes a typical telephone system and consists of main switch, punch down blocks, conduit and wire, and outlets located throughout the facility.

D5035 - Television Systems - Television Systems

The building includes a state of the CCTV system. The system includes as a minimum: LCD displays, control equipment, conduit and wiring.

D5037 - Fire Alarm Systems - Fire Alarm System

This building includes an average density fire alarm system. The fire alarm system includes: head end equipment, pull stations at all exit doors, audio/visual strobes, visual strobes, smokes in some rooms, conduit, wire and connections.

D5038 - Security and Detection Systems - Security System - Card Access System



Exhibit G – VFA Asset Snapshot Report Pier 59



DRAFT

Asset Snapshot Report

by Asset Name

The building includes a typical Card Access Security System. The Security System includes as a minimum: control panels, card swipe pads, conduit, and cabling.

D5039 - Local Area Networks - LAN System

Building includes an average density local area network system.

D5092 - Emergency Light and Power Systems - Emergency Battery Pack Lights - 1977 + 1985

The emergency lighting system includes a self contained battery pack and lights.

D5092 - Emergency Light and Power Systems - Emergency Battery Pack Lights - 2007

The emergency lighting system includes a self contained battery pack and lights.

D5092 - Emergency Light and Power Systems - Exit Signs - 1977 + 1985

The emergency lighting system includes the installation of Exit signs along the egress path. Installation includes: single and double sided exit signs, conduit, wire, boxes, conduit bends, connections, and circuit breakers.

D5092 - Emergency Light and Power Systems - Exit Signs -2007

The emergency lighting system includes the installation of Exit signs along the egress path. Installation includes: single and double sided exit signs, conduit, wire, boxes, conduit bends, connections, and circuit breakers.

E - Equipment and Furnishings - Food Service Counters - High End

Furnishings include deluxe quality food service tables, straight counters and curved counters.

E - Equipment and Furnishings - Laboratory Equipment - Basic Business

The building includes basic laboratory equipment and casework for an average business.

E - Equipment and Furnishings - Point of Sales Systems

The building includes point of sales systems located in the gift shop and main lobby.

G2041 - Fences and Gates - Fencing - Pier Perimeter

Railings along pier.





Exhibit G – VFA Asset Snapshot Report Pier 59

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Asset Snapshot Report

by Asset Name

ASSET REPLACEMENT VALUE

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
A1021-Pile Foundations	Structural Steel Pier Substructure (Apron) : Steel Columns/Piers with Structural Steel angle bracing.	25	125	2006	2028	4,444,250	3,555,400
A1021-Pile Foundations	Structural Steel Pier Substructure (Main Building) : Steel Columns/Piers with Structural Steel angle bracing.	25	125	2006	2028	8,267,500	6,614,000
B10-Superstructure	Superstructure - Multi Story - Wood - 1904	75	6	1904	2013	12,509	200,149
B10-Superstructure	Superstructure - Multi Story - Wood - 1922	75	6	1922	2013	37,527	600,425
B10-Superstructure	Superstructure - Multi Story - Wood - 2007	75	6	2007	2082	37,527	600,425
B2010-Exterior Walls	Wood Walls - Siding (Shingles)	60	94	1922	2014	102,938	109,800
B2020-Exterior Windows	Wood Windows - 1977	30	125	1977	2011	27,259	21,807
B2020-Exterior Windows	Wood Windows - 1998	30	125	1998	2028	18,173	14,538
B2020-Exterior Windows	Wood Windows - 2007	30	125	2007	2037	30,288	24,230
B2030-Exterior Doors	Door Assembly - 6 x 7 HM - 1977	30	125	1985	2015	25,752	20,602
B2030-Exterior Doors	Door Assembly - 6 x 7 HM - 2007	30	125	2007	2037	20,602	16,482
B2030-Exterior Doors	Door Assembly 5 - Average - 1977	30	125	1985	2015	23,140	18,512
B2030-Exterior Doors	Overhead Doors (Manually Operated)	30	125	1904	2014	13,596	10,877
B30-Roofing	Asphalt Shingled Roofing	20	125	2001	2021	159,260	127,408

Exhibit G – VFA Asset Snapshot Report Pier 59



DRAFT

Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
B30-Roofing	Gutters and Downspouts - Maximum	30	125	2001	2031	37,157	29,725
C10-Interior Construction	Displays - Life of a Drifter	30	125	2003	2033	971,266	777,013
C10-Interior Construction	Displays - Life on the Edge & Inland Seas	30	125	2003	2033	466,000	372,800
C10-Interior Construction	Displays - PCR	30	125	1985	2015	731,188	584,950
C10-Interior Construction	Displays - Wave Tank	30	125	2007	2037	506,250	405,000
C10-Interior Construction	Displays - WOWW Tank	30	125	2007	2037	20,614,375	16,491,500
C10-Interior Construction	Restroom - Complete - Gang - 1977	30	125	1977	2008	76,123	60,898
C10-Interior Construction	Restroom - Complete - Gang - 2007	30	125	2007	2037	152,245	121,796
C10-Interior Construction	Restroom - Shower - Add	30	125	2007	2037	25,476	20,381
C1010-Partitions	Folding Partitions - Economy	15	125	1977	2014	21,350	17,080
C1010-Partitions	GWB Walls - Standard (Non-Painted)	50	63	1977	2027	150,375	240,600
C1010-Partitions	Sculptural Wall - 3 Coats	50	63	2007	2057	4,995	7,992
C1010-Partitions	Windows / Partitions - Average	50	125	1977	2027	6,222	4,977
C1020-Interior Doors	Swinging Doors - Average - 1977	50	125	1977	2027	74,130	59,304
C1020-Interior Doors	Swinging Doors - Average - 2007	50	125	2007	2057	28,929	23,143
C1020-Interior Doors	Swinging Doors - Pair - 6 x 7 - 1977	50	125	1977	2027	63,213	50,570
C20-Stairs	Stairs - Average - 1977	75	38	1977	2052	7,739	20,638
C20-Stairs	Stairs - Average - 2007	75	38	2007	2082	7,739	20,638

Exhibit G – VFA Asset Snapshot Report Pier 59



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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
C3010-Wall Finishes	Fiberglass Reinforced Plastic Panels	25	81	2007	2032	3,400	4,185
C3010-Wall Finishes	Painted Finish - Average (1 Coat Prime - 2 Coats Finish)	10	125	2004	2014	69,000	55,200
C3020-Floor Finishes	Access Flooring - High End	25	125	2007	2032	233,293	186,635
C3020-Floor Finishes	Carpeting 4 - Carpet Broadloom - Economy	10	125	1995	2008	78,499	62,799
C3020-Floor Finishes	Carpeting 5 - Carpet Tiles - Average	10	125	2004	2014	138,621	110,897
C3020-Floor Finishes	Epoxy Flooring - High End	50	125	2007	2057	16,464	13,171
C3020-Floor Finishes	VCT 4 - Average	10	125	1977	2011	1,541	1,233
C3020-Floor Finishes	Vinyl Sheet Goods	12	125	2007	2019	44,188	35,350
C3030-Ceiling Finishes	ACT Concealed Spline System	20	125	1977	2008	67,836	54,269
C3030-Ceiling Finishes	Fiberglass Reinforced Plastic Panels	25	81	2007	2032	1,028	1,265
C3030-Ceiling Finishes	GW/B Taped and Finished	30	125	1977	2014	10,475	8,380
D1010-Elevators and Lifts	Hydraulic Passenger Elev - 1977	35	125	1977	2012	79,838	63,870
D1010-Elevators and Lifts	Hydraulic Passenger Elev - 2006	35	125	2006	2041	95,072	76,058
D2010-Plumbing Fixtures	Custodial/Utility Sinks	30	125	1904	2008	6,322	5,057
D2010-Plumbing Fixtures	Scullery Sinks	30	125	2007	2037	13,316	10,653
D2010-Plumbing Fixtures	Water Coolers - Wall Mount Dual Height	20	125	2007	2027	6,469	5,175
D2020-Domestic Water Distribution	Sea Water Circulation Pump - 1984	15	112	1984	2008	269,060	240,232
D2020-Domestic Water Distribution	Sea Water Circulation Pump - 2006	15	112	2006	2021	134,530	120,116



Exhibit G – VFA Asset Snapshot Report Pier 59



DRAFT

Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
D2020-Domestic Water Distribution	Sea Water Distribution	30	113	2006	2036	486,096	432,086
D2020-Domestic Water Distribution	Water Dist Complete	30	113	2007	2037	131,391	116,792
D2020-Domestic Water Distribution	Water Heater - Elec	10	112	2007	2017	4,607	4,113
D2020-Domestic Water Distribution	Water Heater - Elec - 30 Gal	10	112	2002	2012	2,020	1,804
D2020-Domestic Water Distribution	Water Heater - Elec - 80 Gal	10	112	1988	2008	3,297	2,944
D2030-Sanitary Waste	Sanitary Waste - Pumped Disch	50	112	1970	2013	109,571	97,831
D2090-Other Plumbing Systems	Exhibit Equipment - LOTE	20	125	2000	2020	158,974	127,179
D2090-Other Plumbing Systems	Exhibit Equipment - PCR	20	125	2000	2020	266,758	213,406
D2090-Other Plumbing Systems	Fish Tank Equipment - Filter and Pump - PCR	20	125	1985	2008	252,055	201,644
D2090-Other Plumbing Systems	Fish Tank Equipment - Filter and Pump - WOWW	20	125	2007	2027	510,629	408,503
D2090-Other Plumbing Systems	Tank Equipment - Wave Generator - Wave Tank	20	125	2007	2027	56,250	45,000
D2090-Other Plumbing Systems	Tank Equipment - Wave Generator - WOWW Tank	20	125	2007	2027	125,000	100,000
D3012-Gas Supply System	Natural Gas Service to Bldg	40	125	1970	2010	7,326	5,861
D3020-Heat Generating Systems	Boiler HW - Gas Fired	30	125	2003	2033	135,858	108,686
D3040-Distribution Systems	Central AHU - VAV System w/Distribution	25	125	2007	2032	499,581	399,665
D3040-Distribution Systems	Exhaust System - General Building	25	125	1985	2010	48,624	38,899
D3040-Distribution Systems	Exhaust System - Restroom	20	125	2007	2027	107,494	85,995
D3040-Distribution Systems	Exhaust System - Restroom Fan	20	125	2007	2027	4,086	3,269
D3040-Distribution Systems	Heat Exchanger - Liquid/Liquid - Plate and Frame	25	125	1985	2010	71,978	57,582



Exhibit G – VFA Asset Snapshot Report Pier 59



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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
	Heat Exchanger - Steam/HW -						
D3040-Distribution Systems	Shell and Tube	20	125	2007	2027	104,179	83,343
	Perimeter Heat - Electric						
D3040-Distribution Systems	Baseboard and Radiant Panels	30	112	1977	2008	8,116	7,246
D3050-Terminal and Package Units	Furnace - Gas Fired	25	125	1977	2008	84,371	67,497
	Unit Heaters - Gas Fired Radiant Heaters						
D3050-Terminal and Package Units		15	112	2007	2022	4,936	4,408
D3060-Controls and Instrumentation	DDC System	20	125	2007	2027	174,459	139,567
D3060-Controls and Instrumentation	DDC System - Life Support	20	125	2007	2027	235,887	188,710
D40-Fire Protection	Dry Sprinkler System	35	125	2007	2042	455,142	364,114
	Fire Extinguishers - Dry Chem w/Cabinet						
D40-Fire Protection		30	105	2008	2038	1,550	1,476
	Distribution Equipment, Panelboards, and Feeders - 1977						
D5012-Low Tension Service and Dist.		30	125	1977	2008	182,024	145,619
	Distribution Equipment, Panelboards, and Feeders - 1985						
D5012-Low Tension Service and Dist.		30	125	1985	2014	121,167	96,934
	Distribution Equipment, Panelboards, and Feeders - 2007						
D5012-Low Tension Service and Dist.		30	125	2007	2036	217,801	174,241
	Main Electrical Service						
D5012-Low Tension Service and Dist.		30	125	2007	2036	200,067	160,054
	Branch Wiring - Equipment & Devices - 1977						
D5021-Branch Wiring Devices		30	125	1977	2008	117,467	93,974
	Branch Wiring - Equipment & Devices - 1985						
D5021-Branch Wiring Devices		30	125	1985	2014	78,194	62,555
	Branch Wiring - Equipment & Devices - 2007						
D5021-Branch Wiring Devices		30	125	2007	2036	140,562	112,449
D5022-Lighting Equipment	Exhibit Lighting	20	100	2007	2026	237,720	237,720
D5022-Lighting Equipment	Lighting Fixtures	20	125	2007	2026	384,947	307,957

Exhibit G – VFA Asset Snapshot Report Pier 59



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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
D5031-Public Address and Music Systems	Public Address System	15	125	2007	2021	753,413	602,731
D5033-Telephone Systems	Telephone System	10	106	2007	2016	194,958	183,490
D5035-Television Systems	Television Systems	15	125	2007	2021	470,588	376,470
D5037-Fire Alarm Systems	Fire Alarm System	10	125	2000	2008	230,051	184,041
D5038-Security and Detection Systems	Security System - Card Access System	10	125	2000	2008	48,669	38,935
D5039-Local Area Networks	LAN System	15	106	2007	2021	188,739	177,637
D5092-Emergency Light and Power Systems	Emergency Battery Pack Lights - 1977 + 1985	10	125	1985	2008	27,389	21,911
D5092-Emergency Light and Power Systems	Emergency Battery Pack Lights - 2007	10	125	2007	2016	19,675	15,740
D5092-Emergency Light and Power Systems	Exit Signs - 1977 + 1985	10	125	1985	2008	34,204	27,363
D5092-Emergency Light and Power Systems	Exit Signs -2007	10	125	2007	2016	24,571	19,657
E-Equipment and Furnishings	Food Service Counters - High End	25	125	2007	2032	74,948	59,958
E-Equipment and Furnishings	Laboratory Equipment - Basic Business	30	125	1977	2014	1,202,425	961,940
E-Equipment and Furnishings	Point of Sales Systems	10	125	2007	2017	134,010	107,208
G2041-Fences and Gates	Fencing - Pier Perimeter	25	125	2007	2032	184,578	147,662
	Subtotal					39,922,071	39,922,071
	Total Replacement Value						39,922,071

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Asset Snapshot Report

by Asset Name

REQUIREMENTS AND RENEWALS

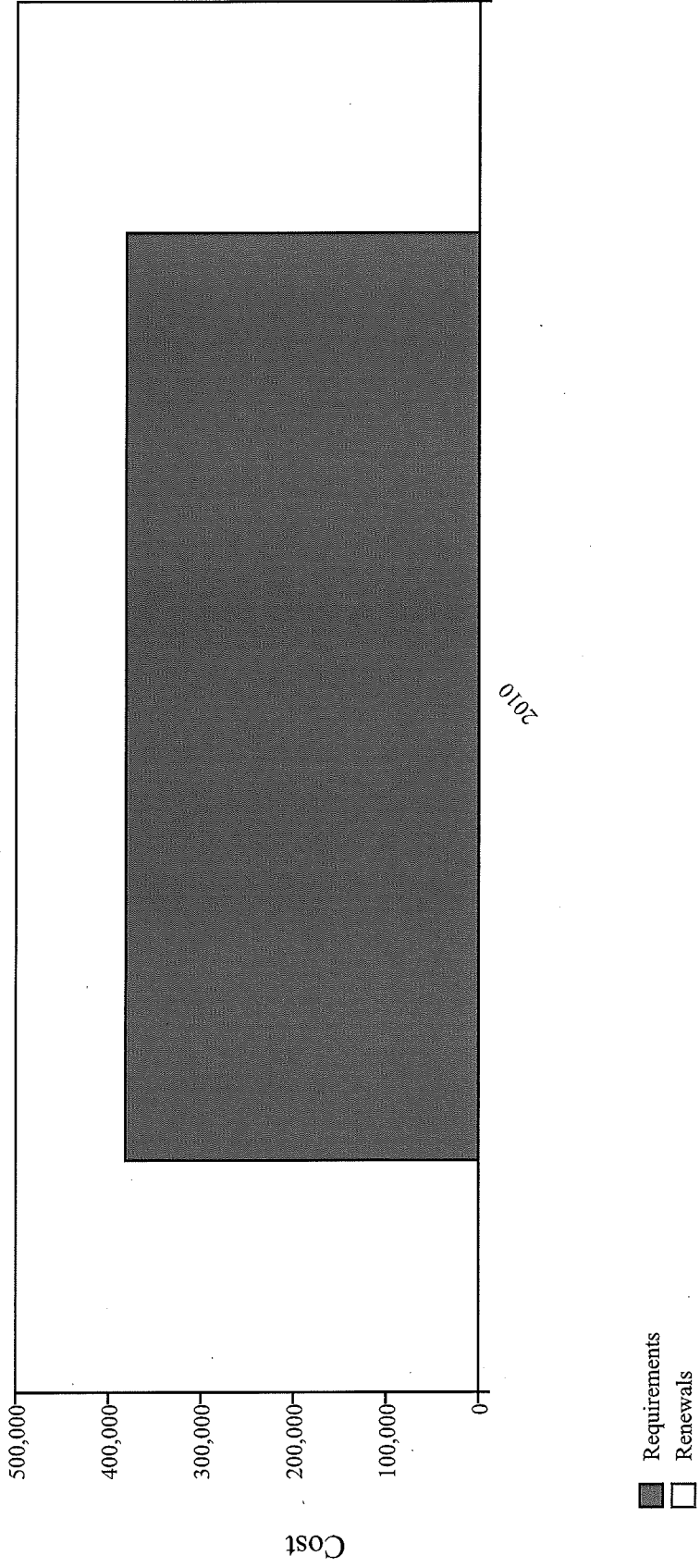


Exhibit G – VFA Asset Snapshot Report Pier 59



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Asset Snapshot Report

Requirement Name / Renewals	Prime System	Category	Priority	Action Date	by Asset Name	Cost
Cathodic Protection - GACP	A1021-Pile Foundations	Modernization	2- Potentially Critical	12/02/2010		379,000
Equipment - Access Ladder	B10-Superstructure	Beyond Useful Life	2- Potentially Critical	12/02/2010		2,567
				2010 Subtotal		381,567



Exhibit H – VFA Asset Snapshot Report Pier 60



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Asset Snapshot Report

by Asset Name

Region: Seattle Aquarium
 Campus: Seattle Aquarium

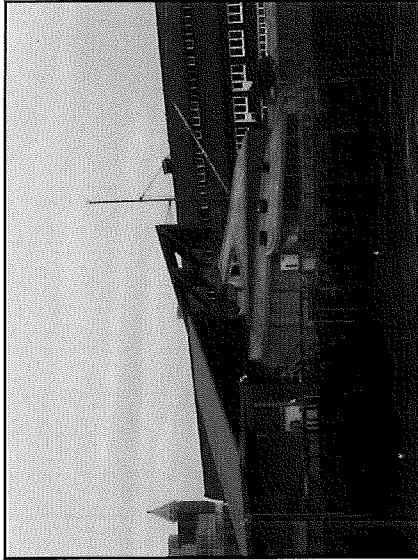
Asset Name: Pier 60 Building
 Asset Number: 60

STATISTICS

FCI Cost:	15,364,051	FCI:	0.84
Total Requirements Cost:	15,364,051	RI:	0.84

Current Replacement Value: 18,298,223 Size: 27,350 SF
 Address 1: 1483 Alaskan Ave. Address 2: -
 City: Seattle State/Province/Region: Washington

PHOTO



Primary Photo

ASSET DESCRIPTION

The Pier 60 Building, at the Seattle Aquarium, is a two story (with a third level of public overlook) reinforced concrete framed structure with 54,448 sq/ft. The building was originally constructed in 1977. The building houses the administrative functions of the aquarium along with animal display areas, tanks, and extensive mechanical & electrical systems specific to a Municipal Aquarium.





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Asset Snapshot Report

by Asset Name

The building structure is supported by a precast reinforced concrete pier substructure and a two part reinforced concrete slab. The exterior and interior walls are a reinforced concrete construction. The sloped roof consists of a "Gaco" membrane roofing, the exterior windows are wood framed with single pane glass and the exterior doors are predominately hollow metal.

Per the 2003 International Building Code, Chapter 3, section 303.1.1, the building is classified as Assembly Group A-3, Chapter 3, Section 303.1 and Table 6-A, the building construction is Type II-B or better, as determined from field observations.

SYSTEMS DESCRIPTION

A1021 - Pile Foundations - Superstructure - Single Story - Wood

Wood framed, single-story building with wood wall and roof framing. Located on the upper level, forms a canopy structure.

A1021 - Pile Foundations - Timber Finger Pier : Timber Decking on Timber Piles

Wood/Timber Piers, with Wood/Timber framing, Wood Decking, Wood Piles and cross bracing, 3" x 12" framing and 3" decking. This includes the Finger Pier on the West side, Alaskan Way apron on the Northeast side and the East side connector finger pier that extends to Pier 59. This estimate includes mobilization.

This information has been collected from reports and interviews supplied by The Seattle Aquarium, Tinnea Associates, Seattle, WA., Berger/Abram Engineers Inc; Federal Way, WA. and American Civil Constructors West Coast, Inc.; Seattle, WA

B10 - Superstructure - Concrete Pier Substructure : Prestressed Concrete Decking on Precast Concrete Piles

Piers, with Precast Reinforced Concrete Piles, steel angle bracing, and precast reinforced concrete beams supporting a two part decking consisting of precast concrete panels with a poured concrete topping deck. This includes the Pier/Substructure directly under the Pier 60 building.

This information has been collected from reports and interviews supplied by The Seattle Aquarium, Tinnea Associates, Seattle, WA and Berger/Abram Engineers Inc; Federal Way, WA.

This information has been collected from reports and interviews supplied by The Seattle Aquarium, Tinnea Associates, Seattle, WA and Berger/Abram Engineers Inc; Federal Way, WA.

B10 - Superstructure - Superstructure - Multi Story - Concrete

Multi story light-weight spec office type structure with specific reinforced concrete construction.

B1014 - Ramps - Accessible Ramps - Exterior Concrete

Concrete in place, handicapped ramp w/check walls & rails both sides, 5' wide. This includes the ramp that works it's way through the display areas.

B1015 - Exterior Stairs and Fire Escapes - Exterior Stairs - Entrance - Concrete

Exterior Concrete Stairs (6' wide x 5 risers) with railing.

B2010 - Exterior Walls - Concrete Walls - (CIP)

The exterior walls are of cast in place concrete.

B2010 - Exterior Walls - Wood Walls - Siding

The exterior walls are of wood siding and wood stud exterior wall framing. Located on the upper level.

B2020 - Exterior Windows - Aluminum Windows

The building includes aluminum framed exterior units, with insulating glass. Located on the upper level surrounding the domed tank. Windows in good condition leading to extended life.



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Asset Snapshot Report

by Asset Name

B2030 - Exterior Doors - Door Assembly - 6 x 7 HM

Exterior doors include pr. 3 x 7 steel doors and steel frame with hinges, locksets (lever), exit hardware and closers. Includes painted doors and painted frame.

B2030 - Exterior Doors - Door Assembly 5 - Average

The exterior doors include high range, moderate cost assemblies for structures such as low rise office buildings and hospitals, courthouses, class room or dorm buildings, factories, hotels and jails. Door types include single aluminum frame glass doors, solid doors and overhead doors.

B2030 - Exterior Doors - Overhead Doors (Electrically Operated)

Overhead Door, steel, alum, or fiberglass, rolling, electric operation

B30 - Roofing - Elastomeric Coating - Gaco Roof

The roofing system is of elastomeric coating and insulation over concrete deck.

This information was coordinated with input from the Tinnea & Associates report to The Seattle Aquarium, dated February 2009.

B30 - Roofing - Metal Roofing - Economy

The roof covering consists of a preformed metal roofing system, such as corrugated steel or aluminum.

C10 - Interior Construction - Displays - Family Orca Center

This included the Family Orca Center display.

A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Puget Sound Fish Exhibit

This included the Puget Sound Fish display. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Salmon Alcove

This included the Salmon Alcove display. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Salmon Overhead Viewing Window

This included the Salmon Overhead Viewing Window display. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Sound to Mountains & River Otter

This included the Sound to Mountain and River Otter displays. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Tide Pool

This included the Tide Pool display. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Displays - Underwater Dome

This included the Underwater Dome display. Note: No RS Means system exists. A non-Means line item is used for pricing based on information provided by The Seattle Aquarium.

C10 - Interior Construction - Restroom - Complete - Double

Complete restroom including fixtures, accessories, wall, floor, and ceiling finishes, lighting, exhaust and outlets. Handicap compliant. Fire alarm devices are not included. Located in the basement.

C10 - Interior Construction - Restroom - Complete - Gang





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Asset Snapshot Report

by Asset Name

Complete restroom including fixtures, accessories, wall finishes, floor finishes, ceiling finishes, exhaust, lighting fixtures and receptacles. Accessible compliant. Fire alarm devices are not included.

C10 - Interior Construction - Restroom - Shower - Add

Add a shower to a restroom - single stall, accessible compliant. Located in the basement.

C1010 - Partitions - Concrete Walls - Plain

Interior walls are of 8-in. concrete, light and regular weight, with no finish.

C1010 - Partitions - Windows/Storefront Partitions - Average

Building interior includes economy grade windows and storefront partitions. Located in the mechanical room office on the lower level.

C1020 - Interior Doors - Swinging Doors - Average

Interior doors include 3' x 7' doors with hinges, lockset and closer. Includes steel and wood (birch and oak) faced rated doors, painted doors and frames. Interior doors receive more wear due to abrasive salt water environment and due to amount of traffic in space leading to lower observed years remaining.

C1020 - Interior Doors - Swinging Doors - Pair - 6 x 7

Interior doors include pr. non-rated 3 x 7 wood doors and steel frame with hinges, locksets (lever) and closers. Includes finished doors and painted frame.

C20 - Stairs - Stairs - Average

The interior stairs consist of 12 risers per flight with landing and 2 flights per story. Approximately 28 LF of center rail plus 28 feet of wall rail per flight.

C3020 - Floor Finishes - Carpeting 3 - Carpet Broadloom - Medium Range

Floor finishes include medium priced carpeting and base for average office areas. Located in the interior/exterior exhibit and ramp. Carpet is like a walk off carpet and in good condition leading to extended life.

C3020 - Floor Finishes - Carpeting 5 - Carpet Tiles - Average

Floor finishes include a standard range carpet tiles (18 x 18 modules or 24 x 24) and vinyl or rubber base, for medium traffic areas.

D1010 - Elevators and Lifts - Traction Geared Freight Elev - Low Rise

The conveying equipment includes a low rise chain drive freight elevator, for 2 stories. Note: The RS Means line item does not exactly match the system in the field, but is used for budgetary purposes.

D20 - Plumbing - Sump Pump - Submersible

The water drainage system includes 1/2 HP submersible pumps. Note: available Means cost line items for alarm system selected for budgetary purposes only.

D2010 - Plumbing Fixtures - Custodial/Utility Sinks

The plumbing fixtures include floor mounted PE custodial/utility sink. Includes rough-in and faucet.

D2010 - Plumbing Fixtures - Laundry / Service Sinks

The plumbing fixtures include floor mounted laundry / service sinks. Includes rough-in and faucet.

D2010 - Plumbing Fixtures - Water Coolers - Wall Mount

Plumbing fixtures include wall-mounted water coolers.

D2020 - Domestic Water Distribution - Water Dist Complete

The building domestic water distribution system includes a four inch main line, water meter, rpz backflow preventer, with rough ins included. This system does not include a water heater.

D2020 - Domestic Water Distribution - Water Heater - Elec



Exhibit H – VFA Asset Snapshot Report Pier 60



DRAFT

Asset Snapshot Report

by Asset Name

The domestic hot water is provided by a 40-gallon electric water heater.

D2020 - Domestic Water Distribution - Water Heater - Elec - Comm

The domestic hot water is provided by an 80-gallon commercial grade electric water heater, with electronic modulating step control and recirculation pump. Note: Available RS Means circulating pump selected for budgetary purposes.

D2020 - Domestic Water Distribution - Water Heater - Elec - Point of Use

The domestic hot water is provided by 2.5-gallon point of use electric water heaters.

D2030 - Sanitary Waste - Sanitary Waste - Pumped Disch

The building includes an average sanitary waste system, of cast iron piping, with sewage ejector pump and discharge to the municipal system. System is aging more rapidly than BOMA standards, primarily due to the environment.

D2090 - Other Plumbing Systems - Drip Irrigation System - Plants

The building utilizes a drip type irrigation system to water plants. System line items chosen for budgetary purposes and may not exactly match the equipment utilized.

D2090 - Other Plumbing Systems - Exhibit Equipment - Fur Seals and Sea Otters

This system includes the mechanical display equipment for the Fur Seal and Sea Otter exhibits. Equipment includes circulation pumps and filters. Some of this equipment is not available in RS Means. Equipment in line items has been chosen for budgetary purposes.

D2090 - Other Plumbing Systems - Exhibit Equipment - Stream Effects

This system includes the mechanical display equipment for the Stream Effects exhibits. Equipment includes circulation pumps and filters. Some of this equipment is not available in RS Means. Equipment in line items has been chosen for budgetary purposes.

D2090 - Other Plumbing Systems - Fish Tank Equipment - Salmon Raceway - Filter and Pump

The building includes pool filtration, treatment and pumping system, including equipment related piping and valves. This system supports the Salmon Raceway. This system is used for budget purposes and has been modified to reflect the costs of the filtration systems of the large water tanks and filters.

D2090 - Other Plumbing Systems - Fish Tank Equipment - Salt Water - Filter and Pump

The building includes pool filtration, treatment and pumping system, including equipment related piping and valves. This system is used for budget purposes and has been modified to reflect the costs of the filtration systems of the large sea water tanks.

D2090 - Other Plumbing Systems - Water Sprinkler System - Underwater Viewing Tank

The building utilizes a circular spray type irrigation system to spray water on top of the main tank on Pier 60.

D2030 - Cooling Generating Systems - Chiller - Reciprocating wo Cooling Tower

Cooling medium is provided by a water cooled reciprocating chiller. This chiller is used for the dehumidification system.

D3040 - Distribution Systems - Central AHU - Const Volume w/Distribution

The HVAC system includes constant volume air handling units, distribution ductwork, diffusers and plenum return. This system includes electric duct heating.

D3040 - Distribution Systems - Heat Exchanger - Liquid/Liquid - Plate and Frame

Plate and frame heat exchangers are used to heat the sea water used in the fish tanks.

D3040 - Distribution Systems - Heat Exchanger - Steam/HW - Shell and Tube



Exhibit H – VFA Asset Snapshot Report Pier 60



DRAFT

Asset Snapshot Report

by Asset Name

The HVAC system includes a steam to HW shell and tube heat exchanger. This heat exchanger is used for the dehumidification system.

D3050 - Terminal and Package Units - Window AC Units

Cooling is provided by a 12000 BTUH thru wall or window air conditioning unit where individual count is more appropriate than SF calculation. These are used in the rest rooms.

D3060 - Controls and Instrumentation - DDC/Pneumatic System - Hybrid

HVAC controls include average DDC system for system optimization, basic pc control, moderate sensor types and quantities. System includes pneumatic activation of control valves and dampers.

D40 - Fire Protection - Dry Sprinkler System

The fire protection systems include a dry fire sprinkler system. Includes air pump, controls and manual discharge.

D40 - Fire Protection - Fire Extinguishers - Dry Chem w/Cabinet

Handheld type dry chemical fire extinguishers are located throughout the building, as required. Includes cabinets.

D5012 - Low Tension Service and Dist. - Distribution Equipment, Motor Control Centers

Electrical power for mechanical equipment is distributed throughout the facility from the main switchboards via conduit and wire feeders that supply 480Y/277-Volt motor control centers that provide power to motors and mechanical equipment.

D5012 - Low Tension Service and Dist. - Distribution Equipment, Panelboards, and Feeders

Electrical power is distributed throughout the facility from the main switchboards via conduit and wire feeders that supply 480Y/277-Volt panelboards, and 480-208Y/120-Volt step-down transformers that provide power to lighting and appliance branch circuit installed throughout the facility.

D5012 - Low Tension Service and Dist. - Main Electrical Service

Power for this building originates at a utility owned electrical vault located on an adjacent pier. From this vault a 800A, 480Y/277V feeder is installed under the pier and terminates in the main switchboard located in the main electrical room. This equipment consists of 2, 800A 480Y/277V switchboard section bolted together to form a single main switchboard. Section 1 contains the metering equipment, and the main service disconnect, and section 2 contains the main distribution equipment.

D5021 - Branch Wiring Devices - Branch Wiring - Equipment & Devices

Branch wiring for this building consists of a mix of conduit and wire or armored clad cable installed throughout the facility and includes a typical concentration of branch wiring, devices, and utilization equipment.

D5022 - Lighting Equipment - Exhibit Lighting

Exhibit Lighting system includes master control panel, spots, and track lighting, conduit and wire.

D5022 - Lighting Equipment - Lighting Fixtures

The interior is provided primarily by fluorescent lighting fixtures. The lights are a combination of surface mounted and recessed fixtures. The fluorescent light fixtures throughout the facility contain a mix of T12 lamps and magnetic ballasts and T8 lamps and electronic ballasts. Facility personnel stated that T12 lamps and ballasts are replaced with T18 lamps and ballasts when the fixtures fail. Interior lighting control is by motion sensor switches and local wall switches. Exterior lighting consists of HID fixtures located on the building perimeter.

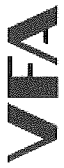
D5031 - Public Address and Music Systems - Public Address System

The building includes a heavy density state of the art museum grade public address system. The public address system includes as a minimum: Amplifier, intercom/monitor, volume control, speakers (ceilings or walls), conduit and shielded wiring.

D5033 - Telephone Systems - Telephone System

The building includes a typical telephone system and consists of main switch, punch down blocks, conduit and wire, and outlets located throughout the facility.





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Asset Snapshot Report

by Asset Name

D5035 - Television Systems - Television Systems

The building includes a state of the CCTV system. The system includes as a minimum: LCD displays, control equipment, conduit and wiring.

D5037 - Fire Alarm Systems - Fire Alarm System

This building includes an average density fire alarm system. The fire alarm system includes: head end equipment, pull stations at all exit doors, audio/visual strobes, visual strobes, smokes in some rooms, conduit, wire and connections.

D5039 - Local Area Networks - LAN System

Building includes an average density local area network system.

D5092 - Emergency Light and Power Systems - Emergency Battery Pack Lights

The emergency lighting system includes a self contained battery pack and lights.

D5092 - Emergency Light and Power Systems - Exit Signs

The emergency lighting system includes the installation of Exit signs along the egress path. Installation includes: single and double sided exit signs, conduit, wire, boxes, conduit bends, connections, and circuit breakers.

E - Equipment and Furnishings - Laboratory Equipment - Basic Business

The building includes basic laboratory equipment and casework for an average business.

E10 - Equipment - Trash Compactor

Equipment attached to the building includes a trash compactor.

E1010 - Commercial Equipment - Walk-In Freezer - Animal Food Storage

Walk-in freezer for the storage of food for the fish and animals.

E1090 - Other Equipment - Diving Equipment - Dive Tank Compressors

Compressors used to fill divers' air tanks.

G2030 - Pedestrian Paving - Pedestrian Pavement - Pavers

Sidewalk - brick pavers, bedding, mortar, 1" thick and Brick paving, 4" x 8" x 2-1/4", dry, on edge (8/S.F.) Located on the upper level.

G2030 - Pedestrian Paving - Pedestrian Pavement - Stamped Concrete

Sidewalk - cast-in-place concrete, 5" thick, 3000 PSI, 6x6-#10 mesh, broom finish with 2" sand bedding. Stamped concrete is cracking and breaking apart leading to lower observed years.



Exhibit H – VFA Asset Snapshot Report Pier 60



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Asset Snapshot Report

by Asset Name

ASSET REPLACEMENT VALUE

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
A1021-Pile Foundations	Superstructure - Single Story - Wood	75	6	1977	2052	890	14,237
A1021-Pile Foundations	Timber Finger Pier : Timber Decking on Timber Piles	30	125	1977	2008	2,360,000	1,888,000
B10-Superstructure	Concrete Pier Substructure : Prestressed Concrete Decking on Precast Concrete Piles	30	125	1977	2014	7,042,125	5,633,700
B10-Superstructure	Superstructure - Multi Story - Concrete	75	6	1977	2052	46,343	741,487
B1014-Ramps	Accessible Ramps - Exterior Concrete	50	13	2007	2057	5,149	41,192
B1015-Exterior Stairs and Fire Escapes	Exterior Stairs - Entrance - Concrete	50	125	1977	2027	2,749	2,199
B2010-Exterior Walls	Concrete Walls - (CIP)	75	6	1977	2051	19,845	317,520
B2010-Exterior Walls	Wood Walls - Siding	60	94	1977	2037	5,147	5,490
B2020-Exterior Windows	Aluminum Windows	30	125	1977	2014	78,851	63,081
B2030-Exterior Doors	Door Assembly - 6 x 7 HM	30	125	1977	2008	5,150	4,120
B2030-Exterior Doors	Door Assembly 5 - Average	30	125	1977	2008	3,857	3,085
B2030-Exterior Doors	Overhead Doors (Electrically Operated)	30	125	1977	2014	5,031	4,025
B30-Roofing	Elastomeric Coating - Gaco Roof	25	125	1994	2010	42,234	33,788
B30-Roofing	Metal Roofing - Economy	50	125	1977	2027	77,648	62,118
C10-Interior Construction	Displays - Family Orca Center	30	125	2003	2033	100,000	80,000
C10-Interior Construction	Displays - Puget Sound Fish Exhibit	30	125	1977	2014	62,500	50,000
C10-Interior Construction	Displays - Salmon Alcove	30	125	1987	2017	56,250	45,000



Exhibit H – VFA Asset Snapshot Report Pier 60

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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
C10-Interior Construction	Displays - Salmon Overhead Viewing Window	30	125	1985	2015	35,000	28,000
C10-Interior Construction	Displays - Sound to Mountains & River Otter	30	125	1993	2023	1,500,000	1,200,000
C10-Interior Construction	Displays - Tide Pool	30	125	1988	2018	250,000	200,000
C10-Interior Construction	Displays - Underwater Dome	30	125	1989	2019	1,500,000	1,200,000
C10-Interior Construction	Restroom - Complete - Double	30	125	1977	2008	44,833	35,866
C10-Interior Construction	Restroom - Complete - Gang	30	125	2007	2037	76,123	60,898
C10-Interior Construction	Restroom - Shower - Add	30	125	1977	2008	25,476	20,381
C1010-Partitions	Concrete Walls - Plain	50	63	1977	2027	217,875	348,600
C1010-Partitions	Windows/Storefront Partitions - Average	50	125	1977	2027	9,023	7,219
C1020-Interior Doors	Swinging Doors - Average	50	125	1977	2013	18,080	14,464
C1020-Interior Doors	Swinging Doors - Pair - 6 x 7	50	125	1977	2027	38,900	31,120
C20-Stairs	Stairs - Average	75	38	1977	2052	23,218	61,915
C3020-Floor Finishes	Carpeting 3 - Carpet Broadloom - Medium Range	10	125	1977	2010	61,875	49,500
C3020-Floor Finishes	Carpeting 5 - Carpet Tiles - Average	10	125	2004	2014	15,275	12,220
D1010-Elevators and Lifts	Traction Geared Freight Elev - Low Rise	35	125	1976	2011	172,854	138,283
D20-Plumbing	Sump Pump - Submersible	12	112	1976	2008	3,675	3,282
D2010-Plumbing Fixtures	Custodial/Utility Sinks	30	125	1976	2008	3,161	2,529
D2010-Plumbing Fixtures	Laundry / Service Sinks	30	125	2007	2037	2,587	2,069
D2010-Plumbing Fixtures	Water Coolers - Wall Mount	20	125	2007	2027	2,156	1,725
D2020-Domestic Water Distribution	Water Dist Complete	30	113	1976	2008	66,000	58,666



Exhibit H – VFA Asset Snapshot Report Pier 60



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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
D2020-Domestic Water Distribution	Water Heater - Elec	10	112	1991	2008	2,369	2,115
D2020-Domestic Water Distribution	Water Heater - Elec - Comm	15	112	2005	2020	16,053	14,333
D2020-Domestic Water Distribution	Water Heater - Elec - Point of Use	10	112	1999	2009	886	791
D2030-Sanitary Waste	Sanitary Waste - Pumped Disch	50	112	1976	2013	55,039	49,142
D2090-Other Plumbing Systems	Drip Irrigation System - Plants	20	125	2000	2020	6,090	4,872
D2090-Other Plumbing Systems	Exhibit Equipment - Fur Seals and Sea Otters	20	125	2000	2020	189,375	151,500
D2090-Other Plumbing Systems	Exhibit Equipment - Stream Effects	20	125	2000	2020	136,946	109,557
D2090-Other Plumbing Systems	Fish Tank Equipment - Salmon Raceway - Filter and Pump	20	125	1977	2008	535,384	428,307
D2090-Other Plumbing Systems	Fish Tank Equipment - Salt Water - Filter and Pump	20	125	1977	2027	590,371	472,297
D2090-Other Plumbing Systems	Water Sprinkler System - Underwater Viewing Tank	20	125	2000	2020	7,324	5,859
D3030-Cooling Generating Systems	Chiller - Reciprocating w/o Cooling Tower	20	125	1976	2008	72,375	57,900
D3040-Distribution Systems	Central AHU - Const Volume w/Distribution	25	125	1976	2008	445,778	356,622
D3040-Distribution Systems	Heat Exchanger - Liquid/Liquid - Plate and Frame	25	125	1977	2008	110,134	88,107
D3040-Distribution Systems	Heat Exchanger - Steam/HW - Shell and Tube	20	125	1977	2008	62,433	49,947
D3050-Terminal and Package Units	Window AC Units	10	105	1990	2008	1,270	1,210
D3060-Controls and Instrumentation	DDC/Pneumatic System - Hybrid	25	125	2000	2025	155,365	124,292
D40-Fire Protection	Dry Sprinkler System	35	125	1976	2011	228,624	182,900

Exhibit H – VFA Asset Snapshot Report Pier 60

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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
D40-Fire Protection	Fire Extinguishers - Dry Chem w/Cabinet	30	105	2008	2038	778	741
D5012-Low Tension Service and Dist.	Distribution Equipment, Motor Control Centers	30	125	1977	2008	203,465	162,772
D5012-Low Tension Service and Dist.	Distribution Equipment, Panelboards, and Feeders	30	125	1977	2008	261,702	209,361
D5012-Low Tension Service and Dist.	Main Electrical Service	30	125	1977	2008	104,910	83,928
D5021-Branch Wiring Devices	Branch Wiring - Equipment & Devices	30	125	1977	2008	168,886	135,109
D5022-Lighting Equipment	Exhibit Lighting	20	100	1977	2008	119,410	119,410
D5022-Lighting Equipment	Lighting Fixtures	20	125	1977	2008	193,364	154,691
D5031-Public Address and Music Systems	Public Address System	15	125	2007	2021	378,450	302,760
D5033-Telephone Systems	Telephone System	10	106	2005	2014	97,930	92,170
D5035-Television Systems	Television Systems	15	125	2007	2021	236,383	189,106
D5037-Fire Alarm Systems	Fire Alarm System	10	125	1977	2008	115,558	92,446
D5039-Local Area Networks	LAN System	15	106	2007	2021	94,806	89,229
D5092-Emergency Light and Power Systems	Emergency Battery Pack Lights	10	125	2007	2016	23,641	18,913
D5092-Emergency Light and Power Systems	Exit Signs	10	125	2007	2016	34,204	27,363
E-Equipment and Furnishings	Laboratory Equipment - Basic Business	30	125	1977	2008	2,349,023	1,879,219
E10-Equipment	Trash Compactor	30	100	2003	2033	21,866	21,866
E1010-Commercial Equipment	Walk-In Freezer - Animal Food Storage	20	100	1977	2008	18,926	18,926
E1090-Other Equipment	Diving Equipment - Dive Tank Compressors	10	100	2007	2017	120,000	120,000
G2030-Pedestrian Paving	Pedestrian Pavement - Pavers	25	63	1977	2014	5,572	8,915

Exhibit H – VFA Asset Snapshot Report Pier 60



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Asset Snapshot Report

by Asset Name

Uniformat	System Name	Lifetime	% Renew	Year Installed	Next Renewal Year	Renewal Cost	Replacement Value
G2030-Pedestrian Paving	Pedestrian Pavement - Stamped Concrete	25	63	1995	2012	3,603	5,765
						Subtotal	18,298,223
						Total Replacement Value	18,298,223





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Asset Snapshot Report

by Asset Name

REQUIREMENTS AND RENEWALS

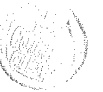
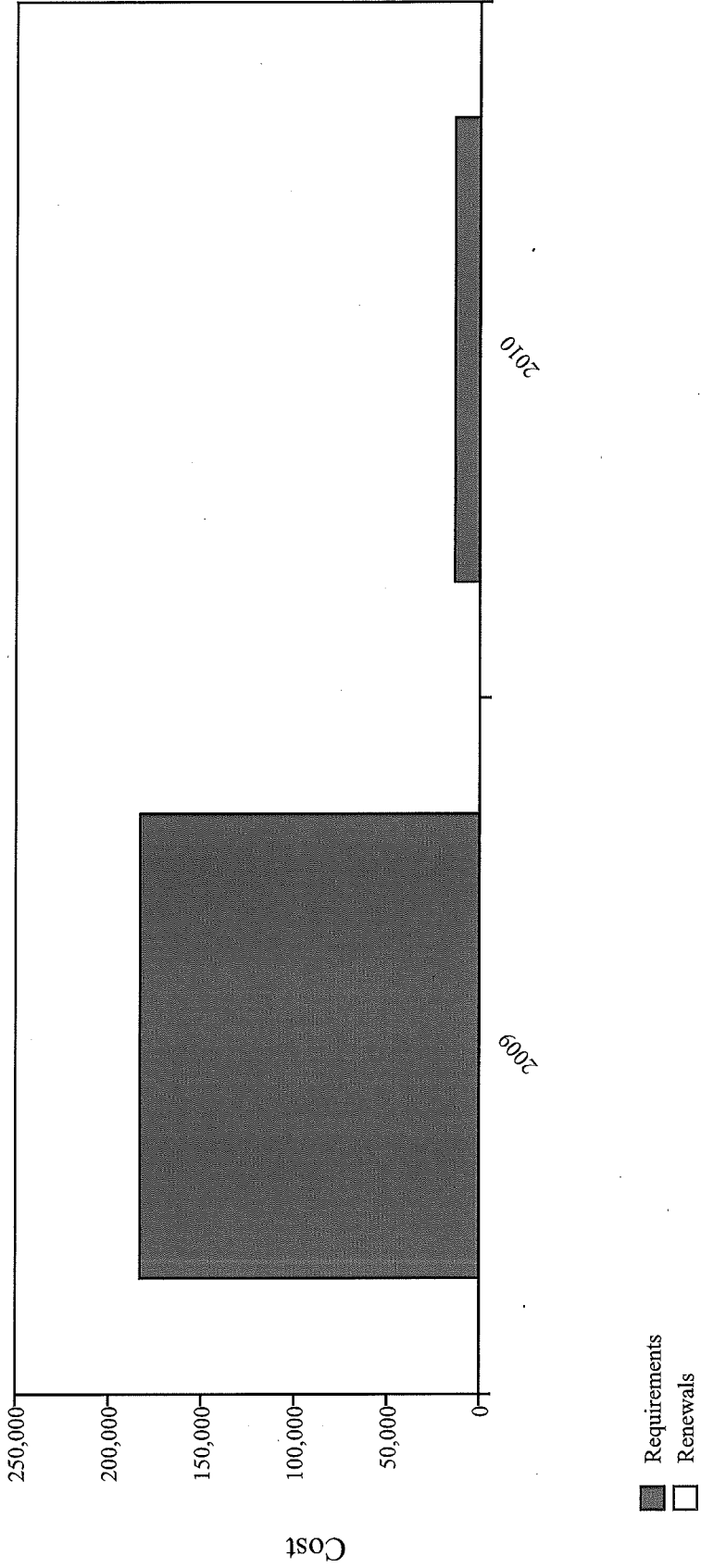


Exhibit H – VFA Asset Snapshot Report Pier 60



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Asset Snapshot Report

Requirement Name / Renewals	Prime System	Category	Priority	Action Date	by Asset Name	Cost
Concrete Panels & Support Beams	B10-Superstructure	Beyond Useful Life	1- Currently Critical	12/02/2009		104,000
Mammal Tanks - Loss of Concrete Reinforcement	B10-Superstructure	Reliability	1- Currently Critical	12/02/2009		37,000
Stairs - Concrete Riser and Nosing Aging	C20-Stairs	Reliability	1- Currently Critical	12/02/2009		3,106
Timber Decking, Pile Caps & Cross Bracing	A1021-Pile Foundations	Beyond Useful Life	1- Currently Critical	12/02/2009		11,750
Timber Piles : Posting of Timber Piles	A1021-Pile Foundations	Beyond Useful Life	1- Currently Critical	12/02/2009		27,000
				2009 Subtotal		182,856
Dome Tank - Interior Ceiling is Corroding & Leaking	B10-Superstructure	Reliability	2- Potentially Critical	12/02/2010		10,000
Superstructure - Concrete Column Damaged	B10-Superstructure	Reliability	2- Potentially Critical	12/02/2010		3,575
				2010 Subtotal		13,575

Exhibit I - Asset List Allocated by Responsible Party

Resp.	Pier #	System - Uniformat	System - Name	Cost	Notes/Changes
City	Pier 59	B10 - Superstructure	Superstructure - Multi Story - Wood - 1922	\$37,527	
City	Pier 59	B10 - Superstructure	Superstructure - Multi Story - Wood - 1904	\$12,509	
City	Pier 59	B2010 - Exterior Walls	Wood Walls - Siding	\$158,804	
City	Pier 59	B2020 - Exterior Windows	Wood Windows - 1977	\$67,000	
City	Pier 59	B2030 - Exterior Doors	Door Assembly - 6 x 7 HM - 1977	\$25,752	
City	Pier 59	B2030 - Exterior Doors	Door Assembly 5 - Average - 1977	\$23,140	
City	Pier 59	B2030 - Exterior Doors	Sliding Wood Doors (Manually Operated)	\$60,000	
City	Pier 59	D1010 - Elevators and Lifts	Hydraulic Passenger Elev - 1977	\$138,000	Increased price due to access and code issues There are 2 pumps in need of replacement includes VFD/Controls
City	Pier 59	D2020 - Domestic Water Distribution	Sea Water Circulation Pump - 1984	\$490,000	The City will replace this equipment only as part of a larger renovation project.
City	Pier 59	D2020 - Domestic Water Distribution	Water Heater - Elec - 80 Gal	\$3,297	The City will replace this equipment only as part of a larger renovation project.
City	Pier 59	D2020 - Domestic Water Distribution	Water Heater - Elec - 30 Gal	\$2,020	The City will replace this equipment only as part of a larger renovation project.
City	Pier 59	D2020 - Domestic Water Distribution	Water Heater - Elec	\$4,607	The City will replace this equipment only as part of a larger renovation project.
City	Pier 59	D2030 - Sanitary Waste	Sanitary Waste - Pumped Discharge	\$109,571	Replumbs sewage to new vault
City	Pier 59	D3040 - Distribution Systems	Heat Exchanger - Liquid/Liquid - Plate and Frame	\$71,978	This is a dehumidifier, part of the HVAC System
City	Pier 59	D3040 - Distribution Systems	Exhaust System - General Building	\$48,624	
City	Pier 59	D3040 - Distribution Systems	Perimeter Heat - Electric Baseboard and Radiant Panels	\$8,116	The City will replace this equipment only as part of a larger renovation project.
City	Pier 59	D3050 - Terminal and Package Units	Furnace - Gas Fired	\$84,371	
City	Pier 59	D5012 - Low Tension Service and Dist.	Distribution Equipment, Panel Boards, and Feeders - 1985	\$121,167	
City	Pier 59	D5021 - Branch Wiring Devices	Branch Wiring - Equipment & Devices - 1977	\$117,467	
City	Pier 59	D5021 - Branch Wiring Devices	Branch Wiring - Equipment & Devices - 1985	\$78,194	
City	Pier 59	D5037 - Fire Alarm Systems	Fire Alarm System	\$230,051	
City	Pier 59	D5038 - Security and Detection Systems	Security System - Card Access System	\$100,000	Increased pricing to reflect actual costs and cameras
City	Pier 59	D5092 - Emergency Light and Power Systems	Emergency Battery Pack Lights - 1977 + 1985	\$12,000	
City	Pier 59	D5092 - Emergency Light and Power Systems	Exit Signs - 2007	\$24,571	
City	Pier 59	D5092 - Emergency Light and Power Systems	Emergency Battery Pack Lights - 2007	\$19,675	
City	Pier 60	A1021 - Pile Foundations	Timber Finger Pier : Timber Decking on Timber Piles	\$2,360,000	
City	Pier 60	B2030 - Exterior Doors	Door Assembly - 6 x 7 HM	\$5,150	
City	Pier 60	B2030 - Exterior Doors	Door Assembly 5 - Average	\$3,857	
City	Pier 60	B300 - Roofing	Overhead Doors (Electrically Operated)	\$5,031	Not electrically operated.
City	Pier 60	C10 - Interior Construction	Elastomeric Coating - Gaco Roof	\$42,234	Roofing coating for the bird exhibit
City	Pier 60	C1020 - Interior Doors	Displays - Salmon Overhead Viewing Window	\$90,000	Much higher price- old \$ from 1984
City	Pier 60	B10 - Superstructure	Swinging Doors - Average	\$18,080	Main public entrance doors to Pier 60
City	Pier 60	B10 - Superstructure	Concrete Pile Structure	\$104,000	
City	Pier 60	D20 - Plumbing	Superstructure Concrete Column Damage	\$3,575	
City	Pier 60	D2020 - Domestic Water Distribution	Sump Pump - Submersible	\$3,675	Part of the sewage lift station system
City	Pier 60	D2020 - Domestic Water Distribution	Water Dist Complete	\$66,000	
City	Pier 60	D2020 - Domestic Water Distribution	Water Heater - Elec	\$2,369	The City will replace this equipment only as part of a larger renovation project.
City	Pier 60	D2020 - Domestic Water Distribution	Water Heater - Elec - Point of Use	\$886	The City will replace this equipment only as part of a larger renovation project.
City	Pier 60	D2020 - Domestic Water Distribution	Water Heater - Elec - Comm	\$16,053	The City will replace this equipment only as part of a larger renovation project.
City	Pier 60	D2030 - Sanitary Waste	Sanitary Waste - Pumped Discharge	\$55,039	
City	Pier 60	D3030 - Cooling Generating Systems	Chiller - Reciprocating w/o Cooling Tower	\$72,375	
City	Pier 60	D3040 - Distribution Systems	Central Air Handling Unit - Const Volume w/Distribution	\$445,778	
City	Pier 60	D3040 - Distribution Systems	Heat Exchanger - Steam/HW - Shell and Tube	\$62,433	This is a dehumidifier, part of the HVAC system,
City	Pier 60	D40 - Fire Protection	Dry Sprinkler System	\$228,624	
City	Pier 60	D5012 - Low Tension Service and Dist.	Main Electrical Service	\$104,910	
City	Pier 60	D5012 - Low Tension Service and Dist.	Distribution Equipment, Panel boards, and Feeders	\$261,702	
City	Pier 60	D5012 - Low Tension Service and Dist.	Distribution Equipment, Motor Control Centers	\$203,465	
City	Pier 60	D5021 - Branch Wiring Devices	Branch Wiring - Equipment & Devices	\$168,886	

Exhibit I - Asset List Allocated by Responsible Party

Resp.	Pier #	System - Uniformat	System - Name	Cost	Notes/Changes
City	Pier 60	D5022 - Lighting Equipment	Lighting Fixtures	\$193,364	
City	Pier 60	D5037 - Fire Alarm Systems	Fire Alarm System	\$115,558	
City	Pier 60	D5092 - Emergency Light and Power Systems	Emergency Battery Pack Lights	\$23,641	
City	Pier 60	D5092 - Emergency Light and Power Systems	Exit Signs	\$34,204	The City will replace this equipment only as part of a larger renovation project.
City	Pier 60	E10 - Equipment	Trash Compactor	\$21,866	
City	Pier 60	G2030 - Pedestrian Paving	Pedestrian Pavement - Stamped Concrete	\$51,600	
City	Pier 60	G2030 - Pedestrian Paving	Pedestrian Pavement - Pavers	\$5,572	
City	Pier 60	B10 - Superstructure	Dome Tank Entrance Corroded and leaking	\$10,000	Corrosion, integral to exhibit and building structure
City	Pier 60	C20 - Stairs	Stairs Concrete Nosing	\$3,106	
City	Pier 60	A1021 - Pile Foundations	Timber Piles - Posting of Piling	\$27,000	
City	Pier 60	B10 - Superstructure	Mammal tanks - Loss of Concrete	\$37,000	Corrosion, integral to exhibit and building structure
City	Pier 60	A1021 - Pile Foundations	Timber decking pile caps and cross bracing	\$11,750	
SEAS	Pier 59	C10 - Interior Construction	Restroom - Complete - 1977	\$66,158	
SEAS	Pier 59	C10 - Interior Construction	Restroom - Complete - Double - 1977	\$39,886	
SEAS	Pier 59	C10 - Interior Construction	Displays - Pacific Coral Reef	\$731,188	
SEAS	Pier 59	C1010 - Partitions	Folding Partitions - Economy	\$21,350	
SEAS	Pier 59	C3010 - Wall Finishes	Painted Finish - Average (1 Coat Prime - 2 Coats Finish)	\$69,000	
SEAS	Pier 59	C3010 - Wall Finishes	Painted Finish - Average (1 Coat Prime - 2 Coats Finish)	\$69,000	
SEAS	Pier 59	C3020 - Floor Finishes	Carpeting 4 - Carpet Broadloom - Economy	\$78,499	
SEAS	Pier 59	C3020 - Floor Finishes	VCT 4 - Average	\$1,541	Vinyl flooring
SEAS	Pier 59	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$138,621	
SEAS	Pier 59	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$138,621	
SEAS	Pier 59	C3020 - Floor Finishes	Vinyl Sheet Goods	\$44,188	
SEAS	Pier 59	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$138,621	
SEAS	Pier 59	C3030 - Ceiling Finishes	ACT Concealed Spline System	\$67,836	Ceiling tiles and supports
SEAS	Pier 59	C3030 - Ceiling Finishes	GWB Taped and Finished	\$10,475	
SEAS	Pier 59	D2010 - Plumbing Fixtures	Custodial/Utility Sinks	\$6,322	
SEAS	Pier 59	D2090 - Other Plumbing Systems	Fish Tank Equipment - Pacific Coral Reef Exhibit	\$252,055	
SEAS	Pier 59	D2090 - Other Plumbing Systems	Exhibit Equipment - Life on the Edge	\$158,974	
SEAS	Pier 59	D2090 - Other Plumbing Systems	Exhibit Equipment - Pacific Coral Reef	\$266,758	
SEAS	Pier 59	D5033 - Telephone Systems	Telephone System	\$194,958	
SEAS	Pier 59	E - Equipment and Furnishings	Point of Sales Systems	\$134,010	
		Pier 59 Subtotal			
SEAS	Pier 60	C10 - Interior Construction	Restroom - Shower - Add	\$25,476	This is an exposed shower stall adjacent to restrooms used by staff and volunteer divers
SEAS	Pier 60	C10 - Interior Construction	Restroom - Complete - Double	\$44,833	Restrooms used by staff and volunteer divers
SEAS	Pier 60	C10 - Interior Construction	Displays - Puget Sound Fish Exhibit	\$145,000	Increased pricing to reflect actual expected costs
SEAS	Pier 60	C10 - Interior Construction	Displays - Salmon Alcove	\$56,250	
SEAS	Pier 60	C10 - Interior Construction	Displays - Tide Pool	\$250,000	
SEAS	Pier 60	C3020 - Floor Finishes	Carpeting 3 - Carpet Broadloom - Medium Range	\$61,875	
SEAS	Pier 60	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$15,275	
SEAS	Pier 60	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$15,275	
SEAS	Pier 60	C3020 - Floor Finishes	Carpeting 5 - Carpet Tiles - Average	\$15,275	
SEAS	Pier 60	D2010 - Plumbing Fixtures	Custodial/Utility Sinks	\$3,161	
SEAS	Pier 60	D2090 - Other Plumbing Systems	Fish Tank Equipment - Salmon Raceway - Filter and Pump	\$535,384	
SEAS	Pier 60	D2090 - Other Plumbing Systems	Exhibit Equipment - Stream Effects	\$136,946	
SEAS	Pier 60	D2090 - Other Plumbing Systems	Exhibit Equipment - Fur Seals and Sea Otters	\$189,375	
SEAS	Pier 60	D2090 - Other Plumbing Systems	Drip Irrigation System - Plants	\$6,090	
SEAS	Pier 60	D2090 - Other Plumbing Systems	Water Sprinkler System - Underwater Viewing Tank	\$7,324	
SEAS	Pier 60	D3040 - Distribution Systems	Heat Exchanger - Liquid/Liquid - Plate and Frame	\$110,134	Exhibit water temp controller
SEAS	Pier 60	D5022 - Lighting Equipment	Exhibit Lighting	\$119,410	
SEAS	Pier 60	D5033 - Telephone Systems	Telephone System	\$37,930	
SEAS	Pier 60	E1010 - Commercial Equipment	Walk-In Freezer - Animal Food Storage	\$48,000	Increased price to reflect bids/corrosion resistance
SEAS	Pier 60	E1090 - Other Equipment	Diving Equipment - Dive Tank Compressors	\$120,000	

Exhibit I - Asset List Allocated by Responsible Party

Resp.	Pier #	System - Uniformal	System - Name	Cost	Notes/Changes
UNALLOCA	Pier 59	Pier 60 Subtotal E - Equipment and Furnishings	Laboratory Equipment - Basic Business	\$1,202,425	
UNALLOCA	Pier 60	C10 - Interior Construction	Displays - Underwater Dome	\$1,500,000	Project is a corrosion and waterproofing issue. By necessity, it requires removal and replacement of exhibitry. These costs only reflect the exhibitry expense.
UNALLOCA	Pier 60	E - Equipment and Furnishings	Laboratory Equipment - Basic Business	\$2,349,023	





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

November 17, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that authorizes the Superintendent of the Department of Parks and Recreation to enter into an agreement allowing the Seattle Aquarium Society (SEAS) to operate and manage the Seattle Aquarium for the next twenty years. This agreement supports the City's and SEAS' long-term objective of having the City-owned Seattle Aquarium managed by a non-profit agency, consistent with established best management practices.

SEAS was originally established as a non-profit agency whose mission was to promote for charitable, scientific, and educational purposes, the study of marine life and conservation, and public education and recreation. The agreement authorized by this Bill, which outlines the terms and conditions that SEAS will adhere to in operating the Aquarium, follows the guiding principles established by the City Council through Resolution 31080. Execution of the agreement represents the final step in realizing the vision of a revitalized Aquarium as embodied in the 2005 Memorandum of Agreement between the City and SEAS that resulted in the successful renovation of Pier 59, record attendance at the Aquarium over the last two years, and capacity-building in SEAS' organization in preparation for the successful management of the Aquarium both now and in the future.

Approval of the proposed Council Bill will allow the Seattle Aquarium to continue to fulfill its mission to inspire conservation of our marine environment and serve as a vital attraction on the City's Central Waterfront. Thank you for your consideration of this legislation. Should you have questions, please contact Tim Gallagher at 684-8022.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a large, stylized flourish that extends across the page.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



[Clerk's Note: This page was inserted by the City Clerk after filing for electronic display only.]

Additional material for Ordinance 123205

Version 1 (not passed) of Attachment 1 to Ordinance 123205. This document is a 11.8 MB PDF document, requiring Adobe Acrobat or equivalent program to view.

[Version 1](#)

STATE OF WASHINGTON - KING COUNTY

--SS.

248692
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

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

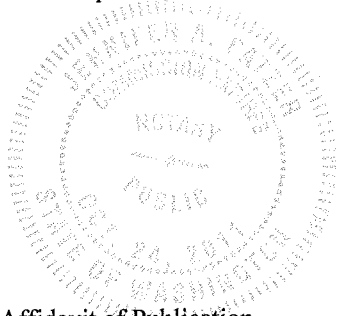
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123205,207-08,10-13-14

was published on

12/24/09

The amount of the fee charged for the foregoing publication is the sum of \$ 84.90, which amount has been paid in full.



[Handwritten signature]

Subscribed and sworn to before me on

12/24/09

[Handwritten 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 December 14, 2009, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123205

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to enter into an agreement with The Seattle Aquarium Society for operation and management of the Seattle Aquarium.

ORDINANCE NO. 123207

AN ORDINANCE authorizing the Superintendent of the Department of Parks and Recreation to enter into a Ground Lease with The Center for Wooden Boats to develop, operate and maintain an Education Center in Lake Union Park.

ORDINANCE NO. 123208

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with Giant Magnet for the presentation of annual festivals at Seattle Center.

ORDINANCE NO. 123210

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to accept two easements for new, City-owned water facilities in 9000 Olson Place SW, Seattle, King County, Washington and to declare an easement for drainage purposes in the above property surplus to the City of Seattle's needs.

ORDINANCE NO. 123213

AN ORDINANCE relating to City employment; establishing new titles and/or salaries, retitling, and reclassifying positions in the Office of the City Clerk, Legislative Department.

ORDINANCE NO. 123214

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

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, December 24, 2009.
12/24(248692)